



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 9, 2008

Vice President, Operations
Entergy Nuclear Operations, Inc.
Palisades Nuclear Plant
27780 Blue Star Memorial Highway
Covert, MI 49043-9530

SUBJECT: PALISADES NUCLEAR PLANT – EVALUATION OF THE REQUEST FOR AN EXTENSION OF ENFORCEMENT DISCRETION IN ACCORDANCE WITH THE INTERIM ENFORCEMENT POLICY FOR FIRE PROTECTION ISSUES DURING TRANSITION TO NATIONAL FIRE PROTECTION ASSOCIATION STANDARD NFPA 805 (TAC NO. ME0072)

Dear Sir:

On September 10, 2008, the U.S. Nuclear Regulatory Commission (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 Title 10 of the *Code of Federal Regulations* Section 50.48(c), "National Fire Protection Association Standard NFPA 805."

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 6 months after the date of the safety evaluation approving the second pilot plant LAR. These changes are in accordance with COMSECY-08-0022 (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML081830602 and ML081830607), as approved by the Commission on August 19, 2008. The enforcement discretion will continue in place, without interruption, until NRC disposition of the site's LAR to transition to NFPA 805.

Consequently, on August 28, 2008, Entergy Operations, Inc. requested (ADAMS Accession Number ML082540402) that the period of fire protection enforcement discretion for the Palisades Nuclear Plant (Palisades) be extended until 19 months after the NRC's issuance of the safety evaluation for the second pilot plant's license amendment request to transition to NFPA 805.

On November 12, 2008 (ADAMS Accession No. ML083190086), the licensee submitted a supplement describing progress on the Palisades NFPA 805 transition activities. Because of additional information requested by the NRC staff, the licensee superseded the original request dated August 28, 2008, with letters dated November 14, and 25, 2008 (ADAMS Accession Nos. ML083400226, and ML083370155, respectively).

In accordance with the new interim fire protection enforcement policy, in order to receive this extension, a licensee must:

1. Compile a list of all fire protection related non-compliances and the related compensatory measures for those non-compliances.
2. Document that each Operator Manual Action put in place as a compensatory measure is feasible and reliable, in accordance with the guidance in Regulatory Issue Summary 2005-07, "Compensatory Measures to Satisfy the Fire Protection Program Requirements."
3. Submit a description of the physical modifications performed to address existing risk-significant fire protection non-compliances.
4. Submit a status report of the transition, including a schedule of milestones, for completing the fire probabilistic risk assessment (PRA). The status report should describe the progress made in the following areas:
 - classical fire protection transition
 - nuclear safety performance criteria transition
 - non-power operation transitions
 - the NFPA 805 monitoring program
 - fire PRA development

The lists of noncompliances, compensatory measures, and operator manual action feasibility determinations should be maintained on-site and up to date for inspector review. NRC staff will review the licensees' submittal and make a determination whether substantial progress in their transition to an NFPA 805 licensing basis has been demonstrated.

Based on the information provided by Entergy Nuclear Operations, Inc. (ENO or the licensee) in the August 28, 2008 letter, the NRC staff concluded that (a) the licensee's request for a 19 month extension exceeds the Commission Policy, and (b) the staff did not have sufficient information to conclude that the progress made toward NFPA 805 transition for Palisades demonstrated substantial progress in that effort.

A teleconference was conducted with ENO on November 3, 2008 (ADAMS Accession No. ML083190836) to clarify the requirements of the revised Interim Enforcement Policy and COMSECY-08-0022, as well as to discuss the additional measures needed to demonstrate substantial progress in the NFPA 805 transition effort. In a follow-up phone call held on November 19, 2008, the NRC staff provided further clarifications to the licensee on the above requirements.

As a result of these calls, in letters dated November 12, 14, and 25, 2008, ENO provided additional information on the progress Palisades made on the transition to NFPA 805 since the August 28, 2008, letter. In the November 14, 2008, letter ENO revised the requested period of fire protection enforcement discretion for Palisades to be no later than 6 months after the NRC issues the safety evaluation for the second pilot plant license amendment request (LAR) and to continue until the final NRC disposition of the LAR. This change makes the licensee's schedule commitment for submittal of their LAR consistent with the Commission-approved policy.

Palisades' letter to the NRC staff on November 25, 2008, provided details of a substantial amount of work performed by ENO to support the Palisades transition to NFPA 805. The licensee had not included these details in its letters to the NRC staff on August 28, 2008, November 12 and 14, 2008, because those details were outside the information delineated as required in the Interim Enforcement Policy. Although these tasks are not listed in the enforcement policy, they were considered by the NRC staff in making the determination of substantial progress.

The NRC staff concluded that the additional information provided in the November 25, 2008, letter is reflective of substantial progress primarily because it was in the areas of Fire PRA development and post-fire safe shutdown, which are areas critical to the transition effort. In consideration of the progress made on the Fire PRA and post-fire safe shutdown tasks, the overall progress to transition Palisades is significantly higher than was previously indicated by the information provided by the licensee in the initial submittal dated August 28, 2008, on task status required by the policy.

Based on the progress stated to date as reflected by the additional information provided in the letters dated November 14 and 25, 2008, the NRC staff has determined that the licensee has demonstrated a commitment to submit their LAR consistent with the Commission-approved policy and sufficient progress towards transitioning to NFPA 805 to grant them the additional enforcement discretion allowed by the new policy.

If you have any questions regarding this matter, please contact Mahesh Chawla, the project manager for the Palisades Nuclear Plant, at (301) 415-8371.

Sincerely,



Joseph G. Giitter, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-255
cc: Distribution via ListServ

Palisades' letter to the NRC staff on November 25, 2008, provided details of a substantial amount of work performed by ENO to support the Palisades transition to NFPA 805. The licensee had not included these details in its letters to the NRC staff on August 28, 2008, November 12 and 14, 2008, because those details were outside the information delineated as required in the Interim Enforcement Policy. Although these tasks are not listed in the enforcement policy, they were considered by the NRC staff in making the determination of substantial progress.

The NRC staff concluded that the additional information provided in the November 25, 2008, letter is reflective of substantial progress primarily because it was in the areas of Fire PRA development and post-fire safe shutdown, which are areas critical to the transition effort. In consideration of the progress made on the Fire PRA and post-fire safe shutdown tasks, the overall progress to transition Palisades is significantly higher than was previously indicated by the information provided by the licensee in the initial submittal dated August 28, 2008, on task status required by the policy.

Based on the progress stated to date as reflected by the additional information provided in the letters dated November 14 and 25, 2008, the NRC staff has determined that the licensee has demonstrated a commitment to submit their LAR consistent with the Commission-approved policy and sufficient progress towards transitioning to NFPA 805 to grant them the additional enforcement discretion allowed by the new policy.

If you have any questions regarding this matter, please contact Mahesh Chawla, the project manager for the Palisades Nuclear Plant, at (301) 415-8371.

Sincerely,

/RA/

Joseph G. Giitter, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-255
cc: Distribution via ListServ

DISTRIBUTION:

PUBLIC	RidsOgcRp Resource	PLain, NRR
LPL3-1 R/F	RidsAcrsAcnw_MailCTR Resource	HBarrett, NRR
RidsNrrDorlLpl3-1 Resource	RidsRgn3MailCenter Resource	CMoulton, NRR
RidsNrrLABTully Resource	RidsNrrDraAfpb (AKlein)	RGallucci, NRR
RidsNrrPMPalisades Resource	MVaaler, NRR	

ADAMS Accession Number: ML083260577

NRR-106

OFFICE	LPL3-1/PM	LPL3-1/LA	DRA/AFP/BC	LPL3-1/BC	DORL/DD
NAME	MChawla	BTully	AKlein	TWengert for LJames	JGiitter
DATE	12/09/08	12/09/08	12/09/08	12/09/08	12/09/08

OFFICIAL RECORD COPY