

August 2, 2013

The Honorable Jack Reed
United States Senate
Washington, DC 20510

Dear Senator Reed:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of June 24, 2013. You forwarded an example of constituent correspondence expressing concern regarding enforcement of NRC regulations to ensure fire safety at U.S. commercial nuclear power plants.

NRC regulations allow two different approaches to fire protection. The first, adopted in 1980, is a prescriptive approach that mandates specific measures to ensure a reactor will survive a fire. The regulations do allow for exemptions from specific requirements of the regulations, however, when certain enumerated special circumstances are present. The Commission will grant such exemptions only if they do not present an undue risk to the public health and safety and meet other requirements. While it is true that granting an exemption provides relief from the applicable regulation, a plant with an exemption is not out of compliance with the regulations.

Your constituents are, I believe, focusing on an optional second approach, that uses risk-informed, performance-based methods based on National Fire Protection Association (NFPA) Standard 805 (NFPA 805). This approach uses risk insights to focus the licensee's attention and resources on specific areas of a facility where fire hazards might be greater. Licensees for 44 reactors have committed to requesting NRC license amendments to permit use of NFPA 805.

The NRC has adopted an interim Enforcement Policy whereby it will, under some circumstances, exercise enforcement discretion for noncompliances identified during the transition to NFPA 805, as well as refrain from taking enforcement action against licensees for an existing fire protection violation, so long as the licensee has submitted a letter of intent to transition to NFPA 805 and the underlying non-compliance was not willful and was not of high safety significance. Additionally, the licensee must have taken appropriate corrective actions to address the noncompliance.

The NRC has established a staggered schedule for licensees that are adopting NFPA 805 to submit their applications to the NRC. The NRC granted an extension to these schedules on a very limited basis only if the licensee could demonstrate that they had made substantial progress in their transition to the new NFPA 805 licensing basis.

J. Reed

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I believe it is worth noting that last year the Government Accountability Office (GAO) completed a review of nuclear power plant fire protection, "Oversight and Status of Implementing a Risk-Informed Approach to Fire Safety" (GAO-13-8). The report included no recommendations for the NRC related to fire safety or NFPA 805.

If you need any additional information, please contact me or Ms. Rebecca Schmidt, Director of the Office of Congressional Affairs, at (301) 415-1776.

Sincerely,

/RA/

R.W. Borchardt
Executive Director
for Operations

J. Reed

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