

September 11, 2003

Mr. Alex Marion, Director
Engineering Department
Nuclear Generation Division
Nuclear Energy Institute
1776 I Street, NW, Suite 400
Washington, DC 20006-3708

Dear Mr. Marion:

The purpose of this letter is to respond to your letters to me, dated April 9 and May 22, 2003. Your letter dated April 9, 2003, contained three enclosures entitled "Industry Principles for Fire-Induced Circuit Failure Resolution," "Recommended Steps for Circuit Failure Issue Resolution," and "Comments on Recent NRC Documents." In this letter you asked us to accept NEI 00-01, coordinate all fire protection rulemaking activities, develop appropriate inspection guidance and training, and document regulatory expectations and resolution plans in a Regulatory Information Summary (RIS). Your letter dated May 22, 2003, requested near-term approval of NEI 00-01 for licensee use.

This letter provides you our current high-level view with respect to NEI 00-01. I have directed my staff to discuss details of NEI 00-01 with the NEI staff at a future public meeting on that subject in late October or early November. Please note that we are considering NEI 00-01 in the context of a number of other ongoing and planned rulemakings in the area of fire protection, and the views expressed in this letter have changed from our previous views on this report.

The NRC staff is currently reviewing NEI 00-01 in the context of National Fire Protection Association (NFPA) 805. In your letters, you propose that NEI 00-01 be considered as an acceptable means to achieve resolution of current licensing basis (CLB) issues. We believe that NEI 00-01 would afford an opportunity to resolve CLB issues in a risk-informed context. At the present time the staff's vision for NEI 00-01 is to endorse its circuit analysis methodology in a planned regulatory guide that accompanies the risk-informed performance-based rule that incorporates NFPA 805. Licensees not adopting the NFPA 805 option of the proposed 10 CFR 50.48 rule may apply NEI 00-01 risk-informed methods, but must also request exemptions or deviations, depending on their licensing basis.

NRC staff's current views on the inspection of fire induced circuit failures is reflected in a RIS issued recently for public comment. This RIS is available in draft form (ML032030584). An attachment to this RIS provides technical input used to risk-inform the inspection guidance on associated circuits. Furthermore, the staff is planning to hold a public workshop on this subject before resuming inspection of associated circuits. Please refer to the current Fire Protection Improvement Plan (ML032050010).

In your letters and in NEI 00-01, you proposed actions that require multi-discipline staff reviews as well as actions that require Commission approval. To respond to your requests, my staff has requested a cross-functional review to determine the acceptability of the application of NEI 00-01, Revision 0, in a risk-informed performance-based rule application. Based on preliminary feedback we received from the Office of Enforcement as well as the Inspection Program Branch of the Office of Nuclear Reactor Regulation, we have initiated actions to address some policy level decisions. For example, we have started developing a proposal for enforcement discretion for associated circuits findings for Commission approval. If approved by the Commission, this measure would reduce undue burden for the NRC staff and the licensees on the associated circuit analysis issues. We are working with the Inspection Program Branch of the Office of Nuclear Reactor Regulation and the Office of Enforcement on ways to encourage the licensees to self-discover and fix risk-significant issues.

We agree that it is imperative to coordinate fire protection rulemaking activities. My staff is aware of your comments on IP 71111.05 "Manual Action Feasibility Criteria." They plan to address your comments and concerns on this subject as the rulemaking activities proceed. However, I recommend that your staff meet with the NRC staff on this subject to discuss details at a future public meeting in late October or early November.

Mr. Emerson has been in contact with my staff regarding the September 2003, NEI Fire Protection Information Forum. We will further clarify NRC views on NEI 00-01 and other fire protection issues at that meeting.

If you have any questions regarding this letter, please contact Sunil Weerakkody of my staff, 301-415-2870.

Sincerely,

John N. Hannon, Chief **//RA//**
Plant Systems Branch
Division of Systems Safety and Analysis
Office of Nuclear Reactor Regulation

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John N. Hannon, Chief **//RA//**
Plant Systems Branch
Division of Systems Safety and Analysis
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Please see previous concurrence

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