

December 20, 2002 (3:23PM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Comments on Proposed Rule
Adoption of NFPA 805

DOCKET NUMBER
~~PROPOSED RULE PR 50~~
(67 FR 66578)

Text of the proposed rule as published in the Federal Register, November 1, 2002 (Volume 67, Number 212, pp 66578 – 66588), indicates that it is the intent of the USNRC to adopt NFPA 805-2001, including the appendices to NFPA 805-2001, as voluntary fire protection requirements for light water reactors. The text of the proposed rule announcement specifically references Appendices B, C, and D of NFPA 805-2001. However, the proposed text of new 10 CFR 50.48 (c) and proposed text of revised 10 CFR 50.48 (f) do not specifically adopt the appendices of NFPA 805-2001. This might result in difficulty in applying and enforcing the appendices to NFPA 805-2001.

The convention in NFPA codes and standards is that the appendices or annexes are not part of the standard. Rather, the appendices or annexes to NFPA codes and standards are provided for informational purposes only. The content of the appendices or annexes are explanatory material and they are written in permissive, not mandatory, language and are thus unenforceable. Each of the appendices to NFPA 805-2001 contain the statement "This appendix is not part of the requirements of this NFPA document but is included for informational purposes only." The wording, "NFPA 805, taken as a whole", as expressed in Section II of the proposed rule does not accomplish adoption of the appendixes since the appendixes are not considered to be part of the requirements of the NFPA standard. (See Sections 1.8.1.6, 2.3.4.2, 2.3.4.2, and A.2.3.1 of the *NFPA Manual of Style for NFPA Technical Committee Documents*, April 2000 Edition.)

To overcome this, the text of 10 CFR 50.48 (c) must be revised to indicate "National Fire Protection Association (NFPA) Standard 805, 'Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants, 2001 Edition' (NFPA 805), and all of its appendices, which is referenced by this section, was approved for incorporation by reference by the Director of the Federal Register." Alternatively, 10 CFR 50.48 (c) could state "and Appendices B, C, and D, only" in lieu of "and all of its appendices." In either case, the appendices must be specifically referenced in order to incorporate them into 10 CFR 50.48 if they are intended to be adopted and applied by the USNRC. Otherwise, since the appendices are not part of the requirements of the NFPA standard, they will not be incorporated into 10 CFR 50.48 by the currently proposed language.

Further, the USNRC must develop additional guidance on how the non-mandatory and permissive language in the appendices is to be applied as mandatory (although voluntarily applied) requirements. Some of the text in the NFPA 805-2001 appendices is truly supplemental and for information purposes only. Much of the text in the NFPA 805-2001 appendices is presented as possible alternatives to the requirements contained in the standard and their implementation indicated by the permissive word, "should." For application and enforcement purposes, it might be necessary for the USNRC to indicate where the word, "should", must be replaced by the word "shall" if the appendices are to be effectively and consistently applied.

Template = SECY-067

SECY-02

The USNRC should be aware that since the appendices were not intended to be mandatory parts of NFPA 805, these sections did not receive the same high level of scrutiny and review by the NFPA Technical Committee on Fire Protection for Nuclear Facilities or by NFPA membership and the general public during the NFPA 805 standard development process.

Finally, the title of the NFPA standard as appeared on p. 66587 of the Federal Register should be corrected to read "Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants" not "Performance-Based for Fire Protection for Light Water Reactor Electric Generating Plants". The word, Standard, was omitted in the Federal Register Text.

The adoption of NFPA 805-2001, an American National Standard developed through the consensus standards process, is a positive step by the USNRC. It recognizes a consensus standard, representing the current consensus of experts in the field, developed by the National Fire Protection Association. The NFPA mission is to reduce the worldwide burden of fire and other hazards on the quality of life by developing and advocating scientifically based consensus codes and standards, research, training, and education. With more than 75,000 members representing nearly 100 nations and 320 employees around the world, NFPA serves as the world's leading advocate of fire prevention and is an authoritative source on public safety. NFPA encourages the broadest possible participation in code development. The process is driven by more than 6,000 volunteers from diverse professional backgrounds who serve on 230 technical code- and standard- development committees. Throughout the entire process, interested parties are encouraged to provide NFPA technical committees with input. All NFPA members then have the opportunity to vote on proposed and revised codes and standards.

NFPA's focus on true consensus has helped the association's code-development process earn accreditation from the American National Standards Institute (ANSI). More than 300 NFPA codes and standards are used around the world including numerous U.S. federal agencies. Adoption of NFPA 805 as a voluntary standard implements Public Law 104-113 which requires that federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies.

The above comments are provided as public comments provided by the individual submitter. The comments do not represent any endorsement or consideration by HSB Professional Loss Control or the National Fire Protection Association.

Wayne D. Holmes, P.E.
December 19, 2002