

February 13, 2006

Mr. J. M. Heffley
Chief Nuclear Officer
Constellation Generation Group
1997 Annapolis Exchange Parkway
Suite 310
Annapolis, MD 21401

SUBJECT: RESPONSE TO LETTER OF INTENT TO ADOPT NATIONAL FIRE
PROTECTION ASSOCIATION (NFPA) STANDARD 805, R.E. GINNA
NUCLEAR POWER PLANT

Dear Mr. Heffley:

I am responding to your letter dated December 19, 2005 (Agencywide Documents Access and Management System Accession No. ML053620035), in which you informed the Nuclear Regulatory Commission (NRC) that Constellation Generation Group, LLC (CGG) intends to adopt NFPA Standard 805, "NFPA 805, Performance-Based Standard for Fire Protection for Light-Water Reactor Electric Generating Plants," 2001 Edition, pursuant to Section 50.48(c) of Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR 50.48(c)), at the R.E. Ginna Nuclear Power Plant (Ginna).

In your December 19 letter, you requested enforcement discretion for existing identified incidents of noncompliances in accordance with the NRC's Interim Enforcement Policy (see *Federal Register* at 69 FR 33684 and 70 FR 2662). Since you have met the deadline to receive discretion for existing identified incidents of noncompliances, the NRC approves your request.

You also informed us that the transition to the performance-based standard for fire protection at Ginna will commence during the first quarter of 2006 and will take approximately 36 months to fully implement. You indicated that the schedule is subject to change depending on the extent of any physical plant modifications and/or changes to the fire protection program determined to be necessary to comply with NFPA 805. You provided various reasons to request an enforcement discretion window of 3 years, as opposed to the 2-year window approved by the Commission. Some of the key reasons that you provided for requesting an extension are:

- Within CGG, and the nuclear industry in general, limited experts are available in areas of electrical engineering (circuit analysis), system engineering, and Appendix R safe-shutdown to support reconstitution of the Appendix R design basis and the transition to NFPA 805.
- Since Ginna would be the first CGG plant to adopt NFPA 805, CGG wants to use this opportunity to incorporate lessons learned into potential future adoptions within the CGG fleet. CGG plans to use a structured approach and process to utilize fleet resources most effectively.
- CGG believes that the risk of extension of the enforcement discretion window is low since the issues have been assessed as low risk.

Under the current Interim Enforcement Policy, the discretion period for Ginna began on December 31, 2005, and will expire on December 31, 2007. However, issues similar to the ones you have raised as the basis for requesting a 36-month enforcement discretion window have been raised by other licensees that have sent us letters of intent to adopt NFPA 805. We are considering your request and will contact you when we have reached a decision.

You have indicated that you are currently evaluating the potential to adopt NFPA 805 for the Nine Mile Point Nuclear Station (Nine Mile Point) and the Calvert Cliffs Nuclear Power Plant (Calvert Cliffs). Please note that, since you have not expressed your intent to adopt NFPA 805 for these plants at this time, enforcement discretion does not currently apply to them. In the event you choose to adopt NFPA 805 at Nine Mile Point and Calvert Cliffs, enforcement discretion will be provided for licensee-identified issues at these plants during the transition, after the NRC receives the letters of intent to adopt NFPA 805 for these plants.

In order to receive enforcement discretion, you must: (a) evaluate the risk significance of all noncompliances to assure that they do not constitute "Red" (or a Severity Level I) findings under the Reactor Oversight Program, (b) enter them into your corrective action program, and (c) implement and maintain appropriate compensatory measures, until the NRC staff approves your license amendment request (LAR) and issues its safety evaluation. You should refer to NRC Regulatory Issue Summary 2005-07, "Compensatory Measures to Satisfy the Fire Protection Program Requirements," to determine appropriate compensatory measures.

You have also proposed that the NRC consider Ginna as a pilot plant for the initial implementation of performance-based fire protection using NFPA 805 and requested that all licensing and review fees for the review of the LAR be waived. We have already selected two pilot plants to enable us to develop and refine the regulatory structure to support the NFPA 805 implementations. However, the NRC's Chief Financial Officer will respond to you separately on your request for a fee waiver per 10 CFR 170.11.

A number of licensees, who are not part of the pilot plant program, have requested meetings with the NRC staff to review their project plan and to discuss transition issues. We recognize the benefits of communication between transitioning licensees and the Office of Nuclear Reactor Regulation and regional staffs. Therefore, we plan to hold periodic workshops at the regional offices on NFPA 805 implementation issues.

J. Heffley

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If you have any questions regarding this matter, please contact Patrick Milano, Sr. Project Manager, at 301-415-1457 or pdm@nrc.gov.

Sincerely,

/RA/

Catherine Haney, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-244

cc: See next page

J. Heffley

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If you have any questions regarding this matter, please contact Patrick Milano, Sr. Project Manager, at 301-415-1457 or pdm@nrc.gov.

Sincerely,

/RA/

Catherine Haney, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-244

cc: See next page

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