



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

June 3, 2009

Mr. Bruce H. Hamilton  
Vice President  
McGuire Nuclear Station  
Duke Energy Carolinas, LLC  
12700 Hagers Ferry Road  
Huntersville, NC 28078

SUBJECT: MCGUIRE NUCLEAR STATION, UNITS 1 AND 2 – 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 NOS. ME0949 AND ME0950)

Dear Mr. Hamilton:

On September 10, 2008, the U.S. Nuclear Regulatory Commission (NRC, the Commission) 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 [NFPA] 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 six months after the date of the safety evaluation approving the second pilot plant LAR. These changes are in accordance with COMSECY-08-0022, 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.

By letter dated January 16, 2009, Duke Energy Carolinas LLC (Duke, the licensee), requested that the period of fire protection enforcement discretion for the McGuire Nuclear Station, Units 1 and 2 (McGuire 1 and 2) be extended until six months after the NRC's approval of both pilot plant LARs to transition to the NFPA's risk-informed, performance-based, standard for light water reactors (NFPA 805). Per the new interim fire protection enforcement policy outlined above, licensees may request an extension of their evaluation period beyond the three years of enforcement discretion previously provided.

To be granted 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.

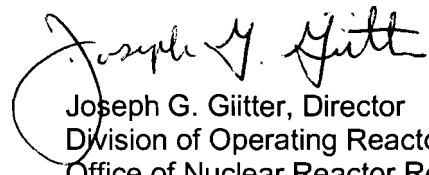
2. Document that each Operator Manual Action put in place as a compensatory measure is feasible and reliable, in accordance with the guidance in Regulatory Issue Summary 2005-07, "Compensatory Measures to Satisfy the Fire Protection Program Requirements."
3. Submit a description of the physical modifications 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 non-compliances, compensatory measures, and operator manual action feasibility determinations should be maintained on-site and up to date for inspector review.

The NRC staff reviewed Duke's request, and, based on the information provided by the licensee in their January 16, 2009, letter to the NRC staff, has concluded that: (a) the licensee's request for the extension of enforcement discretion is limited to six months past the NRC approval date of the second pilot license amendment request in accordance with the new interim fire protection enforcement policy and (b) the licensee has demonstrated enough substantial progress towards transitioning to NFPA 805 to grant them the additional enforcement discretion. Accordingly, the enforcement discretion period for McGuire 1 and 2 is hereby extended until six months after the date of the safety evaluation approving the second pilot plant LAR.

If you have any questions regarding this matter, please contact Jon Thompson at (301) 415-1119.

Sincerely,

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

Docket Nos. 50-369 and 50-370

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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.
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/RA/

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