



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 20, 2013

EA-13-031

Mr. Jeremy Browning
Site Vice President
Arkansas Nuclear One
Entergy Operations, Inc.
1448 S.R. 333
Russellville, AR 72802

SUBJECT: ARKANSAS NUCLEAR ONE, UNIT NO. 1 - ISSUANCE OF CONFIRMATORY
ORDER RE: REQUEST FOR EXTENSION OF ENFORCEMENT DISCRETION
(TAC NO. ME9429)

Dear Mr. Browning:

The enclosed Confirmatory Order is being issued to Entergy Operations, Inc. (Entergy, the licensee), to revise the date for the submittal of an acceptable license amendment request to transition Arkansas Nuclear One, Unit 1 (ANO-1), to the National Fire Protection Association (NFPA) Standard 805, "Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants," 2001 Edition, in accordance with Section 50.48(c) of Title 10 of the *Code of Federal Regulations* (10 CFR). By letter dated November 2, 2005, (Agencywide Documents Access and Management System (ADAMS) Accession No. ML053140128), Entergy notified the U.S. Nuclear Regulatory Commission (NRC) of its intent to transition ANO-1 to NFPA 805 and, by letter dated June 28, 2011 (ADAMS Accession No. ML111790756), committed to submit its license amendment application by August 31, 2012. This Order is being issued as a result of Entergy's revised commitment, provided in a letter dated August 23, 2012, as supplemented by letters dated November 15, December 13, and December 18, 2012 (collectively, "extension request") (ADAMS Accession Nos. ML12236A407, ML123210137, ML12349A318, and ML12353A617, respectively), to submit its license amendment request by January 31, 2014.

As a part of its initiative to address longstanding fire protection issues, the NRC has exercised enforcement discretion for most fire protection noncompliances identified during a licensee's transition to NFPA 805, and for certain existing identified noncompliances that reasonably may be resolved at the completion of this transition. In order to receive enforcement discretion for these noncompliances, the licensee must meet the specific criteria stated in Section 9.1, "Enforcement Discretion for Certain Fire Protection Issues (10 CFR 50.48)," of the NRC Enforcement Policy (ADAMS Accession No. ML12132A394), and submit an acceptable license amendment application by the date specified in the licensee's commitment letter. Entergy's newly proposed submittal date of January 31, 2014, is beyond the previous committed submittal date and, thus, exceeds its enforcement discretion (i.e., until August 31, 2012) that was granted to ANO-1 for certain fire protection noncompliances.

The NRC may accept a revised date for the submittal of an acceptable license amendment request to transition to NFPA 805, and continue enforcement discretion, if the licensee provides adequate justification. In its extension request, Entergy explained the NFPA 805 transition strategy implemented at ANO-1 and stated that the development of a high-quality application will require more time than originally anticipated. The Entergy transition strategy includes implementing modifications described in its letter dated August 23, 2012, that address fire protection noncompliances, in parallel with the development of its license amendment application. The NRC recognizes that these additional modifications, among other activities, are intended to improve ANO-1's fire safety. In the extension request, the licensee provided justification for the revised submittal date for completing its NFPA 805 application.

The NRC staff reviewed the licensee's compensatory measures, additional modifications, and submittal schedule. Based on the maintenance of acceptable compensatory measures, the planned improvements, proposed modifications, and continued progress toward the submittal of a high-quality amendment request, the NRC staff, by letter dated January 24, 2013 (ADAMS Accession No. ML13009A292), concluded that Entergy has provided adequate justification for a delay in the submittal date for its NFPA 805 amendment request. This Order constitutes the NRC's acceptance of the proposed January 31, 2014, submittal date. With this acceptance, enforcement discretion will continue for certain fire protection noncompliances for ANO-1 until January 31, 2014, if the conditions as stated in this Order are met.

The enclosed Order confirms the commitment made in the Entergy correspondence cited above. Entergy has agreed to this Order to illustrate its continued commitment to transition to NFPA 805. As evidenced by your signed "Consent and Hearing Waiver Form" (copy enclosed) dated March 12, 2013, you agreed to the issuance of this Order and to waive hearing rights.

Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of this Order shall be subject to criminal prosecution as set forth in that section. Violation of this Order also may subject the person to civil monetary penalty.

In accordance with 10 CFR 2.390, "Public Inspections, Exemptions, Requests for Withholding," of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be made available electronically for public inspection in the NRC Public Document Room Library or from the NRC's

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document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its website at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

Sincerely,



Roy P. Zimmerman, Director
Office of Enforcement

Docket No.: 50-313
License No.: DPR-51

Enclosures:

1. Consent and Hearing Waiver Form
2. Confirmatory Order


cc w/ enclosure: Distribution via Listserv

Enclosure 1

Consent and Hearing Waiver Form

CONSENT AND HEARING WAIVER FORM

Entergy Operations, Inc. (Entergy), on behalf of Arkansas Nuclear One, Unit 1, hereby agrees to comply with the terms and conditions of the Confirmatory Order arising out of a commitment made in a letter from Entergy dated August 23, 2012, as supplemented by letters dated November 15, December 13, and December 18, 2012. Entergy understands that the Confirmatory Order will be immediately effective upon its issuance. By signing below, Entergy consents to the issuance of the referenced Confirmatory Order, effective immediately upon its issuance and, by doing so, agrees to waive the right to request a hearing on all or any part of the Confirmatory Order.



Jeremy Browning
Vice President - Operations
Arkansas Nuclear One

3/12/13

Date

Enclosure 2

Confirmatory Order Modifying License

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
) Docket No. 50-313
Entergy Operations, Inc.) License No. DPR-51
(Arkansas Nuclear One, Unit 1)) EA-13-031

Confirmatory Order Modifying License

I

Entergy Operations, Inc. (Entergy, licensee), is the holder of Renewed Facility Operating License No. DPR-51 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 50, "Domestic Licensing of Production and Utilization," on June 20, 2001. The license authorizes the operation of the Arkansas Nuclear One, Unit 1 (ANO-1, facility), in accordance with conditions specified therein. The facility is located on the licensee's site in Pope County, Arkansas.

II

On November 2, 2005, Entergy notified the NRC of its intent to transition the facility to the National Fire Protection Association (NFPA) Standard 805 fire protection program in accordance with 10 CFR 50.48(c). Under this initiative, the NRC has exercised enforcement discretion for most fire protection noncompliances that are identified during the licensee's transition to NFPA 805, and for certain existing identified noncompliances that reasonably may be resolved at the completion of transition. NFPA 805 was adopted in 10 CFR 50.48(c) as an

alternative fire protection rule, which is one path to resolving longstanding fire protection issues. To receive enforcement discretion for these noncompliances, the licensee must meet the specific criteria as stated in Section 9.1, "Enforcement Discretion for Certain Fire Protection Issues (10 CFR 50.48)," of the "NRC Enforcement Policy," dated June 7, 2012, and submit an acceptable license amendment application by the date specified in the licensee's commitment letter. In a letter dated June 28, 2011, Entergy committed to submit its license amendment application by August 31, 2012.

III

In a letter dated August 23, 2012, as supplemented by letters dated November 15, December 13, and December 18, 2012 (collectively, "extension request"), Entergy described its progress for transitioning ANO-1 to NFPA 805. Entergy also notified the NRC that the development of a high-quality application will require more time than originally anticipated and that it will be unable to meet its previously committed submittal date of August 31, 2012.

In the extension request, Entergy reiterated its commitment to transition the facility to NFPA 805, and notified the NRC that Entergy will submit its license amendment request (LAR) no later than January 31, 2014. The newly proposed submittal date is beyond the previous committed submittal date and, thus, exceeds Entergy's enforcement discretion (i.e., until August 31, 2012) that was granted to Entergy for certain fire protection noncompliances. However, if provided with adequate justification, the NRC may revise the submittal date through the use of an Order that would continue the enforcement discretion provided in Section 9.1 of the Enforcement Policy.

Based on the licensee maintaining acceptable compensatory measures and the NRC's

review of the licensee's transition status, planned key activities to complete its NFPA 805 LAR, and planned fire risk reduction modifications, the NRC staff concluded that the licensee provided adequate justification for revising the LAR submittal date. The NRC documented its conclusions in its safety evaluation dated January 24, 2013 (ML13009A292). Therefore, the NRC has determined that the date for submitting an acceptable NFPA 805 LAR should be extended. This Order is being issued to revise the original ANO-1 LAR submittal date of August 31, 2012, until January 31, 2014. The new submittal date supports Entergy's continued progress in activities related to the transition to NFPA 805 as described in the letter dated August 23, 2012.

Entergy may, at any time, cease its transition to NFPA 805 and comply with ANO-1's existing licensing basis and the regulations set forth in 10 CFR 50.48. As indicated in the Enforcement Policy, if Entergy decides not to complete the transition to 10 CFR 50.48(c), it must submit a letter stating its intent to retain its existing licensing basis and withdrawing its letter of intent to comply with 10 CFR 50.48(c). If Entergy fails to meet the new LAR submittal date and fails to comply with its existing licensing basis, the NRC will take appropriate enforcement action consistent with the NRC's Enforcement Policy.

On March 12, 2013, Entergy consented to issuing this Order, as described in Section V below. Entergy further agreed that this Order will be effective upon issuance and that it has waived its rights to a hearing.

IV

Based on the licensee maintaining acceptable compensatory measures, and a review of the licensee's status and planned key activities, including the intended NFPA 805 modifications,

the NRC has determined that the licensee has provided adequate justification for its commitment given in Section V, and, thus, for the extension of enforcement discretion. Because the licensee will continue to perform facility modifications, with associated procedure updates, to reduce current fire risk in parallel with the development of its NFPA 805 LAR, the staff finds this acceptable to ensure public health and safety. Based on the above and Entergy's consent, this Order is effective upon issuance.

V

Accordingly, pursuant to Sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR 2.202, "Orders," IT IS HEREBY ORDERED, THAT LICENSE NO. DPR-51 IS MODIFIED AS FOLLOWS:

- A. Entergy will submit an acceptable license amendment request for Arkansas Nuclear One, Unit 1 to adopt NFPA Standard 805 by no later than January 31, 2014.
- B. Entergy will continue to receive enforcement discretion until January 31, 2014. If the NRC finds that the LAR is not acceptable, the NRC will take steps consistent with the Enforcement Policy.

The Director of the Office of Enforcement, in consultation with the Director of the Office of Nuclear Reactor Regulation, may, in writing, relax or rescind any of the above conditions

upon demonstration by the licensee of good cause.

VI

In accordance with 10 CFR 2.202, the licensee, under oath or affirmation, must submit a written answer to this Order within 30 days from the date of this Order. Additionally, any person adversely affected by this Order may submit a written answer and/or request a hearing on this Order within 30 days from the date of this Order. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

All documents filed in the NRC adjudicatory proceedings, including a request for a hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital certificate). Based on this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in the NRC's "Guidance for Electronic Submission," which is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web

browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for a hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC guidance available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk thorough the "Contact Us" link located on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail to MSHD.Resource@nrc.gov, or by a toll free call to 1- 866-672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an extension request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first-class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party using E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is available to the public at <http://ehd1.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submissions.

If a person other than the licensee requests a hearing, that person shall set forth with

particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

For the Nuclear Regulatory Commission,

Dated at Rockville, Maryland this ^{20th} day of March 2013.


Roy P. Zimmerman, Director,
Office of Enforcement.

J. Browning

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document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its website at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

Sincerely,

/RA/

Roy P. Zimmerman, Director
Office of Enforcement

Docket No.: 50-313
License No.: DPR-51

Enclosures:

1. Consent and Hearing Waiver Form
2. Confirmatory Order

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RidsSecyMailCenter

JBowen, NRR/DIRS/IPAB

SKennedy, EDO RIV

SBurnell, OPA

ADAMS Accession Nos.: Ltr. ML12270A080; Confirmatory Order FRN ML12270A088; * Via e-mail

OFFICE	NRR/DORL/LPL4/PM	NRR/DORL/LPL4/LA	NRR/DORL/LPL4/BC	NRR/DORL/D	NRR/DRA/D
NAME	NKalyanam	JBurkhardt	MMarkley	MEvans	JGitter
DATE	9/28/12	9/28/12	10/3/12	1/29/13	2/4/13
OFFICE	RIV/DRS/DD	NRR/DIRS/Enf.	OE/EB/BC	OGC	OE/D
NAME	JClark	JBowen	NHilton	MLemoncelli	RZimmerman
DATE	2/12/13	02/7/13	1/15/13	3/5/13	3/20/13

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