

July 23, 2015

MEMORANDUM TO: Alexander R. Klein, Chief
Fire Protection Branch
Division of Risk Assessment
Office of Nuclear Reactor Regulation

FROM: Barry W. Miller, Sr. Project Manager */RA/*
Fire Protection Branch
Division of Risk Assessment
Office of Nuclear Reactor Regulation

SUBJECT: SUMMARY OF THE JULY 1, 2015, CATEGORY 2 PUBLIC MEETING
REGARDING POTENTIAL RULEMAKING RELATED TO CHAPTER 3
OF THE NATIONAL FIRE PROTECTION ASSOCIATION
STANDARD 805 AT TITLE 10 OF THE CODE OF FEDERAL
REGULATIONS PART 50.48(c)

On July 1, 2015, the U.S. Nuclear Regulatory Commission (NRC) staff held a public teleconference with the Nuclear Energy Institute and industry stakeholders to discuss an industry proposal to potentially revise Title 10 of the Code of *Federal Regulations* (10 CFR) 50.48(c) such that some of the requirements in Chapter 3 of National Fire Protection Association (NFPA) 805 would become more performance-based. The meeting notice was made available at Agencywide Document Access and Management System (ADAMS) Accession No. ML15174A083. Meeting handouts that were made publicly available include the industry's proposal available at ML15159A457 and the NRC staff's initial comments regarding NFPA 805 Chapter 3 available at ML15174A068.

The NRC staff began the meeting by discussing its initial comments and questions that were provided ahead of the meeting. Specifically, the industry noted that some sections of Chapter 3 are very restrictive because they use absolute language, and that compliance is therefore unnecessarily burdensome for some issues. For example, restrictions on bringing non fire treated wood into the power block might restrict things like broomsticks and screwdriver handles, items which were likely never intended to be prohibited but nevertheless must be controlled for verbatim compliance with Chapter 3. To facilitate the discussion, the industry provided an example of rule language that would modify Chapter 3 to be more performance-based, allowing flexibility to bring these types of items into the power block when it can be shown that they would have a negligible fire impact.

The NRC staff understood and agreed on a conceptual level that there are some Chapter 3 requirements amenable to being more performance-based. However, the staff also noted that there are several Chapter 3 requirements that it would likely not find acceptable to make performance-based.

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Examples given were the number of fire brigade members and number of fire pumps. Industry representatives appeared to agree that some sections should not be performance-based or are not amenable to it. NRC staff indicated that this level of specificity would be needed rather than trying to broadly address all of Chapter 3.

NRC staff further questioned if the industry had concerns with some of the Chapter 3 requirements in which the NRC already allows using performance-based tools to demonstrate compliance. The industry did not identify any concerns, but indicated that it worded the example rule language to also include those requirements so that the rule would be all encompassing. The industry did clarify, however, that its intent was not to use performance-based methods to justify not meeting certain Chapter 3 requirements altogether, but rather use performance-based methods to demonstrate adequate compliance. The NRC again indicated that a deeper level of specificity for which Chapter 3 sections might be performance-based was needed.

Next, staff from the NRC's rulemaking branch provided an overview of the rulemaking process and what it entails. NRC staff noted that the typical notice and comment rulemaking process take place over multiple years and can absorb substantial agency and stakeholder resources. Further, NRC staff explained that the staff seeks Commission approval before initiating rulemaking. If the Commission approves initiating a rulemaking it would then go through a prioritization process. Rulemakings that receive a high-priority rank are typically those with a significant safety impact. The NRC staff's current understanding of a potential rulemaking about Chapter 3 is that it may affect regulatory efficiency and burden, but it does not appear to have significant safety implications. NRC staff indicated that it would be useful if the industry could provide an estimate of how often it would expect to encounter Chapter 3 compliance issues and what the impacts would be to better inform what level of regulatory efficiency might potentially be gained through rulemaking.

The meeting concluded with two action items. The first was for the NRC staff to identify a list of Chapter 3 sections that it would more than likely not find acceptable for making performance-based. The second action was for the industry to identify a list of Chapter 3 sections that it believes would be most useful to be made performance-based.

In the days subsequent to this public meeting, the NRC staff discussed this topic with the Reactor and Materials Rulemaking Division of its Office of General Counsel. Because the Petition for Rulemaking (PRM) process might be the vehicle pursued by NEI for this potential rulemaking effort, the NRC determined that neither of the two action items listed above should be completed. The reason for this is that taking these actions could potentially be construed as taking action outside the formal PRM process and/or stepping beyond the consulting restrictions in 10 CFR 2.802.

An opportunity for public comment was provided at the end of the meeting. No members of the public attended and therefore no comments were received.

A list of meeting attendees is enclosed with this memorandum.

Enclosure:
As stated

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Date	07 / 22 / 2015	07 / 23 / 2015

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**MEETING ON POTENTIAL RULEMAKING RELATED TO CHAPTER 3 OF NATIONAL FIRE
PROTECTION ASSOCIATION STANDARD 805**

LIST OF ATTENDEES

July 1, 2015

**U. S. Nuclear Regulatory
Commission Staff**

B. Miller
A. Klein
C. Moulton
H. Barrett
S. Dinsmore
M. Ellenson
J. Robinson
A. Wu

Stakeholders

V. Anderson (NEI)
J. Reed (NEI)
M. Schairer (EPM)
J. Ertman (Duke Energy)
A. Ratchford (RDS)
T. Shudak (NPPD)
T. Swiecicki (Entergy)
D. Davidson (Southern Nuclear)
F. Mantine (First Energy)

ENCLOSURE