

exercise every two years. The backfit may not fall within the scope of the compliance exception,¹⁰ CFR 50.109(a)(4)(i), in view of the lack of new information showing that the prior NRC approval of "alternating participation" was based upon a factual error or new information not known to the NRC at the time that the NRC approved "alternating participation." However, these licensees have informally been implementing an emergency planning training regime since year 2000 that is consistent with the proposed rule. Accordingly, the NRC does not propose to prepare a backfit analysis addressing the Nine Mile Point and James A. FitzPatrick licensees.

With respect to future holders of operating licenses (including combined licenses under part 52) for nuclear power plants which are co-located at the same site, the Commission has indicated in various rulemakings that the Backfit Rule does not protect the prospects of a potential applicant.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and record keeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act for 1954, as amended, the Energy Reorganization Act of 1974, as amended, the National Environmental Policy Act of 1969, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendment to 10 CFR part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATIONS FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 102,103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 12422, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5841). Section 50.10 also issued under secs. 101, 185, 168 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.43(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and

Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. In Appendix E to Part 50, Paragraphs IV. B and F.2.c. are revised to read as follows:

Appendix E—Emergency Planning and Preparedness for Production and Utilization Facilities

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IV. Content of Emergency Plans

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B. Assessment Actions

The means to be used for determining the magnitude of, and for continually assessing the impact of the release of radioactive materials shall be described, including emergency action levels that are to be used as criteria for determining the need for notification and participation of local and State agencies, the Commission, and other Federal agencies, and the emergency action levels that are to be used for determining when and what type of protective measures should be considered within and outside the site boundary to protect health and safety. The emergency action levels shall be based on in-plant conditions and instrumentation in addition to onsite and offsite monitoring. These EALs shall be discussed and agreed on by the applicant or licensee and State and local governmental authorities, and approved by the NRC. Thereafter, EALs shall be reviewed with the State and local governmental authorities on an annual basis. A revision to an EAL must be approved by the NRC prior to implementation if: (1) Licensee is changing from one EAL scheme to another EAL scheme (e.g. a change from an EAL scheme based on NUREG–0654 to a scheme based upon NUMARC/NESP–007); or (2) the EAL revision decreases the effectiveness of the emergency plan. A licensee shall submit each request for NRC approval of the proposed EAL change as specified in § 50.4. If a licensee makes a change to an EAL that does not require NRC approval, the licensee shall submit, as specified in § 50.4, a report of each change made within 30 days after the change is made.

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F. Training

2. * * *

c. Offsite plans for each licensee shall be exercised biennially with full participation by each offsite authority having a role under the plan. Where the offsite authority has a role under a radiological response plan for more than one licensee it shall fully participate in one exercise every two years and shall, at minimum, partially participate⁵ in other offsite plan exercises in this period.

If two licensees are located on any one site (co-located licensees)⁶ each licensee shall:

(1) Conduct an exercise biennially of its onsite emergency plan;

(2) Participate quadrennially in an offsite biennial full or partial participation exercise; and

(3) Conduct emergency planning activities and interactions in the three years between its participation in the offsite full or partial participation exercise with offsite authorities, in order to test and maintain interface functions among the affected State and local authorities and the licensee.

⁵"Partial participation" when used in conjunction with emergency preparedness exercises for a particular site means appropriate offsite authorities shall actively take part in the exercise sufficient to test direction and control functions; i.e., (a) protective action decision making related to emergency action levels, and (b) communication capabilities among affected State and local authorities and the licensee.

⁶Co-located licensees are licensees that share many of the following emergency planning and siting elements.

- a. Plume exposure and ingestion emergency planning zones,
- b. Offsite governmental authorities,
- c. Offsite emergency response organizations,
- d. Public notification system, and/or
- e. Emergency facilities.

Dated at Rockville, Maryland, this 18th day of July, 2003.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Acting Secretary of the Commission.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–167–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and –11F Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 and –11F airplanes. This proposal would require replacement of the wire assembly connectors of the bag rack lighting with new, moisture-resistant connectors and reidentification of the bag racks. This action is necessary to