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U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001
ATTENTION: Document Control Desk

Subject: Duke Energy Corporation
Oconee Nuclear Station, Units 1, 2, and 3
Docket Nos. 50-269, 50-270, 50-287
McGuire Nuclear Station, Units 1 and 2
Docket Nos. 50-369, 50-370
Catawba Nuclear Station, Units 1 and 2
Docket Nos. 50-413, 50-414
Letter of Intent to Adopt NFPA 805 Performance-Based Standard for Fire
Protection for Light Water Reactor Generating Plants, 2001 Edition

This letter serves to inform you of Duke Energy Corporation's (Duke) intent to adopt NFPA 805 (Performance-Based Standard for Fire Protection for Light Water Reactor Generating Plants, 2001 Edition) in accordance with 10 CFR 50.48(c).

The transition to the performance-based standard for fire protection is expected to commence in a staggered fashion with Oconee being the first to transition. Duke expects Oconee to begin the transition process in the second quarter of 2005 and will take 24 months to fully implement. McGuire should be the next to begin transition followed by Catawba with all units complete by the end of 2009.

This schedule is subject to change depending on the extent to which the plant determines that it needs to make either physical modifications or changes to the fire protection program to comply with NFPA 805. An updated schedule will accompany the License Amendment Request required under 10 CFR 50.48(c)(3)(i).

In accordance with the interim enforcement policy, enforcement discretion is requested for NRC unresolved items (URI) related to Fire Protection. Duke has determined that a necessary prerequisite to transitioning to a performance-based fire protection program is performing the Appendix R Reconstitution Project at each plant. An extension to the enforcement discretion window is being requested for the following reasons:

- (1) Within Duke and in the nuclear industry in general, there are limited experts in areas of Electrical Engineering (circuit analysis), System Engineering, and Appendix R Safe Shutdown, needed to support reconstitution of the Appendix R design basis and the transition to NFPA-805;

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- (2) Based on past experience at Duke, there is a strong desire to maintain consistency between our plants. If sufficient personnel (either in-house or contractor) are used to perform the Appendix R Reconstitution Project and the NFPA-805 transition in parallel, there is added burden to maintain the analysis consistency and quality;
- (3) Based on the fact that Oconee will be the first plant within Duke and in the industry to transition to NFPA-805, Duke believes that there is much to be learned after the first pilot plant. Duke plans to perform the transition at McGuire and Catawba after Oconee in order to learn from the pilot; and
- (4) Finally, Duke believes that the risk of extension of the enforcement discretion window is low since all issues have either been assessed as low risk or corrective actions taken.

Duke understands that this letter of intent initiates a period of enforcement discretion during which no enforcement actions will be taken for non-compliances discovered as a result of evaluations to support this licensing basis transition process.

The NFPA-805 transition process will proceed in three phases:

Phase I - Preliminary Assessment of the Fire Protection Program

- Technical and regulatory assessments performed to determine the feasibility and practicality of performing the transition.

Phase II - Reviews and Engineering Analysis

- Fundamental Fire Protection Program and Design Elements review
- Nuclear Safety Performance Criteria Transition review
- Non-Power Operational Mode Transition review
- Radiological Release Transition review.
- Change Evaluations
- License Amendment Request

Phase III - Implementation

- Program Documentation
- Configuration Control
- Monitoring

The process will be considered complete upon receipt of the approved License Amendment authorizing the transition to NFPA-805.

Duke considers our current licensing basis with respect to spurious actuation to be unclear. During our transition to NFPA-805, Duke plans on clarifying the spurious actuation issue by implementing a new basis in accordance with the guidance in NEI-04-02, Revision F, Enclosure 2, Guidance for Implementing A Risk-Informed, Performance Based Fire-Protection Program under 10 CFR 50.48(c), July 2004.


Duke proposes that Oconee be considered a pilot plant for the initial implementation of performance-based fire protection using NFPA-805. As a part of this pilot process, Duke

requests all licensing and review fees be waived for the License Amendment Request. Duke believes that our participation in the pilot process will benefit the NRC significantly through the experience gained throughout the NRC observation process. The pilot process will provide significant technical and process information that can be used as input into future revisions of the Regulatory Guide and industry guidance governing NFPA-805 transition. The experience gained by the NRC and Duke in developing, submitting and reviewing this Letter of Intent and the Transition Report will allow the development of valid industry templates for future licensees undergoing transition. Knowledge and experience gained in the observation process will provide valuable input into the NRC Inspection Guidance for transition. In addition, waiver of the licensing fees will somewhat offset the expense and burden of orchestrating the on-site observation process. Additionally, if no other pilot plants come forward this year, Duke offers McGuire as a second pilot plant. McGuire utilizes a different Nuclear Steam Supply System and has substantially different safe shutdown issues than Oconee.

This correspondence contains no regulatory commitments.

If you have any questions concerning this subject, please contact L. B. Jones at (704) 382-4753.

Very truly yours,



Henry B. Barron

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