



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-115; NRC-2017-0132]

Fire Protection Compensatory Measures

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of docketing and request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has received a petition for rulemaking dated May 1, 2017, from David Lochbaum with co-petitioner Paul Gunter, on behalf of the Union of Concerned Scientists and Beyond Nuclear (the petitioners), requesting that the NRC “promulgate regulations that establish acceptable conditions for use of compensatory measures (e.g., fire watches, surveillance cameras, etc.) during periods when fire protection regulations are not met.” The petition was docketed by the NRC on May 26, 2017, and has been assigned Docket No. PRM-50-115. The NRC is examining the issues raised in PRM-50-115 to determine whether they should be considered in rulemaking. The NRC is requesting public comment on this petition.

DATES: Submit comments by **[INSERT DATE 75 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2017-0132. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: Carol.Gallagher@nrc.gov. For technical questions contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **Email comments to:** Rulemaking.Comments@nrc.gov. If you do not receive an automatic email reply confirming receipt, then contact us at 301-415-1677.

- **Fax comments to:** Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

- **Hand deliver comments to:** 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301-415-1677.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Jessica Kratchman, Office of Nuclear Reactor Regulations, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-5112, email: Jessica.Kratchman@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2017-0132 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2017-0132.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr.resource@nrc.gov. The petition for rulemaking is available in ADAMS under Accession No. ML17146A393.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC-2017-0132 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. The Petitioner

The petition was filed by David Lochbaum, on behalf of the Union of Concerned Scientists and Beyond Nuclear, with one co-petitioner, Paul Gunter of Beyond Nuclear.

III. The Petition

On behalf of the Union of Concerned Scientists and Beyond Nuclear, David Lochbaum with co-petitioner Paul Gunter request that the NRC amend its regulations to establish acceptable conditions for the use of compensatory measures (e.g., fire watches, surveillance cameras) during periods when fire protection regulations are not met.

IV. Discussion of the Petition

The petitioners state that the NRC's "fire protection regulations were primarily established with the issuance of Appendix R to 10 CFR Part 50 in 1980 and the NFPA [National Fire Protection Association] 805 alternative regulations adopted in 2004." The petitioners are referring to the final rule in 1980 that issued appendix R to part 50 of title 10 of the *Code of Federal Regulations* (10 CFR) and revised 10 CFR 50.48 (45 FR 76602; November 19, 1980). The 2004 final rule (69 FR 33536; June 6, 2004) further revised 10 CFR 50.48 and added alternative fire protection regulations based on National Fire Protection Association Standard 805, "Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants." The petitioners include as "Figure 1" in their petition a timeline including compensatory measure guidance documents that the NRC has issued. The NRC guidance documents from Figure 1 in the petition include the following:

- 1) NRC Bulletin 1975-004, "Cable Fire at Browns Ferry Nuclear Power Station," March 25, 1975 (ADAMS Accession No. ML070220189);

2) Nuclear Steam Supply System Vendor Standard Technical Specifications (NUREG-0103, "Standard Technical Specifications for Babcock and Wilcox Pressurized Water Reactors," Revision 0, 1976 (ADAMS Accession No. ML17266A000), Revision 1 (ADAMS Accession No. ML17266A001); NUREG-0123, "Standard Technical Specifications for General Electric Boiling Water Reactors," Revision 0, 1976 (ADAMS Accession No. ML17266A007), Revision 1 (ADAMS Accession No. ML17266A008); NUREG-0212, "Standard Technical Specifications for Combustion Engineering Pressurized Water Reactors," Revision 0, 1976 (ADAMS Accession No. ML17266A003), Revision 1 (ADAMS Accession No. ML17266A004); and NUREG-0452, "Standard Technical Specifications for Westinghouse Pressurized Water Reactors," Revision 0, 1976 (ADAMS Accession No. ML17266A005), Revision 1 (ADAMS Accession No. ML17266A006));

3) Branch Technical Position Auxiliary Power Conversion Systems Branch 9.5-1, "Guidelines for Fire Protection for Nuclear Power Plants," May 1, 1976 (ADAMS Accession No. ML070660461), Revision 1, May 13, 1979 (ADAMS Accession No. ML070660450); and Appendix A, "Guidelines for Fire Protection for Nuclear Power Plants Docketed Prior to July 1, 1976," August 23, 1976 (ADAMS Accession No. ML15322A269), and February 24, 1977 (ADAMS Accession No. ML070660458);

4) NUREG-0050, "Recommendations Related to Browns Ferry Fire," February 1976 (ADAMS Accession No. ML070520452);

5) NRC Generic Letter 1980-100, "Appendix R to 10 CFR Regarding Fire Protection – Federal Register Notice," November 24, 1980 (ADAMS Accession No. ML070220242);

6) NRC Generic Letter 1981-012, "Fire Protection Rule (45 FR 76602, November 19, 1980)," February 20, 1981 (ADAMS Accession No. ML031080537);

7) NRC Generic Letter 1986-010, "Implementation of Fire Protection Requirements," April 24, 1986 (ADAMS Accession No. ML031150322);

- 8) NRC Generic Letter 1988-012, "Removal of Fire Protection Requirements from Technical Specifications," August 2, 1988 (ADAMS Accession No. ML031150471);
- 9) NRC Information Notice No. 1997-048, "Inadequate or Inappropriate Interim Fire Protection Compensatory Measures," July 9, 1997 (ADAMS Accession No. ML070180068);
- 10) NRC Bulletin 1992-01, "Failure of Thermo-Lag 330 Fire Barrier System to Maintain Cabling in Wide Cable Trays and Small Conduits Free from Fire Damage," June 24, 1992 (ADAMS Accession No. ML031250239);
- 11) NRC Regulatory Issue Summary 2005-007, "Performance of Manual Actions to Satisfy the Requirements of 10 CFR Part 50 Appendix R Section III.G.2.," April 19, 2005 (ADAMS Accession No. ML042360547);
- 12) NRC Regulatory Guide 1.189, "Fire Protection for Nuclear Power Plants," Revision 2, October 2009 (ADAMS Accession No. ML092580550);
- 13) NRC Regulatory Guide 1.205, "Risk-Informed, Performance-Based Fire Protection for Existing Light-Water Nuclear Power Plants," Revision 0, May 2006 (ADAMS Accession No. ML061100174); Revision 1, December 2009 (ADAMS Accession No. ML092730314); and
- 14) NUREG/CR-7135, "Compensatory and Alternative Regulatory Measures for Nuclear Power Plant Fire Protection (CARMEN-FIRE)," Final Report, August 2015 (ADAMS Accession No. ML15226A446).

The petitioners assert that these guidance documents associated with the current regulations are deficient for three reasons:

- 1) They are not regulations and, therefore, convey unenforceable expectations;
 - 2) They create confusion for licensees, NRC inspectors and reviewers, and the public about what constitutes an acceptable substitute for compliance with fire protection regulations following identification of a deficiency, as well as the permissible durations of the substitutions;
- and

3) They were not developed through an open process, so the public did not have opportunities to weigh in on the acceptability of various compensatory measures.

The petitioners assert that a proposed rulemaking would ensure that compensatory measures are used appropriately following a violation in fire protection regulations, and that the rulemaking process would provide the public the opportunity to weigh in on the appropriateness of the use of various compensatory measures before the requirements are adopted as final. The petitioners also assert that a final rule would clear up any current confusion caused by the guidance documents for the NRC's licensees and inspectors and would provide enforceable requirements for the NRC.

Dated at Rockville, Maryland, this 2nd day of October, 2017.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,
Secretary of the Commission.

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