



NUCLEAR ENERGY INSTITUTE

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August 22, 2002

Ralph E. Beedle
SENIOR VICE PRESIDENT AND
CHIEF NUCLEAR OFFICER,
NUCLEAR GENERATION

The Honorable Richard A. Meserve
Chairman
U.S. Nuclear Regulatory Commission
Mail Stop O-16 C1
Washington, DC 20555-0001

Dear Chairman Meserve:

In June 1998, the Commission directed the staff to participate in the National Fire Protection Association (NFPA) effort to develop a consensus standard with the intent that the standard eventually be adopted in a rulemaking. That standard is NFPA 805, *Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants*. On July 15, 2002, the NRC staff submitted in SECY 02-132 for your approval a proposed rule to allow licensees the option to adopt NFPA 805 as an alternate fire protection licensing basis. This letter requests certain changes to the proposed rule.

This rulemaking activity offers a risk-informed fire protection regulation. Industry and NRC staff have made significant progress in creating a workable risk-informed regulatory framework as an alternative to existing fire protection regulations. NEI and the industry are devoting significant effort to developing the supporting implementing guidance. We will complete this task in parallel with the rulemaking and allow staff multiple opportunities to review and comment on the implementing guidance.

While we actively support the rulemaking, there are several specific areas of the SECY that should be addressed:

1. Requirement for License Amendment (50.48 (c)(4)): We request that the language in the rule be revised to eliminate the requirement for a license amendment for a licensee to use alternative methods and analytical approaches. There is no legal basis for this in the light of the *Perry* decision (see NEI letter to Sam Collins, July 10, 2002). Using alternative methods to meet the objectives of NFPA 805 would not modify the terms of the license; it would simply implement the provisions of the license through different means. While prior NRC approval and a Safety Evaluation Report may be preconditions to using alternative methods, there is no legal basis for requiring a license amendment to use NRC-approved alternative methods if

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these methods do not provide additional operating authority or otherwise modify the terms of the license.

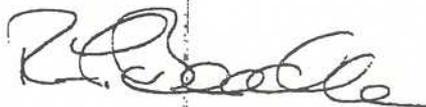
2. Use of previously approved methods: NFPA 805 Chapter 3 states that previously approved methods may supersede fundamental fire protection elements. Since the rulemaking does not address this directly, we request that the staff clarify what constitutes "previously approved." We recommend the clarification in draft Revision C of the industry implementing guidance recently provided to the staff for comment.
3. Licensee burden: We request that the staff revise its estimates of 20,000 to 65,000 man-hours for each licensee to achieve initial implementation. These estimates appear too high by a factor of three.

We have identified to the staff other issues to be resolved, but believe that they can be addressed in the implementing guidance. These include such issues as analysis of fire protection requirements for shutdown/low power operations, transition analysis, documentation and submittal issues, and the use of engineering analysis such as PSA and fire modeling. We will continue to work with the staff to resolve these issues to support a seamless transition to a risk-informed fire protection licensing basis.

We view the adoption of NFPA 805 as a significant step in risk-informing regulations and expect several utilities to take advantage of this opportunity.

Please call me if you have any questions.

Sincerely,



Ralph E. Beedle

- c: The Honorable Greta Joy Dicus, Commissioner, NRC
The Honorable Nils J. Diaz, Commissioner, NRC
The Honorable Edward McGaffigan, Jr., Commissioner, NRC
The Honorable Jeffrey S. Merrifield, Commissioner, NRC
Dr. William D. Travers, Executive Director for Operations, NRC
Mr. Samuel J. Collins, Director, Office of Nuclear Reactor Regulation, NRC