

June 30, 2007

EGM-07-004

MEMORANDUM TO: Samuel J. Collins, Regional Administrator, Region I
William D. Travers, Regional Administrator, Region II
James L. Caldwell, Regional Administrator, Region III
Bruce S. Mallett, Regional Administrator, Region IV
James E. Dyer, Director, Office of Nuclear Reactor Regulation
R. William Borchardt, Director, Office of New Reactors
Charles L. Miller, Director Office of Federal and State Materials and
Environmental Management Programs
Michael F. Weber, Director, Office of Nuclear Material Safety
and Safeguards
Roy P. Zimmerman, Director, Office of Nuclear Security and
Incident Response

FROM: Cynthia A. Carpenter, Director/RA/
Office of Enforcement

SUBJECT: ENFORCEMENT GUIDANCE MEMORANDUM 07-004
ENFORCEMENT DISCRETION FOR POST-FIRE MANUAL
ACTIONS USED AS COMPENSATORY MEASURES FOR FIRE
INDUCED CIRCUIT FAILURES

Purpose:

The purpose of this Enforcement Guidance Memorandum (EGM) is twofold: (1) to define September 6, 2007, as the end date for licensees to initiate corrective actions and to implement compensatory measures for noncompliances related to post-fire operator manual actions, except those operator manual actions that are relied upon as the mitigating mechanism for fire induced multiple-spurious actuations and (2) to emphasize that March 6, 2009, is the date for the completion of corrective actions associated with noncompliances involving operator manual actions.

Background:

In the 1990's, the Office of Nuclear Reactor Regulation (NRR) staff and regional inspectors found plant specific problems related to fire-induced circuit analysis issues. In 1998, the NRC staff began interacting with stakeholders to understand the problem and develop a solution to the circuit analysis issue. About the same time, the NRC staff issued enforcement discretion

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guidance in EGM 98-002¹ for fire-induced circuit failure issues to provide a process for treating inspection findings while the circuit analysis issues were being resolved. In 2000, the NRC staff temporarily suspended fire protection inspections of associated circuits because stakeholders had different interpretations of the regulations.

While the circuits issues were being addressed in 2000, the NRC regional inspectors, during baseline triennial fire protection inspections, also began to find problems with the non-compliant use of post-fire operator manual actions. Inspectors determined that licensees were inappropriately relying on post-fire operator manual actions to address fire-induced circuit failures in lieu of the protection requirements of 10 CFR 50, Appendix R, section III.G, Fire protection of safe shutdown capability. Consequently, the Commission approved the NRC staff proposal to develop rulemaking to address the non-compliant use of operator manual actions.

In 2005, after reviewing public comments on the proposed rule regarding the use of operator manual actions, the NRC staff recommended withdrawal of the rulemaking. The Commission approved the staff's recommendation and the rulemaking was withdrawn on March 6, 2006 (71 FR 11169). As noted in the *Federal Register* notice withdrawing the proposed rule, the Commission approved an enforcement discretion time period to allow licensees to bring themselves back into compliance with the existing regulations. The enforcement discretion for non-compliant operator manual actions provided an initial 6-month time period which ended (but was later extended as explained below) on September 6, 2006, for licensees to initiate corrective actions and implement compensatory measures, and provided for an overall 3-year time period, ending on March 6, 2009, to complete the corrective actions.

Although the *Federal Register* notice (71 FR 11169) was issued in response to the NRC decision to withdraw the rulemaking on operator manual actions, the NRC recognized that some licensees may be relying on operator manual actions as a mitigating strategy for multiple spurious actuations. Since the staff was nearing the issuance of a generic letter on the issue of multiple spurious actuations, the *Federal Register* notice informed licensees of NRC's intent to terminate EGM 98-002 at the end of the 6-month time period, i.e., September 6, 2006. However, when the Commission deliberations began with respect to draft GL 2006-XX, the staff recognized that draft GL 2006-XX could not be issued by September 6, 2006, and therefore, on September 6, 2006, the staff issued EGM 98-002, Revision 2, Supplement 1, (ML062480380) to extend the EGM. Specifically the 6-month time period which ended on September 6, 2006, was extended until the Commission approved draft GL 2006-XX.

The Commission subsequently disapproved the draft GL in SRM-SECY-06-0196, dated December 15, 2006. As a result of the Commission's disapproval, the 6-month end date defined in EGM-98-002, Revision 2, Supplement 1, became open-ended. Consequently, on February 16, 2007, the staff issued EGM 98-002, Revision 2, Supplement 2, (ML070300520) to further extend the 6-month time period until such time as the staff could establish a new end

¹On March 7, 2005, as documented in the *Federal Register* (70 FR 10901, Section IV, Interim Enforcement Discretion Policy) on the proposed rule for post-fire operator manual actions, the Commission approved the use of EGM 98-02 to provide enforcement discretion for post-fire operator manual actions used as compensatory measures for fire induced circuit failures.

date for the 6-month time period. This EGM accomplishes the staff objective to establish an end date for the 6-month time period that does not rely on the issuance of the generic letter and thus closes the current open-ended date for licensees to initiate corrective actions and implement compensatory measures for noncompliant operator manual actions.

Action:

This EGM establishes September 6, 2007, as the date by which licensees must initiate corrective actions and implement compensatory measures in order to receive enforcement discretion for all noncompliances involving operator manual actions associated with fire induced circuit failures. Noncompliances involving operator manual actions that are relied upon as the mitigating mechanism for fire induced multiple-spurious actuations are not addressed by this EGM and will be addressed by separate enforcement discretion guidance. The corrective actions for noncompliances involving operator manual actions could involve compliance with 10 CFR Part 50, Appendix R, Sections III.G.2 or III.G.3; adoption of National Fire Protection Association Standard 805 (NFPA-805), through 10 CFR 50.48(c); or submission of exemption requests or license amendments.

This EGM also emphasizes that March 6, 2009, or the end date consistent with the licensee's NFPA-805 transition schedule, is the date by which the licensee must complete corrective actions associated with noncompliances involving operator manual actions in order to receive enforcement discretion. These completion dates for corrective actions are consistent with the Commission's direction provided in the *Federal Register* notice (71 FR 11169).

This EGM supercedes Supplements 1 and 2 of EGM 98-002, Revision 2 (ML062480380 and ML070300520). Enforcement discretion related to other circuit failure issues, specifically, multiple spurious actuations, will continue to be addressed under EGM 98-002, Revision 2 (ML003710123), until the Commission approves a new enforcement discretion policy for these issues.

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