

The Agency expects, however, that such education will be available at no or little cost to the borrowers in most areas.

The Agency recognizes that there are some rural areas where homeownership education is not readily available or easily accessible. In implementing this requirement the Agency will assure that no one is turned away for consideration for a loan application solely because the required borrower education is not reasonably available in the local area as determined by the State Director. The homeownership education requirement may be waived, if the borrower demonstrates, and the State Director verifies, that no certified homeownership courses available via automated, electronic, mechanical or other technological medium and no home-study, or on-line format is available. The homeownership education requirement may be waived if the borrower documents a special needs such as a disability that would impede completing a homeownership course in any of the above mentioned formats.

Acceptable forms of homeownership education must be provided by homeownership education counselors that are certified by any of the following: The Department of Housing and Urban Development (HUD); NeighborWorks America; or the National Federation of Housing Counselors and at a minimum must include the following components:

- Preparing for Homeownership (evaluate readiness to go from rental to homeownership).
- Shopping for a home.
- Obtaining a mortgage (mortgage process, different types of mortgages).
- Loan closing (closing process, documentation, closing costs).
- Life as a homeowner (homeowner warranties, maintenance and repairs).

#### List of Subjects in 7 CFR Part 3550

Administrative practice and procedure, Conflict of interests, Environmental impact statements, Equal credit opportunity, Fair housing, Accounting, Housing Loan programs—Housing and community development, Low and moderate income housing, Manufactured homes, Reporting and recordkeeping requirements, Rural areas, Subsidies.

For the reasons stated in the preamble, chapter XXXV, Title 7 of the Code of Federal Regulations, is proposed to be amended as follows:

#### PART 3550—DIRECT SINGLE FAMILY HOUSING LOANS AND GRANTS

2. The authority citation for Part 3550 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 1480.

#### Subpart A—General

2. Section 3550.11 is added to read as follows:

##### § 3550.11 State Director Assessment of Homeowner Education.

(a) The State Director will make an assessment of the availability of certified homeowner education in their respective states and maintain a listing of providers and their reasonable costs.

(b) Acceptable forms of homeownership education must have a testing component and certificate of completion process and be provided by homeownership education counselors that are certified by any of the following:

- (1) The Department of Housing and Urban Development (HUD);
- (2) NeighborWorks America; or
- (3) The National Federation of Housing Counselors.

(c) Acceptable forms of homeownership education at a minimum must include the following components:

- (1) Preparing for Homeownership (evaluate readiness to go from rental to homeownership).
- (2) Shopping for a home.
- (3) Obtaining a mortgage (mortgage process, different types of mortgages).
- (4) Loan closing (closing process, documentation, closing costs).
- (5) Life as a homeowner (homeowner warranties, maintenance and repairs).

#### Subpart B—Section 502 Origination

3. Section 3550.52(d)(10) is added to read as follows:

##### § 3550.52 Loan purposes.

\* \* \* \* \*

(D) \* \* \*

(10) Fees for acceptable homeownership education under § 3550.11 of this subpart provided the fee does not exceed the reasonable costs determined by the State Director under that section.

\* \* \* \* \*

4. Section 3550.53(I) is added to read as follows:

##### § 3550.53 Eligibility requirements.

(i) *Homeownership education.* Applicants who are first-time homebuyers must provide documentation, in the form of a completion certificate or letter from the provider, that a homeownership education course from a certified provider under § 3550.11 has been successfully completed as defined by the provider prior to loan closing. The State Director may waive the

homeownership education requirement for geographic areas within the State where the borrower demonstrates and the State Director verifies that certified homeownership education is not reasonably available in the local area in either automated, electronic, mechanical or technological format. On a case-by-case basis, the State Director may waive the homeownership education requirement, provided the applicant borrower documents a special need such as a disability that would impede completing a homeownership course in the above mentioned formats.

Dated: February 24, 2006.

**Russell T. Davis,**

*Administrator, Rural Housing Service.*

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#### NUCLEAR REGULATORY COMMISSION

#### 10 CFR Part 50

RIN 3150 AH54

#### Fire Protection Program—Post-Fire Operator Manual Actions

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is withdrawing its proposed amendment to the Commission's fire protection regulations for nuclear power facilities operating prior to January 1, 1979. The proposed amendment pertained to the use of manual actions by plant operators coincident with fire detectors and an installed automatic fire suppression system in the fire area as an alternative method to achieve hot shutdown conditions in the event of fires in certain plant areas. Based on stakeholder comments, the Commission believes that the proposed rule would not achieve intended objectives of effectiveness and efficiency.

**FOR FURTHER INFORMATION CONTACT:** David Diec, (301) 415–2834, e-mail [dtd@nrc.gov](mailto:dtd@nrc.gov) or Alexander Klein, (301) 415–3477, e-mail [ark1@nrc.gov](mailto:ark1@nrc.gov) of the Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission.

#### SUPPLEMENTARY INFORMATION

- I. Purpose
- II. Background
- III. Proposed Rulemaking
- IV. Withdrawal of Rulemaking
- V. Operator Manual Actions Closure Plan
  - A. Ensuring Compliance
  - B. Regulatory Issue Summary

C. Staff Regulatory Review Guidelines  
D. Enforcement Action

## I. Purpose

For the reasons discussed in this document, the Commission is withdrawing a proposed rulemaking that was recommended as the appropriate regulatory tool to resolve a compliance issue associated with the use of operator manual actions for post-fire safe shutdown of nuclear power plants. The Commission is initiating a closure plan to ensure continuing compliance with the fire protection regulations.

## II. Background

Section 50.48(b) of the *Code of Federal Regulations* (10 CFR 50.48(b)) backfits the requirements of paragraphs III.G, III.J, and III.O of Appendix R, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979," to 10 CFR part 50, "Domestic Licensing of Production and Utilization Facilities," to plants licensed to operate before January 1, 1979 (pre-1979). The NRC incorporated similar guidance and criteria into Branch Technical Position CMEB 9.5-1, "Guidelines for Fire Protection for Nuclear Power Plants," and section 9.5.1, "Fire Protection Program," of NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants" (also referred to as the Standard Review Plan (SRP) for plants licensed after January 1, 1979 (post-1979). Post-1979 licensees incorporated their fire protection program implementation requirements into their operating licenses as license conditions.

Paragraph III.G.2 of Appendix R to 10 CFR part 50 requires that, where cables or equipment of redundant trains of systems necessary to achieve and maintain hot shutdown conditions are located in the same fire area, one of the following means of ensuring that one of the redundant trains is free of fire damage shall be provided:

- Separation of cables and equipment by a fire barrier having a 3-hour rating.
- Separation of cables and equipment by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards and with fire detectors and an automatic fire suppression system in the fire area.
- Enclosure of cables and equipment in a fire barrier having a 1-hour rating and with fire detectors and an automatic fire suppression system in the fire area.

Paragraph III.G.2 of Appendix R to 10 CFR part 50 cannot be reasonably interpreted to permit reliance upon operator manual actions in lieu of the

specific methods provided in subparagraphs (a), (b), and/or (c) to ensure that one of the redundant safe shutdown trains in the same fire area is free of fire damage. Therefore, any pre-1979 licensee that is using operator manual actions instead of the specific methods in subparagraphs (a), (b), and/or (c) without an NRC-approved exemption is not in compliance with the regulations.

The staff became aware that some licensees were using operator manual actions in lieu of the requirements in Paragraph III.G.2 in Appendix R to 10 CFR part 50 and initiated this rulemaking as a means to bring plants into compliance.

10 CFR 50.12, "Specific Exemptions," provides the basis for the NRC to consider exemptions from requirements in 10 CFR part 50, including the requirements in 10 CFR part 50, Appendix R.

In the past, the staff reviewed and approved a number of exemption requests for the use of operator manual actions when licensees could not meet the requirements for either separation distance, a fire barrier, or a fire suppression system as detailed under paragraphs III.G.2(a), (b), or (c) of Appendix R to 10 CFR Part 50. The staff's rationale for approving these exemptions was predicated on the type and amount of combustibles, the need for automatic fire suppression and detection capability, the effectiveness of the applicant's manual firefighting capability, and the time assumed available for plant operators to take such manual actions.

The regulations also allow licensees to use a risk-informed, performance-based approach under 10 CFR 50.48(c). This approach would allow licensees to use the National Fire Protection Association (NFPA) Standard 805, "Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants, 2001 Edition," in lieu of seeking an exemption or license amendment or meeting the requirements of Appendix R.

## III. Proposed Rulemaking

In SECY-03-0100, "Rulemaking Plan on Post-Fire Operator Manual Actions," dated June 17, 2003, the NRC staff recommended a revision to the reactor fire protection regulation contained in Appendix R to 10 CFR part 50 and associated guidance to resolve a regulatory compliance issue. The proposed rule on post-fire operator manual actions was published in the **Federal Register** on March 7, 2005 (70 FR 10901), with a 75-day comment

period that ended on May 23, 2005. The proposed rule would have revised paragraph III.G.2 of Appendix R to allow licensees to implement acceptable operator manual actions combined with fire detectors and automatic fire suppression capability as an acceptable method for ensuring the capability of a licensee to bring a reactor to, and maintain it in, a hot shutdown condition. Fire detectors and automatic fire suppression requirements were included with the criteria for feasible and reliable operator manual actions to maintain fire protection defense-in-depth. The anticipated outcome of this proposed rule was to reduce unnecessary regulatory burden and maintain NRC effectiveness and efficiency by reducing the need for licensees to prepare exemption requests, and the need for NRC to review and approve these requests.

The NRC received about 80 comments from 14 individuals and organizations on the proposed rule. Industry stakeholders and the Nuclear Energy Institute (NEI) commented that the proposed rule requirement for an automatic fire suppression system is not necessary and installation of such systems would be costly without a clear safety enhancement. Industry stakeholders and NEI stated that this requirement would likely not reduce or eliminate the number of exemption requests, and thus, would not meet one of the primary purposes of the rulemaking.

Industry stakeholders further objected to the proposed rule requirement for a time margin and stated that thermal hydraulic calculations and other analyses have inherent conservatism that accounts for time margin. Industry stakeholders also objected to the time margin factor of two, stating that it is arbitrary, unprecedented, and inconsistent with requirements for other plant programs, such as emergency operating procedures.

Some industry stakeholders claim that the proposed rule is a backfit and that NRC guidance has allowed the use of operator manual actions to protect redundant safe shutdown trains.

Comments received from public interest groups and individuals generally stressed the need for the NRC to maintain the current regulations on fire protection of nuclear power plant safe shutdown capability. The Union of Concerned Scientists and the Nuclear Information and Resource Service stated that they agree with the staff's recommendation to withdraw the proposed rule.

The NRC's evaluation of the stakeholder comments is provided in

the document titled "Response to Public Comments on the Proposed Operator Manual Actions Rule." This document is available in ADAMS under ADAMS Accession No. ML053350235. ADAMS may be accessed via the NRC's Public Web site at <http://www.nrc.gov/NRC/ADAMS/index.html>.

The NRC has engaged stakeholders throughout the rulemaking process. On April 27, 2005, the NRC held a Category 3 public meeting at NRC Headquarters in Rockville, Maryland, to obtain stakeholder feedback on the proposed rule. Representatives from the industry, the Nuclear Energy Institute, industry consultants, and a public interest group attended the meeting. The feedback provided by stakeholders during the public meeting was similar in nature and consistent with those provided in written comments at the close of the 75-day public comment period.

On September 30, 2005, the NRC held a Category 2 public meeting at NRC Headquarters to discuss both the planned withdrawal of the proposed rule on post-fire operator manual actions and NRC's closure plan following withdrawal of the rule. During this meeting, the NRC received public comments on the closure plan from industry, the NEI, the Nuclear Information and Resource Service, and an industry consultant.

#### IV. Withdrawal of Rulemaking

Industry stakeholders and NEI stated that the proposed rule, if implemented, would require numerous exemption requests for conditions that do not satisfy the automatic fire suppression requirement, specific acceptance criteria for operator manual actions, or a combination thereof. This outcome would not be consistent with the primary purpose of the rulemaking which was to enhance effectiveness and efficiency by reducing or eliminating exemption requests. Therefore, the NRC is withdrawing the proposed rulemaking.

#### V. Operator Manual Actions Closure Plan

##### A. Ensuring Compliance

The NRC will continue to verify compliance with its regulations through scheduled inspections. The NRC expects noncompliances identified by NRC inspectors or licensees to be addressed by licensees through plant corrective actions.

The withdrawal of the operator manual actions rulemaking may require some licensees to take corrective actions that may be different from those described in the proposed rule. As such,

the NRC's closure plan to deal with the rule withdrawal includes issuing a new regulatory issue summary and developing internal staff regulatory review guidelines for post-fire operator manual actions.

##### B. Regulatory Issue Summary

The NRC intends to issue a regulatory issue summary (RIS) to reiterate the 10 CFR part 50, Appendix R Paragraph III.G.2 compliance expectations with respect to the use of operator manual actions, discuss the means to achieve compliance, advise licensees of the date the NRC will terminate the enforcement discretion guidance in Enforcement Guide Memorandum (EGM) 98-02, "Enforcement Guidance Memorandum—Disposition of Violations Of Appendix R, Sections III.G and III.L Regarding Circuit Failures," Revision 2 issued in February 2000 (incorporated into Enforcement Manual section 8.1.7.1), and discuss potential exemption requests, compensatory measures and corrective actions pertaining to operator manual actions.

##### C. Staff Regulatory Review Guidelines

The NRC developed acceptance criteria as part of the proposed rule for operator manual actions and also for DG-1136, "Demonstrating the Feasibility and Reliability of Operator Manual Actions in Response to Fire," dated February 2005, that provided an acceptable method for complying with the proposed rule. The acceptance criteria and DG-1136 were published in 70 FR 10901. The NRC plans to update section 9.5.1, "Fire Protection Program," of NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants" [also referred to as the Standard Review Plan (SRP)] to address post-fire operator manual actions acceptance guidance. This update to the SRP will include the knowledge gained during the proposed rule development and will enhance the NRC regulatory review process for future licensing actions, such as exemption requests.

##### D. Enforcement Action

In March 1998, the NRC staff issued EGM 98-02, which provides enforcement discretion guidance for issues related to fire-induced circuit failures. The most recent revision of EGM 98-02 was issued in February 2000 and can be accessed in ADAMS under ADAMS Accession Number ML003710123. This EGM, which remains in effect, discusses fire-induced circuit failure requirements and encompasses the vast majority of manual actions since manual actions are

used as compensatory measures to satisfy the regulatory requirements related to fire-induced circuit failures. The EGM provides guidance for disposition of noncompliances involving fire-induced circuit failures, which could prevent operation or cause maloperation of equipment needed to achieve and maintain post-fire safe shutdown. The EGM includes guidance to provide discretion for cases where licensees do not dispute that a violation of regulatory requirements has occurred with respect to a nonconformance, take prompt compensatory actions, and take corrective actions within a reasonable time. The expectations of this EGM have been incorporated into the current NRC Enforcement Manual.

The Office of Nuclear Reactor Regulation issued a revised Inspection Procedure (IP) 71111.05T, "Fire Protection (Triennial)," in March 2003 providing inspection criteria for operator manual actions. The inspection criteria are used as guidance by NRC inspectors to determine if operator manual actions can be used as a compensatory measure while corrective actions are taken by the licensee.

The NRC plans to terminate the enforcement discretion guidance in EGM 98-02 6 months after the publication date of this **Federal Register** notice. During this 6-month period, the application of the enforcement guidance in EGM 98-02 in combination with the criteria in IP 71111.05T will ensure the adequacy and appropriateness of compensatory measures in the form of operator manual actions implemented in accordance with the licensee's fire protection program. Manual actions that fail to meet the criteria in the inspection procedure are not considered to be feasible or adequate compensatory measures. The continuation of enforcement discretion guidance for six months is intended to provide a reasonable amount of time for licensees that have implemented feasible and reliable operator manual actions as compensatory measures to initiate corrective actions. The corrective actions could involve compliance with III.G.2 or III.G.3; adoption of NFPA 805 through 10 CFR 50.48(c); or submission of exemption requests or license amendments.

Licensees that have initiated corrective actions within the 6-month period, for noncompliances involving operator manual actions used to address fire-induced circuit failures, will receive enforcement discretion for those noncompliances provided licensees complete the corrective actions in a timely manner. The NRC expects timely completion of the corrective actions

consistent with RIS 2005–20, “Revision to Guidance Formerly Contained in NRC Generic Letter 91–18,” dated September 26, 2005 (ADAMS Accession No. ML052020424) not to exceed 3 years from the date of this **Federal Register** notice, or consistent with the licensee’s NFPA 805 transition schedule.

The Commission believes that the proposed rule would not achieve its objective. Therefore, the Commission has decided to withdraw the proposed rule.

Dated at Rockville, Maryland this 28th day of February, 2006.

For the Nuclear Regulatory Commission.

**Annette Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. E6–3128 Filed 3–3–06; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD01–06–004]

RIN 1625–AA09

#### Drawbridge Operation Regulations; Connecticut River, East Haddam, CT

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to temporarily change the drawbridge operating regulations governing the operation of the Route 82 Bridge, mile 16.8, across the Connecticut River at East Haddam, Connecticut. This proposed rule would allow the Route 82 Bridge to operate on a fixed opening schedule from April 1, 2006 through June 30, 2006. The bridge would open at all times for commercial vessels after at least a 24-hour advance notice and a 2-hour confirmation is given by calling the number posted at the bridge. This rule is necessary to facilitate rehabilitation construction at the bridge.

**DATES:** Comments and related material must reach the Coast Guard on or before March 27, 2006.

**ADDRESSES:** You may mail comments and related material to Commander (dpb), First Coast Guard District Bridge Branch, One South Street, Battery Park Building, New York, New York, 10004, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (212) 668–7165. The First Coast Guard District, Bridge Branch, maintains the public

docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, (212) 668–7195.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–06–004), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

##### Regulatory Information

We anticipate making this temporary rule effective in less than 30 days after publication in the **Federal Register**.

Under 5 U.S.C. 553(d)(3) the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register** as the Route 82 Bridge repairs currently scheduled to begin on April 1, 2006, are vital necessary repairs that must be performed with all due speed to assure the continued safe and reliable operation of the bridge. Any delay in making this rule effective as soon as possible would not be in the best interest of public safety and the marine interests that use the Connecticut River. Failure to start the rehabilitation repairs on time could result in an unscheduled bridge operation failure.

However, the Coast Guard desires to allow as much time as possible for public participation and comment during this rulemaking process. Thus, we are allowing the comment period to run into the 30 day time period normally included between publication and the effective date.

##### Public Meeting

We do not now plan to hold a public meeting; however, you may submit a request for a meeting by writing to the First Coast Guard District, Bridge Branch, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

##### Background and Purpose

The Route 82 Bridge has a vertical clearance of 22 feet at mean high water, and 25 feet at mean low water in the closed position. The existing drawbridge operating regulations listed at 33 CFR 117.205(c), require the bridge to open on signal at all times; except that, from May 15 to October 31, 9 a.m. to 9 p.m., the bridge is required to open for recreational vessels on the hour and half hour only. The bridge is required to open on signal at all times for commercial vessels.

The bridge owner, Connecticut Department of Transportation, has requested a temporary rule to facilitate electrical and mechanical rehabilitation at the Route 82 Bridge.

Under this temporary rule the Route 82 Bridge would open from April 1, 2006, through June 30, 2006, on signal at 5:30 a.m., 1:30 p.m., and 8 p.m., daily. The bridge would open for commercial vessels at any time after a 24-hour notice with a 2-hour confirmation is given by calling the number posted at the bridge.

##### Discussion of Proposed Rule

This proposed change would amend 33 CFR 117.205 by suspending paragraph (c) and adding a new temporary paragraph (d) that would list the temporary bridge opening schedule for the Route 82 Bridge.

This temporary rule is necessary to facilitate the rehabilitation construction at the Route 82 Bridge in order to maintain the bridge in good operable condition.

This proposed change would allow the Route 82 Bridge to open from April 1, 2006, through June 30, 2006, at 5:30 a.m., 1:30 p.m., and 8 p.m., daily. The bridge would open at any time for commercial vessels after a 24-hour notice, with a 2-hour confirmation, is given by calling the number posted at the bridge.

##### Regulatory Evaluation

This proposed rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of