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10CFR50.48

ATTN: Document Control Desk
U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001**SUBJECT:**Davis-Besse Nuclear Power Station
Docket No. 50-346, License No. NPF-3
Request for Extension of Enforcement Discretion for Noncompliances Related to Fire Protection Programs

By Interim Enforcement Policy published in the *Federal Register* (69 FR 33684) on June 16, 2004, the Nuclear Regulatory Commission (NRC) established terms and conditions regarding enforcement discretion for certain noncompliances related to fire protection programs. As outlined in the Enforcement Policy, a two-year period of enforcement discretion would begin with a licensee's letter of intent to transition a plant's fire protection program to National Fire Protection Association (NFPA) Standard 805 (Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants, 2001 Edition) in accordance with Section 50.48(c) of Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR 50.48(c)).

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 two to three years. In accordance with the policy, the enforcement discretion period would continue through the NRC review and approval of the license amendment request required by 10 CFR 50.48(c). By letter dated February 27, 2007 (ML070590517) FirstEnergy Nuclear Operating Company (FENOC) notified the NRC that transition activities to adopt NFPA 805 at the Davis-Besse Nuclear Power Station (DBNPS) would begin on March 1, 2007, thereby initiating the initial three-year period of enforcement discretion. By letter dated May 1, 2007 (ML071000033), the NRC acknowledged the request, and informed FENOC that the request for a 3-year enforcement discretion period was granted. The discretion period for Davis-Besse began on March 1, 2007, and will expire on March 1, 2010.

By *Federal Register* notice dated September 10, 2008 (73 FR 52705), the NRC further revised the enforcement policy to allow licensees the option to request an extended enforcement discretion period, to be granted by the NRC on a case-by-case basis, if a licensee has made substantial progress in the transition effort. The additional period of

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discretion would expire six months after NRC issuance of a safety evaluation approving the second pilot plant license amendment.

As stated in the enforcement policy, licensees that request enforcement discretion beyond the three years currently available should compile or submit the following information to the NRC.

- Compile, for on-site NRC audit/inspection, a list of all fire protection-related noncompliances and the related compensatory measures for those noncompliances.
- Document, for onsite NRC audit/inspection, that each Operator Manual Action put in place as compensatory measures are feasible and reliable, in accordance with staff provided guidance in Regulatory Issue Summary 2005-07, "Compensatory Measures to Satisfy the Fire Protection Program Requirements."
- Submit a description of the physical modifications performed, if any, to address existing risk-significant fire protection issues.
- Submit a status report of the transition, including a schedule of milestones for completing the fire PRA (Probabilistic Risk Assessment). The status report should be broken down into the following major areas:
 - Classical fire protection transition (in accordance with NFPA 805 Chapter 3).
 - Nuclear Safety Performance Criteria transition (in accordance with NFPA 805 chapters 1, 2 and 4).
 - Nonpower operational transitions.
 - NFPA 805 monitoring program.

To address the above-stated NRC informational needs for DBNPS, the following information is provided.

- Fire protection-related noncompliances and the related compensatory measures for those noncompliances are documented in the FENOC Corrective Action Program. A list has been compiled, and is available for on-site NRC audit/inspection.
- Evaluations have been completed to demonstrate the feasibility and reliability of existing manual actions, and are available for NRC audit/inspection. Upon completion of the NFPA 805 change evaluations, the existing feasibility evaluations will require revision to reflect actions credited for compliance under the new licensing basis.
- Since DBNPS began operation, various fire protection design changes and circuit modifications have been implemented to improve system performance and to comply with applicable regulations; however, no physical modifications have been performed at DBNPS to address existing risk-significant fire protection issues. Identification of potential modifications to resolve identified variances from deterministic requirements is pending completion of transition review and completion of change evaluations.
- As demonstrated in Attachment 1, Status Report - NFPA 805 Transition Progress for DBNPS, FENOC has completed a substantial effort toward transition activities at DBNPS. Some of these activities are iterative in nature due to lessons learned

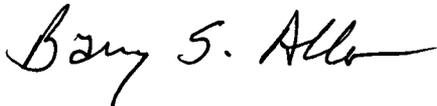
from ongoing industry experience. Attachment 2, Fire PRA Milestone Schedule for DBNPS, provides the major milestones for completion of the DBNPS Fire Probabilistic Risk Assessment (FPRA).

Because the necessary application for amendment of the DBNPS Operating License has not yet been submitted for NRC review, the current three-year period of enforcement discretion for DBNPS will expire on March 1, 2010. In accordance with the existing enforcement policy, FENOC hereby requests NRC approval of an extension to the enforcement discretion period for DBNPS, to six months after the date of the safety evaluation approving the second pilot plant license amendment.

FENOC has made a substantial investment in the NFPA 805 transition effort for DBNPS; however, delays in industry progress and continuing uncertainty in regulatory expectations for the associated licensing activities have led to escalating costs and delays in the completion activities for the DBNPS transition. Additionally, the need for a stable licensing basis to support DBNPS License Renewal efforts has resulted in schedule conflict regarding the transition. As a result, the necessary license amendment request is currently forecast to be submitted in the third quarter of 2012. Until amendment of the Operating License authorizes implementation of a fire protection program based on NFPA 805, FENOC will continue to maintain fire safety at DBNPS in accordance with License Condition 2.C(4) of Operating License NPF-3. During the period of enforcement discretion, FENOC will evaluate options for permanent resolution of existing noncompliances.

There are no regulatory commitments contained in this submittal. If there are any questions, or if additional information is required, please contact Mr. Thomas A. Lentz, Manager – Fleet Licensing, at 330-761-6071.

Sincerely,



Barry S. Allen

Attachments:

1. Status Report - NFPA 805 Transition Progress for DBNPS
2. Fire PRA Milestone Schedule for DBNPS

cc: NRC Region III Administrator
NRC Resident Inspector
Director, NRC Office of Enforcement
NRC Project Manager
Utility Radiological Safety Board

Status Report - NFPA 805 Transition Progress for DBNPS
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Transition Activity/ Tasks	Status	Est. % Complete
Classical Fire Protection Transition (in accordance with NFPA 805 Chapter 3)		
<ul style="list-style-type: none"> • Fundamental Fire Protection Program and Design Elements Review - Completion of NEI 04-02, Table B-1 (Transition Report (TR) Sec 4.1 and License Amendment Request (LAR) Attachment A) 	<p>The NFPA 805 Chapter 3 requirements were organized into “non-fire compartment specific requirements” and “fire compartment specific requirements.” Review of the non-fire compartment specific records (typically programmatic or global type requirements) is in progress. The fire compartment specific records (typically Fire Protection Feature (FPF) requirements are discussed below.</p>	<p>16%</p>
Radioactive Release Transition (in accordance with NFPA 805 Table G-1)		
<ul style="list-style-type: none"> • Completion of NEI 04-02, Table G-1 (TR Sec 4.4 and LAR Attachment E) 	<p>All of the required compartments have been reviewed against the NEI 04-02, Rev. 1 implementing guidance. This review included a review of pre-fire plans and fire brigade training materials for locations that have the potential for contamination to ensure that specific steps are included for containment and monitoring of potentially contaminated fire suppression water.</p>	<p>100%</p>
Nuclear Safety Performance Criteria Transition (in accordance with NFPA 805 Chapters 1, 2 and 4)		
<ul style="list-style-type: none"> • Validation of Nuclear Safety Capability Assessment Methodology 	<p>Project Instructions for methodology have been approved.</p>	<p>100%</p>
<ul style="list-style-type: none"> • Completion of NEI 04-02, Table B-2 (TR Sec 4.2.1 and LAR Attachment B) 	<p>A Safety Capability Assessment Methodology Review has been documented in NEI 04-02, Table B-2 format, reviewed and completed.</p>	<p>100%</p>
<ul style="list-style-type: none"> • Safe Shutdown Analysis Update (pre-requisite task) 	<p>As part of the re-baselining of the safe shutdown (SSD) analysis, the Davis-Besse SSD analysis was incorporated into and checked by EPM's SAFE software.</p>	<p>100%</p>

Transition Activity/ Tasks	Status	Est. % Complete
<ul style="list-style-type: none"> Existing Engineering Equivalency Evaluations Transition (TR Sec 4.2.2.2.1 and LAR Attachment J) 	Scheduled.	0%
<ul style="list-style-type: none"> Licensing Actions Transition (TR Sec 4.2.2.2.2 and LAR Attachment K) 	Scheduled.	0%
<ul style="list-style-type: none"> Completion of fire area by fire area safe shutdown analysis and NEI 04-02, Table B-3 (TR Sec 4.2.2 and LAR Attachment C) 	The fire area by fire area review records to demonstrate compliance with the performance goals of NFPA 805 Section 1.5 have been performed and documented in WebTRAN and are in review. The final report will be provided in a format similar to NEI 04-02, Table B-3. Updates may be required to document results of multiple spurious operations reviews and NFPA 805 change evaluations	60%
<ul style="list-style-type: none"> Review of fire protection features (FPFs) required for Chapter 4 per the requirements of Chapter 3. 	The fire compartment specific records (typically fire protection feature requirements) have been associated with each applicable fire compartment where they are credited to meet NFPA 805 Chapter 4 requirements. Detailed reviews were then performed and reviewed for each applicable compartment.	35%
Non-power Operational Transitions		
<ul style="list-style-type: none"> Completion of NEI 04-02, Table F-1 (TR Sec 4.3 and LAR Attachment D) 	Component selection and cable selection for additional components has been completed. Further action is awaiting the results of the NRC review of the pilot LARs to the requirements of NFPA 805. Final results will be documented in NEI 04-02, Table F-1 format. <i>Note: This is a new requirement and enforcement discretion for variances to the requirements of NFPA 805 is not required.</i>	67%
NFPA 805 Monitoring Program		
<ul style="list-style-type: none"> (TR Sec 4.5) 	Scheduled.	0%

Fire PRA Milestone Schedule for DBNPS

Task	Description	Status	Schedule Completion Date	Estimated Percent Complete
TR Sec 4.5.1	Probabilistic Risk Assessment (PRA) Development			
	Plant Boundary Definition and Partitioning	Complete		100%
	Fire PRA Component Selection	Complete		100%
	Fire PRA Cable	Complete		100%
	Qualitative Screening	Complete		100%
	Fire-Induced Risk Model	Complete		100%
	Fire Ignition Frequencies	Complete		100%
	Quantitative Screening	Complete		100%
	Fire-Risk Scoping Model	Complete		100%
	Detailed Circuit Failure Analysis	In progress	07/12	20%
	Circuit Failure Mode Likelihood Analysis	In progress	07/12	1%
	Detailed Fire Modeling	In progress	06/12	12%
	Post-Fire Human Reliability Analysis	In progress	07/12	50%
	Seismic Fire Interactions Assessment	Scheduled	05/12	0%
	Uncertainty and Sensitivity Analysis	Scheduled	05/12	0%
	Fire PRA Documentation	Scheduled	07/12	0%
	Peer Review	Scheduled	07/12	0%
TR Sec 4.8.2.1 Attachment F	Fire Induced Multiple Spurious Operations (MSO) Resolution Methodology	* The DRAFT MSO resolution report has been prepared and reviewed. Changes may be required based on industry experience.	*	*
TR Sec 4.8.2.2 Attachment G	Operator Manual Actions – Transition to Recovery Actions	In progress	05/12	40%
TR Sec 4.5	Change Evaluations			
	<ul style="list-style-type: none"> Development of methodology, content, and format 	** A draft Project Instruction establishing methodology, content and format has been completed. Changes may be required based on industry experience.	**	**