

March 7, 2006

Mr. Randall K. Edington
Vice President-Nuclear and
Chief Nuclear Officer
Nebraska Public Power District
Cooper Nuclear Station
P.O. Box 98
Brownville, NE 68321

SUBJECT: NRC RESPONSE TO NEBRASKA PUBLIC POWER DISTRICT'S LETTER OF
INTENT TO ADOPT 10 CFR 50.48(c) (NFPA 805 RULE) FOR COOPER
NUCLEAR STATION (CNS)

Dear Mr. Edington:

This letter responds to your letter dated December 22, 2005 (Agencywide Documents Access and Management System Accession No. ML053640280), in which you informed us that Nebraska Public Power District (NPPD) intends to adopt National Fire Protection Association (NFPA) 805, "Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants," 2001 Edition (NFPA 805 Rule), in accordance with the requirements in Title 10 of the *Code of Federal Regulations* (10 CFR), Paragraph 50.48(c) for CNS.

Your letter requests enforcement discretion for existing identified noncompliances in accordance with the U.S. Nuclear Regulatory Commission's (NRC's) Interim Enforcement Policy (69 FR 33684 and 70 FR 2662). Since you have met the deadline to receive discretion for existing identified noncompliances, NRC approves your request.

In your letter, you informed us that your transition to the performance-based standard for fire protection will commence during the first quarter of 2006, and will take approximately 48 months to fully implement. You indicated that the schedule is subject to change depending on the extent of any physical plant modifications or changes required to the CNS fire protection program to comply with NFPA 805. Your letter noted that the NFPA 805 transition process will proceed in three phases:

Phase 1 - Preliminary assessment of the fire protection program;
Phase 2 - Review and engineering analysis; and
Phase 3 - Implementation

You provided numerous reasons to request an enforcement discretion window of 4 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:

- Duke Energy, Progress Energy, and other plants have submitted letters of intent to transition to NFPA 805, and have requested to be considered as pilot plants. CNS desires to apply the lessons learned from their efforts, and these lessons learned may not be available for one to two years;

- CNS will need to rely on outside resources to complete the transition. However, within the nuclear industry, there are a limited number of experts in the areas of electrical engineering (circuit analysis), system engineering, Appendix R safe-shutdown, and probabilistic safety assessment (PRA) which are needed to support reconstitution of the Appendix R design basis and the transition to NFPA 805; and
- There are several actions that need to be completed in series to make a quality transition. This would include developing a cable and raceway data base and a complete fire PRA prior to doing further engineering analysis. For this reason, NPPD estimates the total project duration to be approximately 48 months.

Under the enforcement discretion policy currently in place, the discretion period for CNS begins December 31, 2005, and will expire on December 31, 2007. However, a number of licensees have raised issues similar to the ones that you have raised as the basis to request extensions to the enforcement discretion window. The NRC staff is considering your request and will contact you when we have reached a decision.

You have also proposed that we consider the CNS as a pilot for the initial implementation of performance-based fire protection using NFPA 805, and requested that we waive all licensing and review fees for the license amendment request (LAR). NRC has already selected two pilot plants to enable us to develop and refine the regulatory structure supporting the NFPA 805 implementations. The Chief Financial Officer will respond to you separately on your request for a fee waiver per regulation 10 CFR 170.11.

A number of utilities which are not pilots for NFPA 805, have requested meetings with the NRC staff to review their project plans and discuss transition issues. We recognize the benefits of communication among transitioning licensees, the Office of Nuclear Reactor Regulation (NRR), and the regional staff. Therefore, we plan to hold periodic workshops at the regional offices on NFPA 805 implementation issues.

Please note that in order to receive the enforcement discretion, you must: (1) evaluate the risk significance of all noncompliances to assure that they do not constitute "Red" findings or a violation categorized as Severity Level I, (2) enter them into your corrective action program, and (3) implement and maintain appropriate compensatory measures, until the NRC staff approves your LAR to transition to NFPA 805 and issues the safety evaluation report. Please refer to NRC Regulatory Issue Summary 2005-07, "Compensatory Measures to Satisfy the Fire Protection Program Requirements," to determine appropriate compensatory measures.

R. Edington

-3-

If you have any questions regarding this matter, please contact Brian Benney, Project Manager, at (301) 415-3764 or (bjb@nrc.gov).

Sincerely,

/RA/

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

Docket No. 50-298

cc: See next page

R. Edington

-3-

If you have any questions regarding this matter, please contact Brian Benney, Project Manager, at (301) 415-3764 or (bjb@nrc.gov).

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

Docket No. 50-298

cc: See next page

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January 2006

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