

September 4, 2001

MEMORANDUM TO: Cynthia Carpenter, Chief
Risk Informed Initiatives, Environmental, Decommissioning, &
Rulemaking Branch
Division of Regulatory Improvement Programs, NRR
Office of Nuclear Reactor Regulation

FROM: Joseph L. Birmingham, Project Manager **/s/JLBirmingham**
Risk Informed Initiatives, Environmental, Decommissioning, &
Rulemaking Branch
Division of Regulatory Improvement Programs, NRR
Office of Nuclear Reactor Regulation

SUBJECT: SUMMARY OF AUGUST 30, 2001, MEETING WITH NUCLEAR ENERGY
INSTITUTE ON CONCERNS FOR IMPLEMENTATION OF NFPA 805

On August 30, 2001, Nuclear Regulatory Commission (NRC) staff met with representatives of the Nuclear Energy Institute (NEI) and industry to discuss industry concerns for NRC proposed endorsement of National Fire Protection Association (NFPA) standard NFPA 805, "Standard on Performance-Based Fire Protection for Light Water Reactor Electric Generation Plants." The meeting attendees are listed in Attachment 1. Presentation material by the NRC is in Attachment 2.

Gary Holahan, Director, Division of Safety Systems Analysis, reviewed the status of the process for a risk-informed performance-based rulemaking. NRC and industry had worked with the NFPA to develop the NFPA 805 standard, the staff had developed a rulemaking plan and schedule, industry had indicated an interest in developing the implementation guidance for the standard, NRC and industry had met to discuss developing the guidance during which industry had identified concerns for the implementation of NFPA 805, and NEI had described the concerns in a letter to the NRC dated August 28, 2001. The letter identified three issues and contained a schedule for developing the implementing guidance for NFPA 805.

Mr. Holahan stated the staff had discussed the issues in the letter and had developed resolutions the staff believed were responsive to industry's concerns. The staff's resolutions are:

- The staff agreed that when a national standard is endorsed in a rulemaking, exceptions to that standard should also be reflected in the rulemaking.
- The staff agreed that risk-informed and performance-based methods are acceptable to the NRC staff in lieu of deterministic methods (e.g., those in chapter 3 of NFPA 805) provided that those risk-informed and performance-based methods are approved by the staff.
- The staff agreed that processes such as inspection and enforcement that existed for licensee commitments in effect under an existing licensing basis will continue under a new licensing basis i.e., anything that was unreviewed and unapproved remains so.

- The staff agreed that the NRC staff will accept for review and approval exceptions to a rulemaking consistent with the resources available to it instead of requiring those exceptions be submitted to a national standards organization.

Regarding the review of exceptions to the rule and alternative performance-based approaches, Mr. Holahan stated that, for reasons of efficiency, the NRC encouraged licensees to work together to prepare generic submittals such as topicals by the owners groups, however, licensees could prepare individual submittal.

The staff and NEI discussed the above resolutions and NEI agreed that they were satisfactory resolutions for their concerns. The staff indicated that the resolutions would be attached to the meeting summary.

Doug Brandes, of Duke Energy, emphasized that it would be important that the implementing guidance address perceived barriers and concerns and that the language be clear to prevent misunderstandings. The staff agreed that it was important to address such concerns. However, the staff did not foresee barriers to implementing the rule.

The staff discussed two approaches for approval of the rule and the implementing guidance. Under one approach, the staff would develop the rule and go through the process for approval separately from the development and approval of the implementing guidance. Under the second approach, the implementing guidance would be developed and go through the approval process together with the rule. The staff presented draft schedules that showed the length of time thought to be needed by each approach. According to the schedules, a significant amount of additional time would be needed for the first approach. The staff indicated that additional resources would be needed for the separate approval process. Also, the staff did not know the Advisory Committee on Reactor Safeguards' (ACRS) position regarding approving the documents separately. The staff asked if the draft implementing guidance could be shared with the ACRS as part of the approval of the rule and NEI agreed that any public information from the process could be used. NEI indicated that it preferred the parallel approval process because of the shorter time for approval.

Alex Marion, of NEI, asked some questions about the regulatory process and referred to a July 31, 2001, letter from the NRC, which discussed different approaches under Appendix R versus NFPA 805. The staff responded that the intent was to preserve the existing approaches under Appendix R for plants not endorsing NFPA 805. The staff agreed to discuss this material in more detail as part of the development of the rule.

Mr. Holahan stated that the staff would be sending the Commission a memorandum by the end of September that the staff and NEI had reached agreement on the concerns for NFPA 805 implementation and that the staff would proceed with the rulemaking plan.

Having completed discussion of the agenda items, the meeting was adjourned.

Project No. 689

Attachments: As stated

cc w/atts: See list

**Attendees for August 30, 2001,
Meeting on NFPA 805**

NAME	ORGANIZATION
A. Marion	NEI
F. Emerson	NEI
D. Brandes	Duke Energy
D. Ferraro	Winston & Strawn
J Weil	McGraw Hill
L. Haye	SERCH Licensing/Bechtel
D. Raleigh	Sciencetech LIS
G. Holahan	NRC/NRR/DSSA
E. Weiss	NRC/NRR/DSSA/SPLB
D. Oudinot	NRC/NRR/DSSA/SPLB
J. Birmingham	NRC/NRR/DRIP/RGEB
S. West	NRC/NRR/DRIP/RGEB
J. S. Hyslop	NRC/NRR/DSSA/SPSB
N. Siu	NRC/RES/DRAA/PRAB

RESOLUTION OF ISSUES

- We agree that when a national standard (e.g. NFPA 805) is endorsed in a rulemaking, exceptions to that standard should also be reflected in the rulemaking.
- We agree that risk informed and performance based methods are acceptable to the NRC staff in lieu of deterministic methods (e.g., those in chapter 3 of NFPA 805) provided that those risk informed and performance based methods are approved by the staff.
- We agree that processes such as inspection and enforcement that existed for licensee commitments that were in effect under an existing licensing basis will continue under a new licensing basis i.e., anything that was unreviewed and unapproved remains so.
- We agree that the NRC staff will accept for review and approval exceptions to a rulemaking consistent with the resources available to it instead of requiring those exceptions be submitted to a national standards organization.

Fire Protection Rulemaking Schedule

NEI Guidance Included

<input type="checkbox"/>	NEI Concerns Resolved	Start Date
<input type="checkbox"/>	NEI Starts Guidance	01 month After the Start Date (ASD)
<input type="checkbox"/>	Proposed Rule Pkg Drafted	01 month ASD
<input type="checkbox"/>	Public Meeting	02 months ASD
<input type="checkbox"/>	NEI Guidance Complete (Rev 0)	12 months ASD
<input type="checkbox"/>	NRC Office Concurrences	15 months ASD
<input type="checkbox"/>	ACRS/CRGR Briefings Complete	17 months ASD
<input type="checkbox"/>	Proposed Rule to Commission	18 months ASD (\approx 4 mths with Comm.)
<input type="checkbox"/>	Proposed Rule Published	24 months ASD (90 days comment)
<input type="checkbox"/>	Public Comment Period Closed	27 months ASD
<input type="checkbox"/>	Final Rule Pkg Finalized	29 months ASD
<input type="checkbox"/>	NRC Office Concurrences	32 months ASD
<input type="checkbox"/>	ACRS/CRGR Briefings Complete	35 months ASD
<input type="checkbox"/>	Final Rule to Commission	35 months ASD (\approx 2 mths with Comm.)
<input type="checkbox"/>	Final Rule Published	38 months ASD

Fire Protection Rulemaking Schedule Without NEI Guidance

<input type="checkbox"/>	NEI Concerns Resolved	Start Date
<input type="checkbox"/>	Proposed Rule Pkg Drafted	01 month After the Start Date (ASD)
<input type="checkbox"/>	Public Meeting	02 months ASD
<input type="checkbox"/>	NRC Office Concurrences	07 months ASD
<input type="checkbox"/>	ACRS/CRGR Briefings Complete	09 months ASD
<input type="checkbox"/>	Proposed Rule to Commission	09 months ASD (\approx4 mths with Comm.)
<input type="checkbox"/>	Proposed Rule Published	14 months ASD (90 days comment)
<input type="checkbox"/>	Public Comment Period Closed	17 months ASD
<input type="checkbox"/>	Final Rule Pkg Finalized	20 months ASD
<input type="checkbox"/>	NRC Office Concurrences	23 months ASD
<input type="checkbox"/>	ACRS/CRGR Briefings Complete	25 months ASD
<input type="checkbox"/>	Final Rule to Commission	25 months ASD (\approx2 mths with Comm)
<input type="checkbox"/>	Final Rule Published	28 months ASD

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*See previous concurrence

DOCUMENT: G:\RGEB\JLB\MSUM-NEW\MSUM NEI NFPA 805 08-30-01.WPD

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