

October 30, 2006

Mr. Gary Van Middlesworth
Vice President
Duane Arnold Energy Center
3277 DAEC Road
Palo, Iowa 52324

SUBJECT: DUANE ARNOLD ENERGY CENTER - RESPONSE TO LETTER OF INTENT
TO ADOPT TITLE 10 OF THE *CODE OF FEDERAL REGULATIONS*,
PART 50.48(c) (TAC NO. MC9288)

Dear Mr. Van Middlesworth:

I am writing in response to your letter dated July 11, 2006 (Agencywide Documents Access and Management System Accession No. ML0620603171), in which you informed the Nuclear Regulatory Commission (NRC) that Florida Power & Light Co., Duane Arnold Energy, LLC intends to adopt National Fire Protection Association (NFPA) Standard 805, "NFPA 805, Performance-Based Standard for Fire Protection for Light-Water Reactor Electric Generation Plants," 2001 Edition, pursuant to Section (50.48(c)) of Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR 50.48(c)), at the Duane Arnold Energy Center (DAEC).

In your July 11, 2006, letter, you informed us that the transition to the performance-based standard for fire protection at DAEC has commenced, which includes the following:

- Phase 1 - Completion of the fire protection improvement project to support transition evaluation.
- Phase 2 - Perform technical and regulatory feasibility and practicality assessments.
- Phase 3 - Perform reviews and engineering analyses.
- Phase 4 - Implement program documentation, configuration control, and monitoring.

You also requested enforcement discretion for non-safety significant noncompliances for a period of 42 months from the date of your July 11, 2006, letter. You noted that the above phased approach schedule may change based on the progress of the NFPA 805 pilot plants and as physical plant modifications or changes to the fire protection program are determined to be necessary.

On April 18, 2006, the NRC published in the *Federal Register* (71 FR 19905) a revision to its enforcement policy extending the NFPA 805 transition discretion period from 24 to 36 months. Therefore, at this time, the NRC will only recognize a 36-month discretion period for DAEC. As such, the NRC considers the discretion period for DAEC to begin on July 11, 2006, and will expire on July 11, 2009.

Please note that in order to receive enforcement discretion, you must: (1) evaluate the risk significance of all noncompliances to assure that they would not constitute "Red" findings or violations categorized as Severity Level I; (2) enter them into your corrective action program; and (3) implement and maintain appropriate compensatory measures, until the NRC staff approves your license amendment request to transition to NFPA 805. You should refer to NRC Regulatory Issue Summary 2005-07, "Compensatory Measures to Satisfy the Fire Protection

G. Van Middlesworth

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Program Requirements,” for additional NRC staff guidance on appropriate compensatory measures. Towards the end of your 36-month discretion period, you may request an extension. However, any extension requests should address what events occurred that were outside of DAEC’s control that precluded the completion of transition during the allotted discretion period.

In response to requests made by a number of licensees, which are not pilots for NFPA 805, for meetings with the NRC staff to discuss their transition issues, the NRC staff plans to hold periodic workshops on NFPA 805 implementation issues at the regional offices or onsite at units transitioning to the new standard. The staff will inform the nuclear plant licensees of the schedules of these workshops.

If you have any questions regarding this matter, please contact Karl Feintuch, Project Manager, at (301) 415-3079 or KDF@nrc.gov.

Sincerely,

/RA/

Catherine Haney, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-331

cc: See next page

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Division of Operating Reactor Licensing
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