

MEMORANDUM TO: Christopher I. Grimes, Program Director  
Policy and Rulemaking Program  
Division of Regulatory Improvement Programs, NRR

FROM: Joseph L. Birmingham, Project Manager  
Policy and Rulemaking Program  
Division of Regulatory Improvement Programs, NRR

SUBJECT: SUMMARY OF APRIL 23, 2002, MEETING WITH NUCLEAR ENERGY  
INSTITUTE ON NFPA 805 RULEMAKING LANGUAGE

On April 23, 2002, Nuclear Regulatory Commission (NRC) staff met with representatives of the Nuclear Energy Institute (NEI) and industry to discuss NEI's comments on the proposed language for the rulemaking to endorse National Fire Protection Association (NFPA) standard 805, "Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generation Plants," (NFPA 805). NEI had sent the comments by letters dated February 7, 2002, and April 9, 2002, (ADAMS Accession Nos. ML020390248, and ML021060141 respectively). Also discussed was the schedule for the NFPA 805 implementing guidance. The meeting attendees are listed in Attachment 1. Presentation material from NEI is in Attachment 2.

After introductions and a review of the recent history of the rulemaking effort, the NRC opened the meeting with a comment on how the rulemaking furthers the four pillars of NRC oversight, i.e., ensure safety, reduce unnecessary regulatory burden, improve NRC efficiency and effectiveness, and increase public confidence. This was followed by a comment on discussions by senior NRC management of the application of the "Perry decision" which, among other things, addresses how the NRC documents approval of changes to a license. The discussions on the "Perry decision" are ongoing but may affect how NRC approves licensee adoption of NFPA 805.

Alex Marion, of NEI, identified a key concern that the rule language must be clear for both licensees and the NRC. Past rulemaking in this area has, at times, resulted in different interpretations by the staff and licensees. NRC agreed that it was important for the rule to be clear but that details of implementation should be in the guidance rather than in the rule.

Fred Emerson, of NEI, then presented the material in the NEI handout, (see Attachment 2). He gave a series of fundamental industry positions for adoption of NFPA 805. Highlights of these positions are:

- Adoption of NFPA 805 is optional
- Use of NFPA 805 tools is essential for licensees not transitioning to a new license basis
- License amendment is necessary to transition to an alternative licensing basis
- Docketed licensing basis information should have the standing of previously approved alternatives relative to NFPA 805 Chapter 3 fundamental attributes
- Need to discuss placement of NRC exceptions to NFPA 805 i.e. rule versus guidance
- Need to discuss placement of NEI exceptions to NFPA 805 i.e. rule versus guidance
- Need clarification of transition process, terms in Chapter 3, "docketed licensing basis" versus "previously approved alternatives", and clarification of NRC exceptions to Chapters 3, 4, and the appendices.

Mr. Emerson then discussed in detail the clarifications sought by NEI and cited the definition of “current licensing basis” from 10 CFR 54.3. There was also a discussion of the role of the Commitment Change Program. Some NRC staff discussed the possibility of an “annual report” of changes made to the fire protection program. NEI asked that NRC look at these issues in more detail and NRC agreed.

The NRC responded that adoption of NFPA 805 continues to be optional. The use of tools in NFPA 805 by licensees not transitioning to NFPA 805 will likely be acceptable if submitted to NRC for review and approval but such use did not need to be included in the rule. The NRC has ongoing discussions with OGC on the use of a license amendment as the appropriate method for licensees to adopt NFPA 805. The staff indicated that a “definition” of docketed licensing basis information was beyond the scope of this rulemaking, however, it may be appropriate for the implementing guidance to include a discussion of this subject.

About the placement of NRC exceptions to NFPA 805, Chapter 3, sections 3.3.5.3 and 3.6.4, regarding fire retardant electrical cable and seismic standpipes, NRC agreed to further consider the NEI comments. The staff stated that the exception to section 3.3.5.3 was needed to preclude non-fire-retardant cable found in unapproved locations from remaining in place. The exception to section 3.6.4 on seismic standpipes emphasized the existing NRC requirement for seismic standpipes but did not preclude licensees with existing NRC approved alternative methods from continuing to use the alternative methods. The staff indicated that these issues might be appropriate for discussion in the Statement of Considerations (SOC).

Regarding the industry exceptions in the NEI letter dated February 7, 2002, the staff commented:

- Section 1.5.2, Part 100 limits versus Part 20 limits for release. The staff emphasized that a fire is an anticipated operational occurrence and therefore the goal for release should be Part 20 limits. This approach was emphasized in the 10 CFR 50.59 rulemaking.
- Section 3.5.4, seismic Category 1 Class 1E Fire Pumps. This has been NRC guidance for many years (see Branch Technical Position BTP 9.5-1) and the NRC is not inclined to negate this consensus provision of NFPA 805.
- Section 4.2.3.1, recovery actions. NFPA 805 says that the use of “recovery actions” implies a performance-based approach, however, NEI says recovery actions are used in deterministic approaches. The staff agreed that certain recovery actions are used but the staff did not want to endorse the replacement or modification of components included in the NFPA 805 description of recovery actions in section 1.6.52. The staff agreed to consider discussing this issue further possibly in the SOC.
- Section 4.2.3.2, fire barrier ratings. This section requires a success path with a minimum 3-hour fire barrier but licensees may have existing approved alternatives. The staff agreed to look at this section as regards existing approved alternative methods.

NEI asked about a situation where a licensee relied on a plant configuration as meeting its current licensing basis but subsequently determined that the configuration did not meet the licensing basis. Would the licensee then be required to implement the deterministic provision in Chapter 3 of the standard? The staff initially felt that, in such a case, the licensee would need to bring the configuration into compliance with its licensing basis or, optionally, implement NFPA 805 provisions. However, the staff said it would need to look at this situation more closely before deciding. This question may need to be discussed in the SOC or in the guidance.

C. Grimes

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There was a question from Paul Gunter, of NIRS, regarding use of fire watches as recovery actions or in lieu of required fire barriers. The staff and NEI agreed that fire watches were compensatory actions and as such would not be acceptable as a permanent substitute for required fire detection, fire barriers or fire suppression.

Having completed discussion of the agenda items, the group adjourned.

Project No. 689

Attachments: As stated

cc w/atts: See list

**Attendees for April 23, 2002  
Meeting on NEI Comments on the NFPA 805 Rule Language**

<b>NAME</b>	<b>ORGANIZATION</b>
A. Marion	NEI
F. Emerson	NEI
M. Bauser	NEI
S. Trubatch	Law Office of S. Trubatch
D. Ferraro	Morgan Lewis
D. Brandes	Duke Energy
D. Henneke	Duke Energy
D. Raleigh	Sciencetech LIS
E. Kleinsorg	The Kleinsorg Group
W. Burns	S. Nuclear Operating Co.
T. Furlong	NSO-NEIL
P. Gunter	NIRS
N. Chapman	SERCH Bechtel
S. Black	NRC/NRR/DSSA
J. Hannon	NRC/NRR/DSSA/SPLB
E. Weiss	NRC/NRR/DSSA/SPLB
L. Whitney	NRC/NRR/DSSA/SPLB
J. Birmingham	NRC/NRR/DRIP/RGEB
M. Banerjee	NRC/NRR/DLPM

# Risk-Informed, Performance- Based Fire Protection Rulemaking

Fred Emerson, NEI

April 23, 2002



# Meeting Goals

- Provide for unambiguous rule language
- Provide for transition process that meets NRC and licensee needs

# Topics

- Fundamental industry positions
- Clarifications sought in NEI letter of April 9, 2002
- Rulemaking issue resolution pathway and schedule

# Fundamental Industry Positions

- Adoption of NFPA 805 as an alternative licensing basis is optional
- Use of NFPA 805 tools by licensees not transitioning to a new licensing basis is essential



# Fundamental Industry Positions

- License amendment is necessary to transition to alternative licensing basis
  - Addresses 4 NRC pillars
    - Maintain safety
    - Increase public confidence
    - Reduce unnecessary regulatory burden
    - Increase efficiency and effectiveness

# Fundamental Industry Positions

- Docketed licensing basis information should have the standing of previously approved approaches in replacing provisions of NFPA 805 Chapter 3 fundamental attributes

# Fundamental Industry Positions

- NRC exceptions to NFPA 805 in rule language
  - Address in rule language:
    - Section 3.3.5.3, electrical cable
  - Address in implementing guidance
    - Section 3.6.4, seismic standpipes

# Fundamental Industry Positions

- Industry exceptions (see NEI letter of February 7)
  - Address in rule language
    - Section 1.5.2, Part 100 vs Part 20
  - Address in implementing guidance
    - Section 3.5.4, seismic Cat I Class IE fire pumps
    - Section 4.2.3.1, recovery actions
    - Section 4.2.3.2, fire barrier ratings

# Clarifications Sought

- Transition process
- Definitions of terms in Section 3.1
- Treatment of “docketed licensing basis” as “previously approved alternatives”
- Exceptions to NFPA 805 appendices
- Exceptions to Sections 3 and 4

# Clarifications Sought

- Transition process
  - Where is license amendment required?
  - Extent of licensee review/analysis expected
  - Submittal requirements vs. retained documentation
  - Partial adoption permitted?
  - Nature of partial adoption (i.e., area by area)?

# Clarifications Sought

- Definitions in Section 3.1
  - Fundamental elements of a fire protection program
  - Fundamental [fire] protection program attributes
  - Minimum design requirements for fire protection systems and features

# Clarifications Sought

- Treatment of “docketed licensing basis” as “previously approved alternatives” in Section 3.1
  - Should be addressed specifically in rule language
    - Can state as exception to Section 3.1 (see NEI letter August 28, 2001)
  - 10 CFR 54.3 defines current licensing basis



# Current Licensing Basis

**Paragraph 54.3: “Current licensing basis (CLB) is the set of NRC requirements applicable to a specific plant and a licensee’s written commitments for ensuring compliance with and operation within applicable NRC requirements and the plant-specific design basis (including all modifications and additions to such commitments over the life of the license) that are docketed and in effect. The CLB includes the NRC regulations contained in 10 CFR parts 2, 19, 20, 21, 26, 30, 40, 50, 51, 54, 55, 70, 72, 73, 100 and appendices thereto; orders; license conditions; exemptions; and technical specifications. It also includes the plant-specific design basis information defined in 10 CFR 50.2 as documented in the most recent final safety analysis report (FSAR) as required by 10 CFR 50.71 and the licensee’s commitments remaining in effect that were made in docketed licensing correspondence such as licensee responses to NRC bulletins, generic letters, and enforcement actions, as well as licensee commitments documented in NRC safety evaluations or licensee event reports.”**



# Clarifications Sought

- Exceptions to NFPA 805 appendices B, C, D, E
  - Will NRC accept information from these appendices in implementing guidance?
    - Will they constitute “alternative methods”?

# Clarifications Sought

- Exceptions to Sections 3 and 4
  - See slides 7 and 8

# Rulemaking Issue Resolution

- Identify
  - Remaining issues
  - NRC/industry interactions needed to address and resolve issues
  - Schedule for interactions
  - Impact on rulemaking schedule
  - Impact on implementing guidance schedule

# Backup Slides

# Transition Letter Content

- Transition letter is deemed to be the license amendment submittal
- An NRC response will be requested
  - Level of response detail to be addressed

# Transition Letter Content

- Expected elements of the transition letter
  - Date for full compliance
  - Milestones for partial compliance
  - Text of new license condition
  - Significant elements of new licensing basis, with analysis or justification as appropriate
    - Existing “approved” licensing basis elements brought forward to supersede Section 3 fundamental elements
    - Proposed exceptions to NFPA 805
  - Summary of retained documentation (not submitted)



There was a question from Paul Gunter, of NIRS, regarding use of fire watches as recovery actions or in lieu of required fire barriers. The staff and NEI agreed that fire watches were compensatory actions and as such would not be acceptable as a permanent substitute for required fire detection, fire barriers or fire suppression.

Having completed discussion of the agenda items, the group adjourned.

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cc w/atts: See list

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\*See previous concurrence

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