



October 15, 2008

PG&E Letter DCL-08-088

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555-0001

Docket No. 50-275, OL-DPR-80
Docket No. 50-323, OL-DPR-82
Diablo Canyon Units 1 and 2

Request for Extension of Enforcement Discretion and Revised Submittal Date for
10 CFR 50.48(c) (NFPA 805) License Amendment Request

Dear Commissioners and Staff:

References:

1. PG&E Letter to NRC, DCL-05-153, "Letter of Intent to Adopt NFPA 805, 'Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants,' 2001 Edition," dated December 29, 2005.
2. NRC letter to PG&E, "NRC Response to Pacific Gas and Electric Company's Letter of Intent to Adopt 10 CFR 50.48(c) (NFPA 805 Rule) for Diablo Canyon Power Plant, Units 1 and 2," dated March 1, 2006.
3. NRC letter to PG&E, "Period of Enforcement Discretion During Implementation of National Fire Protection Association Standard 805, Diablo Canyon Power Plant, Units 1 and 2," dated April 29, 2007.

In 2005, PG&E elected to transition the fire protection licensing basis for the Diablo Canyon Power Plant (DCPP) to the alternative in 10 CFR 50.48(c), "National Fire Protection Association Standard NFPA 805." On December 29, 2005, PG&E submitted a letter of intent to adopt NFPA 805 in accordance with 10 CFR 50.48(c) (Reference 1).

By letter dated March 1, 2006 (Reference 2), the NRC acknowledged receipt of the letter of intent, but did not specifically grant the three-year enforcement discretion period requested in the letter of intent. The NRC granted a third year of enforcement discretion by letter dated April 29, 2007 (Reference 3).

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On September 10, 2008, the NRC published in the Federal Register (73 FR 52705) a revision to its Interim Enforcement Policy regarding enforcement discretion for certain fire protection issues, allowing licensees the option to request an extended enforcement discretion period for submittal of a license amendment request (LAR) if they are pursuing transition to 10 CFR 50.48(c). This revision states that an additional period of enforcement discretion may be granted on a case-by-case basis, if a licensee has made substantial progress in its transition effort. This additional period of enforcement discretion, if granted, would end six months after the date of the safety evaluation approving the second pilot plant LAR review. The enforcement discretion will continue in place, without interruption, until NRC approval of the LAR to transition to 10 CFR 50.48(c).

In accordance with Federal Register Notice 73 FR 52705, PG&E requests that enforcement discretion be extended for DCPD until six months after the safety evaluation is issued for the second pilot plant. Substantial progress toward completion of NFPA 805 transition has been made for DCPD. The enclosure to this letter provides the basis for this extension request.

PG&E makes no regulatory commitments (as defined by NEI 99-04) in this letter.

If you have any questions, or require additional information, please contact Mr. Stan Ketelsen at (805) 545-4720.

Sincerely,


John T. Conway
Senior Vice President & Chief Nuclear Officer

Enclosure

cc: Elmo E. Collins, NRC Region IV
Michael S. Peck, NRC Senior Resident Inspector
Diablo Distribution
cc/enc: Alan B. Wang, NRC Project Manager

Basis for NFPA 805 Transition Enforcement Discretion Extension Request

NFPA 805 Transition Progress

Federal Register Notice (FRN) 73 FR 52705 requested information from licensees on demonstrated progress toward completion of NFPA 805 transition, as a condition of granting an extension of enforcement discretion. PG&E has made substantial progress in the Diablo Canyon Power Plant (DCPP) NFPA 805 transition effort. PG&E has participated in the NEI NFPA 805 and Fire Probabilistic Risk Assessment (PRA) task forces and Frequently Asked Question (FAQ) process while utilizing the lessons learned from the Pilot Plant process.

The following table represents the major work activities associated with NFPA 805 transition. The "LAR/TR Reference" column refers to the referenced section of the Pilot Plant NFPA 805 License Amendment Request (LAR)/Transition Reports that document the results of the NFPA 805 Transition. As shown in the table below, DCPP has demonstrated substantial progress in the NFPA 805 transition process.

LAR/TR Reference	Topic	Approximate % Complete	Current Milestone Completion Date (MM/YY) ²
N/A	Safe Shutdown Analysis Update (prerequisite task)	100	
4.1 Attachment A	Fundamental FP Program Elements and Minimum Design Requirements (Table B-1)	80 ¹	12/08
4.2.1 Attachment B	Nuclear Safety Capability Assessment – Methodology (Table B-2)	90 ¹	12/08
Section 4.2.2 Attachment C	Nuclear Safety Capability Assessment – Fire Area-by-Fire Area Review (Table B-3)	65 ¹	12/08
Section 4.3 Attachment D	Non Power Operational Modes (Table F-1)	55 ¹	12/08
Section 4.4 Attachment E	Radioactive Release (Table G-1)	80	03/09
Section 4.5.1	Fire PRA Development	65	12/09 ³

Note 1 – Initial population of Tables is scheduled for 12/08. Fire PRA is necessary to complete this activity. Milestone dates are based on an assumption that change evaluations using fire PRA insights will be required.

Note 2 – Schedule dates are milestones and do not constitute commitments

Note 3 – Projected date considers industry PRA resource limitations.

Physical Modifications

While physical modifications may be identified as part of the transition effort, no physical modifications have been performed to address any fire protection issues. Any modifications required will be identified in the LAR submittal letter and that letter will provide a schedule and commitments for implementing any such modifications.

NFPA 805 Monitoring Program

FRN 73 FR 52705 requested, as part of the status report for demonstrating substantial progress on the transition, that the status of the NFPA 805 monitoring program be provided. All of the physical aspects of the fire protection systems at DCPD (detectors, barriers, suppression, etc.) are within the scope of the Maintenance Rule and therefore are part of an established monitoring program. The nondeterministic part of the NFPA 805 monitoring program is highly dependent on fire PRA results. Therefore, the monitoring program is one of the last items to be completed during the transition effort. This is consistent with the manner in which both pilot plants are proceeding.

Information Available On Site

In addition to the information contained in this attachment, FRN 73 FR 52705 requested that additional information be compiled/documented on site and be available for inspection/audit.

All fire protection-related noncompliances have been entered into the site corrective action program and appropriate compensatory measures in accordance with the existing fire protection program have been implemented. This information is contained within the site's corrective action program and is available for review.

Unallowed operator manual actions (those designated as bin H under NEI 04-02) are considered compensatory measures according to the fire protection program. The fire protection program requires that any such actions comply with Regulatory Issue Summary 2005-07. The feasibility of the operator manual actions has been reviewed and any such action being considered as a compensatory measure is considered feasible. The feasibility review for these actions was done based on the existing safe shutdown analysis. This feasibility may require modification and/or revision due to the information generated by the NFPA 805 transition effort. That feasibility review cannot be completed until most other transition efforts are complete since the information generated during the transition effort may change which actions are required or may change the timing required for these actions. Some of that effort is tied to the completion of the fire PRA. Therefore, the feasibility of some of these actions will be reviewed at the completion of the fire PRA effort. This is consistent with the pilot plants.