

January 18, 2005

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary **/RA/**

SUBJECT: STAFF REQUIREMENTS - SECY-04-0233 - PROPOSED
RULEMAKING--POST-FIRE OPERATOR MANUAL ACTIONS
(RIN 3150 AH-54)

The Commission has approved publication of the proposed rule, subject to the changes noted in the attachment. While many of the changes address the comments noted below, the staff should make conforming changes to the remainder of the package prior to issuing it for public comment.

The rulemaking package should be revised, as attached, to more clearly indicate that although the exemption process is available for cases that can be justified under 10 CFR 50.12, the Commission considers the use of the option provided by this rulemaking or the risk-informed, performance-based option in 10 CFR 50.48(c) more desirable in order to minimize the need for future exemption requests for addressing operator manual actions. In addition, the staff should engage stakeholders to get a clear understanding of the likelihood that the proposed rule would achieve its underlying purpose, including the number of plants for which the proposed rule would address the operator manual actions issue. This information should be considered in deciding whether to proceed to final rulemaking.

The rulemaking package should be revised, as attached, to include the range of options for meeting the time margin requirement for operator manual actions without recommending a preferred option. The options should be provided to solicit public comment on them and on other potential approaches for determining an appropriate time margin.

The Commission has approved the the staff's recommendation to continue using the current enforcement discretion policy described in EGM 98-02, "Enforcement Guidance Memorandum - Disposition of Violations of Appendix R, Sections III.G and III.L Regarding Circuit Failures," and the guidance provided in IP 71111.05 in relation to operator manual actions, until the final rule is published, rather than developing an interim enforcement policy.

Attachment: Changes to the Federal Register Notice in SECY-04-0233

cc: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
DOC
OGC
CFO
OCA
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR

Changes to the Federal Register Notice in SECY-04-0233

1. On page 1, revise the title to read '10 CFR Parts 50'
2. On page 1, paragraph 1, revise line 7 to read ' ... area. The Commission's **believes that the ...**' Revise line 10 to read ' ... **safe hot** shutdown ...'
3. On page 1, last paragraph, revise line 1 to read ' ... proposed rule, **the draft regulatory guide**, and the issue ...' Revise line 2 to read ' ... aspects of this rule **by** (insert ...'
4. On page 3, replace paragraph III.A. with "Operator Manual Actions Alternative".
5. On page 3, revise paragraph III.B. to read 'Addition of **Paragraph III.P**, Operator Manual Actions Acceptance Criteria to ~~Appendix R, Paragraph III.P.~~'
6. On page 4, 1st full paragraph under "Background," revise line 2 to read ' ... to 10 CFR **P**art 50.' Revise line 5 to read ' ... shutdown capability of **a** plant ...' Revise line 8 to read ' ... at the Browns Ferry **N**uclear ~~power p~~**P**lant.'
7. On page 5, line 1 from the top, delete the comma.
8. On page 5, 1st full paragraph, revise line 1 to read ' ... NRC investigation ~~was conducted and it was found that ...~~' Revise line 2 to read ' ... was negated by **a** lack of ...' Revise lines 6 and 7 to read ' ... the NRC **interacted** ~~worked with~~ **stakeholders** reactor licensees for several ...' Revise line 9 to read ' ... certain generic **fire protection program** issues, including ...'
9. On page 6, 1st full paragraph, revise line 5 to read ' ... process. **During implementation of** ~~When implementing the~~ Appendix ...'
10. On page 6, last paragraph, revise lines 7 and 8 to read ' ... which **were not** ~~had not been~~ reviewed and approved by the NRC **through** ~~via~~ the **10 CFR 50.12** exemption ...'
11. On page 7, revise lines 1 and 2 from the top to read ' ... Appendix R. However, **such actions** ~~they~~ may be an **acceptable** means of achieving **hot safe** shutdown in ...'
12. On page 7, 1st full paragraph, revise line 1 to read ' ... with nuclear **power plant** industry licensees ...' Revise line 3 to read ' ... Energy Institute **representative** stated that ...' Revise line 4 to read ' ... based on **the** industry's understanding ...' Revise line 5 to read ' ... industry **representative** also stated ...' Revise line 7 to read '**Shortly thereafter, Subsequent to the public meeting**, the NRC ...' Revise line 8 to read ' ...resulting from **licensee use** of unapproved operator ...' Revise line 10 to read ' ... alternate **reactor** shutdown **capability**.' Revise line 11 to read ' ... their interactions with **the NRC staff during implementation of** the NRC ...' Revise line 13 to read ' ... still violations **those** actions **that** meeting these interim ...'
13. On page 7, delete the last paragraph (The interactions between ... interface.)
14. On page 8, paragraph 1, revise line 3 to read ' ... the Commission **believes** ~~has~~

- determined that' Revise line 17 to read ' ... protection inspectors ~~will~~ would verify' Revise line 19 to read ' ...licenses's' analyseis, procedures' Revise line 20 to read ' ... ensure the licensees ~~have~~ has adequately' Revise line 21 to read ' ... of a manual actions.'
15. On page 9, paragraph 1, lines 3 and 10, replace the "©" with "(c)". Make this same correction throughout the document in numerous places. Revise line 14 to read ' ... with paragraphs'
 16. On page 9, footnote 3, revise line 3 to read ' ... Technical Position **CMEB** 9.5-1,'
 17. On page 10, paragraph 1, revise line 2 to read ' ... to codify **the use of** operator manual actions **in conjunction** with' Revise lines 3 and 4 to read ' ... compliance method ~~set forth in paragraph III.G.2. The Commission has determined that~~ implementing any' Revise line 5 to read ' ... in **paragraph** III.G.2 will' Revise line 6 to read ' ... maintaining **the reactor in a** hot shutdown'
 18. On page 13, revise line 2 from the top to read ' ... the NRC **is proposing** ~~decided~~ to codify' Revise line 4 from the top to read ' ... reliable. **The NRC believes that** ~~c~~odifying this'
 19. On page 13, 1st full paragraph, revise line 4 to read ' ... under **Paragraph** III.G.2 for' Revise line 5 to read ' ... that they **can be** ~~successfully~~' Revise the last line to read ' ... **Paragraph** III.G.2.'
 20. On page 13, last paragraph, revise line 2 to read ' ... achieved, **and** any' Revise line 3 to read ' ... to meet ~~the conservative set of~~ acceptance' Revise line 5 to read ' ... in the event of **a** fire.' Revise line 7 to read ' ... will verify **that** ~~the~~ licensees'' Revise line 8 to read ' ... actions ~~that~~ meet the'
 21. On page 15, the word "timeline" appears 3 times. Ensure it is used consistently here and throughout the document either as a single word or as two separate words.
 22. On page 15, paragraph (1), revise line 8 to read ' ... margin that **reasonably** accounts for all **important** variables, including (i) ~~(f)~~' Revise line 9 to read ' ... between the **analyzed** ~~demonstrated~~ and actual'
 23. On page 15, paragraph (2), revise line 2 to read ' ... or its effects, but still **be available** ~~utilized~~ to'
 24. On page 15, paragraph (3), revise line 2 to read ' ... manual action **within** ~~under~~ the' Revise line 3 to read ' ... limited to (i) ~~(f)~~ all indications necessary to **identify** ~~show~~ the need'
 25. On page 15, paragraph (c), revise line 2 to read ' ... action are **available** ~~operable~~ and readily'
 26. On page 16, paragraph (d), revise lines 5 and 6 to read ' ... may not **rely upon any** ~~implement~~ operator manual actions until **it has** ~~they have~~ been **established** ~~by a~~ demonstration to be' Revise line 8 to read ' ... ~~determines~~ **indicates** that the'

27. On page 17, 1st full paragraph, revise line 5 to read ‘ ... to reach a **hot safe** shutdown ...’
Revise line 11 to read ‘ ... that the **d**Demonstration cannot ...’
28. On page 18, revise line 3 from the top to read ‘ ... time available **particular** for such ...’
29. On page 19, 1st full paragraph, revise line 1 to read ‘ ... should **include** ~~reflect~~
~~consideration of realistically conservative scenarios,~~ and ...’ Revise line 2 to read ‘ ...
should be ~~accounted for and~~ ...’ Delete the sentence in lines 3 through 6 (These
variables are ... shutdown.)
30. On page 19, 2nd full paragraph, revise line 1 to read ‘The ~~NRC considers the~~ use of a
time margin **is a** an ...’ Revise line 2 and 3 to read ‘ ... manual actions (~~i.e., there is a~~
~~high confidence of a low probability of failure~~). The rule would require time margin to
account for all **important** variables ...’
31. On page 20, last paragraph, revise lines 2 and 3 to read ‘ ... they would be **reliably**
successful ~~a very high percentage of the time~~. In ...’
32. On page 21, 2nd full paragraph, revise lines 1 through 3 to read ‘ ... least 2 would ~~allow~~
~~for a “high confidence of a low probability of failure”~~ for **ensure that the** operator manual
actions in response to fire **are sufficiently reliable**. For ...’ Revise line 4 to read ‘ ... and
maintain **hot safe** ...’ In the last line, delete the phrase at the end of the line (Section ...
Feasibility).
33. On page 22, delete the top 2 lines on the page and the 1st full paragraph.
34. On page 22, 2nd full paragraph, revise line 1 to read ‘The ~~Commission recognizes that~~
~~the~~ time margin concept could **alternatively** ~~also~~ consist of ...’
35. On page 22, last paragraph, revise line 2 to read ‘ ... minimum **amount of** ~~a mount~~ time
...’
36. On page 23, 1st full paragraph, delete the 1st sentence (The time margin ... feedback.)
37. On page 23, paragraph (A), revise line 4 to read ‘ ... provide a **technical** basis for ...’
38. On page 26, paragraph 1, revise line 4 to read ‘ ... ~~personnel outside~~ the main control
room, **and personnel out in the plant** to ensure that ...’
39. On page 27, revise line 1 from the top to read ‘ ... SSCs **to** ~~in the~~ successfully
~~accomplishment of~~ required ...’
40. On page 27, last paragraph, revise lines 1 and 2 to read ‘ ... criteria requires **that all**
manual actions be included in plant procedures, **and** ~~to include all manual actions that~~
each operator receives training ...’ Revise line 7 to read ‘ ... operators **to the**
appropriate as to which preventive and ...’
41. On page 28, revise line 13 from the top to read ‘ ... with **10 CFR** Sections 55.59 and **10**
CFR 50.120 ~~of Part 50~~ respectively.’

42. On page 28, last paragraph, revise the last line to read ‘ ... equipment is **available operable** when its’
43. On page 29, revise line 3 from the top to read ‘ ... ~~operability~~ **availability** of equipment must’
44. On page 29, last paragraph, revise line 3 to read ‘ ... manual actions **must** ~~may~~ not have’
45. On page 33, 1st full paragraph, revise line 1 to read ‘ ... that the **requirement for the** demonstration to’
46. On page 34, last paragraph, revise line 4 to read ‘ ... occur. The **proposed**’
47. On page 35, paragraph 1, revise line 8 to read ‘ ... conditions **survives** postulated’
Revise line 11 to read ‘ ... room. The ~~Commission believes that the~~ proposed operator manual’
48. On page 35, last paragraph, revise line 1 to read ‘The **Paragraph** III.G.2 compliance’
Revise line 3 to read ‘ ... comparable to this **option**,’
Revise line 4 to read ‘ ... actions by itself **provides** is a’
Revise line 7 to read ‘ ... additional need **for** of fire’
Revise line 8 to read ‘ ... that a fire **at a nuclear power plant** lasting’
Revise line 10 to read ‘ ... option was **considered to be** ~~viewed~~ sufficient ~~unto itself~~ without’
49. On page 36, revise lines 4 through 6 from the top to read ‘Therefore, **without substantial additional justification such as can be provided by using the risk-informed, performance-based option in the Fire Protection Regulation at 10 CFR 50.48(c)**, it is not ... manual actions by itself sufficient **without fire detection and automatic suppression** as a **sufficient** compliance option to III.G.2. ~~without the additional level of defense-in-depth provided by fire detection and automatic suppression.~~’
50. On page 36, 2nd full paragraph, revise line 1 to read ‘ ... first claim, ~~the Commission believes that~~ requiring’
Revise lines 7 and 8 to read ‘ ... result, ~~the Commission believes that~~ the time **it takes** until a fire **to** could adversely affect the **licensee’s** ability of ~~the plant~~ to achieve and maintain a safe **reactor** shutdown’
Revise line 9 to read ‘ ... the **licensee’s** ability to’
51. On page 36, last paragraph, revise the last line to read ‘ ... III.G.3, **the Commission believes that** this difference’
52. On page 39, 2nd full paragraph, revise lines 1 and 2 to read ‘The **risk-informed, performance-based option in 10 CFR 50.48** ~~is NRC exemption process in Section 50.12 or the specific license conditions will remain~~ available to those licensees who wish to demonstrate compliance that’
Add the following at the end of the paragraph:
“Although the exemption process is available for cases that can be justified under 10 CFR 50.12, the Commission considers the use of the option proposed by this rulemaking or the risk-informed, performance-based option currently provided in 10 CFR 50.48(c) more desirable in order to minimize the need for future exemption requests for addressing operator manual actions.”

53. On page 39, last paragraph, revise line 1 to read ‘ ... considering **the** technical’
Revise line 2 to read ‘ ... the Commission **has tentatively** decided that’ Revise line 3 to read ‘ ... rulemaking **should** ~~will~~ require fire’
54. On page 40, revise line 4 from the top to read ‘ ... is asking **for** specific’
55. On page 40, paragraph (A), revise line 3 to read ‘ ... fixed? **An automatic**’ Revise line 5 to read ‘Provide **the** ~~your~~ rationale’ Revise line 6 to read ‘ ... level of protection **in the proposed III.G.2 (C-1).**’
56. On page 43, paragraph 3, revise line 1 to read ‘ ... NRC **believes** ~~determined~~ that’
57. On page 43, last paragraph, revise line 9 to read ‘ ... applied the **proposed** acceptance criteria **in paragraph III.P** to paragraph’
58. On page 44, last paragraph, revise line 3 to read ‘ ... CFR 50.109(a)(4)(ii). ~~The NRC concludes that~~ **Recent inspection**’
59. On page 45, last paragraph, revise line 2 to read ‘ ... **has tentatively** decided to limit’
60. On page 46, paragraph (A), remove the indentation.
61. On page 48, 2nd full paragraph, revise line 1 to read ‘ ... the Commission **believes that the continued** ~~considers continuing~~ use of the’ Revise lines 2 and 3 to read ‘ ... IP 71111.05 **is sufficient in the interim** and that a revision **of the existing policy or development of** additional’
62. On page 50, paragraph 2, revise line 2 to read ‘ ... actions are **available** ~~operable~~ and equipment’
63. On page 53, paragraph 1, revise line 7 to read ‘ ... and maintain **hot** ~~safe~~ shutdown’
64. On page 53, last paragraph, revise line 2 to read ‘ ... in licensees **proposing to use the risk-informed, performance-based alternative provided in 10 CFR 50.48(c) or** submitting exemptions’ Revise line 3 to read ‘ ... of these **actions** ~~exemptions~~ would’
65. On page 59, last paragraph, revise line 9 to read ‘ ... and maintaining **hot** ~~safe~~ shutdown during’
66. On page 63, paragraph (1), revise lines 8 and 9 to read ‘ ... for all **important** variables, including (i) ~~(f)~~ differences between the **analyzed** ~~demonstrated~~ and actual’
67. On page 63, paragraph (2), revise line 2 to read ‘ ... its effects, but still **be available** ~~utilized~~ to’
68. On page 64, paragraph (3), revise line 3 to read ‘ ... limited to) (i) ~~(f)~~ all’
69. On page 64, paragraph (c), revise line 2 to read ‘ ... action are **available** ~~operable~~ and readily’

70. On page 64, paragraph (d), revise line 5 to read ‘ ... may not **rely upon** implement operator manual’