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Constellation Energy

Nine Mile Point Nuclear Station

January 16, 2009

U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001

ATTENTION: Document Control Desk

SUBJECT: Nine Mile Point Nuclear Station
Unit No. 1; Docket No. 50-220

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

- REFERENCES:**
- (a) Letter from J. M. Heffley (CGG) to Document Control Desk (NRC), dated April 17, 2006, Letter of Intent to Adopt NFPA 805 – Performance-Based Standard for Fire Protection for Light Water Reactor Generation Plants, 2001 Edition
 - (b) Letter from C. Haney (NRC) to J. M. Heffley (CGG), dated May 31, 2006, Response to Letter of Intent to Adopt National Fire Protection Association (NFPA) Standard 805, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, and Nine Mile Point Nuclear Station, Unit Nos. 1 and 2

Nine Mile Point Nuclear Station, LLC (NMPNS) requests an extension of enforcement discretion pending transition to the National Fire Protection Association (NFPA) 805 standard for Nine Mile Point Unit 1 (NMP1). NMPNS requests that the enforcement discretion period be extended to six (6) months past the date of the safety evaluation approving the second pilot plant license amendment request.

A letter of intent to adopt NFPA 805 in accordance with 10 CFR 50.48(c) was submitted on April 17, 2006 (Reference a). That letter requested a 36-month transition period. Reference (b) acknowledged receipt of the letter of intent and approved the three-year transition period.

As published in the Federal Register, Volume 73, Page 52705, the enforcement discretion period has been reset to six months after the date of the safety evaluation approving the second pilot plant license amendment request to transition to NFPA 805. Accordingly, NMPNS requests that enforcement discretion be extended for NMP1 to six months after the safety evaluation is issued for the second pilot plant. NMPNS understands that approval of this request is based upon our demonstrated substantial progress toward completion of the NFPA 805 transition. The progress to date is discussed in the Attachment to this letter.

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NRR

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This letter contains no new regulatory commitments and no revisions to existing commitments.

Should you have any questions regarding the information in this submittal, please contact T. F. Syrell, Licensing Director, at (315) 349-5219.

Very truly yours,

A handwritten signature in black ink, appearing to read "T. F. Syrell", with a stylized flourish at the end.

KJP/DEV

Attachment: Nine Mile Point Unit 1 Progress on NFPA 805 Transition

cc: S. J. Collins, NRC
R. V. Guzman, NRC
Resident Inspector, NRC

ATTACHMENT

NINE MILE POINT UNIT 1 PROGRESS ON NFPA 805 TRANSITION

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NINE MILE POINT UNIT 1 PROGRESS ON NFPA 805 TRANSITION

Progress on NFPA 805 Transition

The Nuclear Regulatory Commission, in Federal Register Volume 73, Page 52705, allowed application for a change of enforcement discretion on a case-by-case basis. Further, the Commission, in approving COMSECY-08-022, required that licensees provide demonstrated progress toward completion of NFPA 805 transition as a condition of granting an extension of enforcement discretion. Nine Mile Point Nuclear Station, LLC (NMPNS) has made substantial progress in the NFPA 805 transition effort for Nine Mile Point Unit 1 (NMP1). We have participated in the Nuclear Energy Institute (NEI) NFPA 805 Task Force and Fire Probabilistic Risk Analysis (PRA) task forces and Frequently Asked Question (FAQ) process and have made significant efforts in performing work activities in an effective manner, while utilizing the lessons learned from the Pilot Plant process.

Table 1 below 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 / Transition Reports that document the results of the NFPA 805 Transition Reports. As shown in Table 1, NMPNS has demonstrated substantial progress in the NMP1 NFPA 805 transition process.

Physical Modifications

While physical plant 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 license amendment request submittal letter and that letter will provide a schedule and commitments for any such modifications.

NFPA 805 Monitoring Program

The NFPA 805 monitoring program is highly dependent on fire PRA results as well as the traditional fire protection program issues. 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

Fire protection related non-compliances, as they are identified, are or will be entered into the site corrective action program, and appropriate compensatory measures in accordance with the existing fire protection program have or will be implemented, as necessary. This information is contained within the site's corrective action program and is available for review.

Disallowed Operator Manual Actions are considered compensatory measures according to the fire protection program. The fire protection program requires that any such actions be in accordance with the guidance of 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 performed based on the pre-NFPA 805 safe shutdown analysis. The post-NFPA 805 feasibility study may require modification and/or revision due to the information generated by the NFPA 805 transition effort. That post-NFPA 805 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 required actions. This effort is tied to the completion of the fire PRA. Therefore, the post-NFPA 805 feasibility study of some of these actions will be reviewed at the completion of the fire PRA effort. This is consistent with the pilot plants' approach.

ATTACHMENT

NINE MILE POINT UNIT 1 PROGRESS ON NFPA 805 TRANSITION

**Table 1
NMP1 Progress on NFPA 805 Tasks
(Original LAR Due Date of May 1, 2009)**

LAR/TR Reference	Topic	Approximate % Complete	Current Milestone Schedule Date ⁽¹⁾
N/A	Safe Shutdown Analysis Update (prerequisite task)	70%	4/8/2009
4.1 Attachment A	Fundamental Fire Protection Program Elements and Minimum Design Requirements (Table B-1)	95% ⁽²⁾	4/10/2009
4.2.1 Attachment B	Nuclear Safety Capability Assessment - Methodology (Table B-2)	65% ⁽²⁾	10/23/2009
4.2.2 Attachment C	Nuclear Safety Capability Assessment - Fire Areas-by-Fire Area Review (Table B-3)	55% ⁽²⁾	9/25/2009
4.3 Attachment D	Non-Power Operational Modes (Table F-1)	65%	10/30/2009
4.4 Attachment E	Radioactive Release (Table G-1)	100%	Completed
4.5.1	Fire PRA Development	40%	8/28/2009
4.5.2	Risk Informed, Performance Based Change Evaluation Process	5%	9/30/2009
4.5.3	Risk Informed, Performance Based Change Evaluation Results	5%	11/20/2009

- NOTES: 1. Schedule dates are milestones and do not constitute commitments.
2. The purpose of the task is to complete the appropriate table. Upon completion, open items will exist that may require Fire PRA to resolve.