

**PLACE:** NTSB Conference Center, 429 L'Enfant Plaza SW., Washington, DC 20594.

**STATUS:** The two items are Open to the Public.

**MATTERS TO BE CONSIDERED:**

7643 Highway Accident Report—Motorcoach Run-off-the-Road and Rollover Accident, Victor, New York, June 23, 2002.

7564A Hazardous Materials Accident Report—Nurse Tank Failure With Release of Hazardous Materials near Calamus, Iowa, April 15, 2003.

**NEWS MEDIA CONTACT:** Telephone: (202) 314-6100.

Individuals requesting specific accommodations should contact Ms. Carolyn Dargan at (202) 314-6305 by Friday, June 18, 2004.

**FOR FURTHER INFORMATION CONTACT:** Vicky D'Onofrio, (202) 314-6410.

Dated: June 10, 2004.

**Vicky D'Onofrio,**

*Federal Register Liaison Officer.*

[FR Doc. 04-13629 Filed 6-10-04; 4:22 pm]

**BILLING CODE 7533-01-M**

## **NUCLEAR REGULATORY COMMISSION**

**[NUREG-1600]**

### **NRC Enforcement Policy**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Policy statement: revision.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is revising its General Statement of Policy and Procedure for NRC Enforcement Actions (NUREG-1600) (Enforcement Policy or Policy) to include an interim enforcement policy regarding enforcement discretion for certain issues involving fire protection programs at operating nuclear power plants.

**DATES:** This revision is effective June 16, 2004. Comments on this revision to the Enforcement Policy may be submitted on or before July 16, 2004.

**ADDRESSES:** Submit written comments to: Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop: T6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m., Federal workdays. Copies of comments received may be examined at the NRC Public Document Room, Room O1F21, 11555 Rockville

Pike, Rockville, MD. You may also e-mail comments to [nrcp@nrc.gov](mailto:nrcp@nrc.gov).

The NRC maintains the current Enforcement Policy on its Web site at <http://www.nrc.gov>, select What We Do, Enforcement, then Enforcement Policy.

**FOR FURTHER INFORMATION CONTACT:**

Joseph Birmingham, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, (301) 415-2829, e-mail ([JLB4@nrc.gov](mailto:JLB4@nrc.gov)) or Renée Pedersen, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001, (301) 415-2742, e-mail ([RMP@nrc.gov](mailto:RMP@nrc.gov)).

**SUPPLEMENTARY INFORMATION:** In a separate action published in today's **Federal Register**, the NRC is revising its regulations in 10 CFR 50.48 governing fire protection at operating nuclear power plants. The revision adds a new paragraph (c) to § 50.48 that allows reactor licensees to voluntarily comply with the risk-informed, performance-based fire protection approaches in National Fire Protection Association (NFPA) Standard 805 NFPA 805), "Performance-based Standard For Fire Protection For Light Water Reactor Electric Generating Plants," 2001 Edition (with limited exceptions stated in the rule language), as an alternative to complying with § 50.48(b) or the requirements in their fire protection license conditions.

As part of the transition to 10 CFR 50.48(c), licensees will establish the fundamental fire protection program identified in NFPA 805. Licensees will perform a plant-wide assessment to identify fire areas and fire hazards and evaluate compliance with their existing fire protection licensing basis. This fire protection assessment is beyond the normal licensee review of their fire protection program.

During the assessment process, licensees may identify noncompliances with their existing fire protection licensing basis which must be evaluated to restore compliance with the existing plant requirements or to establish compliance with a performance-based approach under NFPA 805. These noncompliances would normally be identified by the licensee as part of the above fire protection assessment, entered into the licensee's corrective action program, and dispositioned for corrective action, including any compensatory measures. The NRC believes it is appropriate to provide incentives for licensees initiating efforts to identify and correct subtle violations that are not likely to be identified by routine efforts. Therefore, the NRC is issuing an interim policy that provides

enforcement discretion for certain fire protection noncompliances identified as part of the transition to 10 CFR 50.48(c).

For these noncompliances discussed above, the enforcement discretion period would begin upon receipt of a letter of intent from the licensee stating their intention to adopt the risk-informed, performance-based fire protection program under 10 CFR 50.48(c) and providing a schedule for the transition to 10 CFR 50.48(c). The enforcement discretion period would be in effect for up to two years under the letter of intent and, if the licensee submits a license amendment request to complete the transition to 10 CFR 50.48(c), will continue until the NRC approval of the license amendment request is completed.

If the licensee decides not to complete its transition to 10 CFR 50.48(c), the licensee must submit a letter stating their intention to retain their existing license basis and withdrawing their letter of intent. Enforcement discretion would be provided for those violations that were identified under the letter of intent to transition to NFPA 805 provided those violations are resolved under the existing licensing basis and meet the criteria included in this policy for these violations. Violations identified after the date of the withdrawal letter will be dispositioned in accordance with normal enforcement practices.

Additionally, licensees who plan to comply with 20 CFR 50.48(c) may have existing identified noncompliances which could reasonable be corrected under 20 CFR 50.48(c). For these noncompliances, the NRC is providing enforcement discretion for the implementation of corrective action so that those noncompliances may be corrected in accordance with the requirements of 10 CFR 50.48(c). Those noncompliances must be entered into the licensee's corrective action program, must not be associated with findings that the Reactor Oversight Process Significance Determination Process would evaluate as Red, or would not be categorized at Severity Level 1, and appropriate compensatory measures have been taken. To prevent undue delay in either restoring these existing noncompliances to 10 CFR 50.48(b) (and any other requirements in fire protection license conditions) or establishing compliance to 10 CFR 50.48(c), the letter of intent must be submitted within 6 months of the effective date of the final rule amending 10 CFR 50.48.

This interim enforcement discretion policy is consistent with the long-standing policy included in Section

VII.B.3, "Violations Involving Old Design Issues," of the Enforcement Policy addressing discretion when licensees voluntarily undertake a comprehensive review and assessment. This exercise of discretion provides appropriate incentives for licensees initiating efforts to identify and correct subtle violations that are not likely to be identified by routine efforts.

However, the NRC may take enforcement action when a violation that is associated with a finding of high safety significance is identified. The staff intends to normally rely on the licensee's risk assessment of an issue when making a decision on whether to exercise enforcement discretion under this policy.

Accordingly, the proposed revision to the NRC Enforcement Policy reads as follows:

**General Statement of Policy and Procedure for NRC Enforcement Actions**

\* \* \* \* \*

**Interim Enforcement Policies**

*Interim Enforcement Policy Regarding Enforcement Discretion for Certain Fitness-for-Duty Issues (10 CFR Part 26)*

\* \* \* \* \*

*Interim Enforcement Policy Regarding Enforcement Discretion for Certain Fire Protection Issues (10 CFR 50.48)*

This section sets forth the interim enforcement policy that the NRC will follow to exercise enforcement discretion for certain violations of requirements in 10 CFR 50.48, Fire protection (or fire protection license conditions) that are identified as a result of the transition to a new risk-informed, performance-based fire protection approach included in paragraph (c) of 10 CFR 50.48 and for certain existing identified noncompliances that reasonably may be resolved by compliance with 10 CFR 50.48(c). Paragraph (c) allows reactor licensees to voluntarily comply with the risk-informed, performance-based fire protection approaches in National Fire Protection Association (NFPA) Standard 805 (NFPA 805), "Performance-Based Standard For Fire Protection For Light Water Reactor Electric Generating Plants," 2001 Edition (with limited exceptions stated in the rule language).

For those noncompliances identified during the licensee's transition process, this enforcement discretion policy will be in effect for up to two years from the date of a licensee's letter of intent to adopt the requirements in 10 CFR

50.48(c) and will continue to be in place until NRC approval of the license amendment request to transition to 10 CFR 50.48(c). This discretion policy may be extended upon a request from the licensee with adequate justification.

If, after submitting the letter of intent to comply with 10 CFR 50.48(c) and before submitting the license amendment request, the licensee determines not to complete the transition to 10 CFR 50.48(c), the licensee must submit a letter stating their intent to retain their existing license basis and withdrawing their letter of intent to comply with 10 CFR 50.48(c). Any violations identified prior to the date of the above withdrawal letter will be eligible for discretion, provided they are resolved under the existing licensing basis and meet the criteria included in this policy for these violations. Violations identified after the date of the above withdrawal letter will be dispositioned in accordance with normal enforcement practices.

*A. Noncompliances Identified During the Licensee's Transition Process*

Under this interim enforcement policy, enforcement action normally will not be taken for a violation of 10 CFR 50.48(b) (or the requirements in a fire protection license condition) involving a problem such as in engineering, design, implementing procedures, or installation, if the violation is documented in an inspection report and it meets all of the following criteria:

(1) It was licensee-identified as a result of its voluntary initiative to adopt the risk-informed, performance-based fire protection program included under 10 CFR 50.48(c), or, if the NRC identifies the violation, it was likely in the NRC staff's view that the licensee would have identified the violation in light of the defined scope, thoroughness, and schedule of the licensee's transition to 10 CFR 50.48(c) provided the schedule reasonably provides for completion of the transition within two years of the date of the licensee's letter of intent to implement 10 CFR 50.48(c) or other period granted by NRC;

(2) It was corrected or will be corrected as a result of completing the transition to 10 CFR 50.48(c). Also, immediate corrective action and/or compensatory measures are taken within a reasonable time commensurate with the risk significance of the issue following identification (this action should involve expanding the initiative, as necessary, to identify other issues caused by similar root causes);

(3) It was not likely to have been previously identified by routine licensee efforts such as normal surveillance or quality assurance (QA) activities; and

(4) It was not willful.

The NRC may take enforcement action when these conditions are not met or when a violation that is associated with a finding of high safety significance is identified.

While the NRC may exercise discretion for violations meeting the required criteria where the licensee failed to make a required report to the NRC, a separate enforcement action will normally be issued for the licensee's failure to make a required report.

*B. Existing Identified Noncompliances*

In addition, licensees may have existing identified noncompliances that could reasonably be corrected under 10 CFR 50.48(c). For these noncompliances, the NRC is providing enforcement discretion for the implementation of corrective actions until the licensee has transitioned to 10 CFR 50.48(c) provided that the noncompliances meet all of the following criteria:

(1) The licensee has entered the noncompliance into their corrective action program and implemented appropriate compensatory measures,

(2) The noncompliance is not associated with a finding that the Reactor Oversight Process Significance Determination Process would evaluate as Red, or it would not be categorized at Severity Level I, and

(3) The licensee submits a letter of intent within 6 months of the effective date of the final rule stating their intent to transition to 10 CFR 50.48(c).

After the 6 month period described in (3) above, this enforcement discretion for implementation of corrective actions for existing identified noncompliances will not be available and the requirements of 10 CFR 50.48(b) (and any other requirements in fire protection license conditions) will be enforced in accordance with normal enforcement practices.

\* \* \* \* \*

Dated at Rockville, Maryland, this 8th day of June, 2004.

For the Nuclear Regulatory Commission.

**Annette Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 04-13523 Filed 6-15-04; 8:45 am]

**BILLING CODE 7590-01-M**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-255]

### Nuclear Management Company, LLC, Palisades Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License No. DPR-20, issued to Nuclear Management Company, LLC (the licensee), for operation of the Palisades Plant, located in Van Buren County, Michigan. Therefore, as required by Title 10 of the Code of Federal Regulations (10 CFR), Section 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

#### Environmental Assessment

##### Identification of the Proposed Action

The proposed action would give approval to the licensee to update the Final Safety Analysis Report (FSAR) to reflect a change in the licensing basis for the handling of heavy loads using the L-3 crane main hoist. Specifically, the proposed changes would credit the L-3 crane as a single-failure-proof design, meeting the guidelines of NUREG-0612, "Control of Heavy Loads at Nuclear Power Plants" and NUREG-0554, "Single-Failure-Proof Cranes for Nuclear Power Plants," and the amendment would also approve use of the L-3 crane for below-the-hook loads up to 110 tons.

The proposed action is in accordance with the licensee's application dated January 29, 2004, as supplemented by letters dated May 14, and June 2, 2004.

##### The Need for the Proposed Action

The proposed action is needed to allow the licensee to increase the rated capacity of the spent fuel pool crane and incorporate a single-failure-proof design. Upgrading the crane is necessary to allow the loading of a new dry fuel storage cask.

##### Environmental Impacts of the Proposed Action

The NRC has completed its safety evaluation of the proposed action and concludes that: (1) There is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner; (2) such activities will be conducted in compliance with the Commission's regulations; and (3) the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public. The

details of the staff's safety evaluation will be provided in the license amendment that will be issued as part of the letter to the licensee approving the license amendment.

The proposed action will not significantly increase the probability or consequences of accidents. No changes are being made in the types of effluents that may be released off site and there is no significant increase in the amount of any effluent released offsite. There is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect nonradiological plant effluents, and it has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

##### Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

##### Alternative Use of Resources

The action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for the Palisades Plant, dated February 1978.

##### Agencies and Persons Consulted

On June 9, 2004, the staff consulted with the Michigan State official, Mary Ann Elzerman, of the Michigan Department of Environmental Quality, regarding the environmental impact of the proposed action. The State official had no comments.

##### Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated January 29, 2004, as supplemented on May 14 and June 2, 2004. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 9th day of June 2004.

For the Nuclear Regulatory Commission.

**John F. Stang,**

*Sr. Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 04-13524 Filed 6-15-04; 8:45 am]

BILLING CODE 7590-01-P

## POSTAL RATE COMMISSION

[Docket No. MC2004-2; Order No. 1408]

### Experimental Priority Mail Flat-Rate Box

**AGENCY:** Postal Rate Commission.

**ACTION:** Notice and order on new experimental docket.

**SUMMARY:** This document establishes a formal docket for consideration of a proposed two-year experiment testing the feasibility of two new Priority Mail packaging options. Both options are priced at a flat rate of \$7.70. The shape of one package makes it suitable for mailing garments; the shape of other accommodates shoes. Conducting the experiment would allow the Service to collect data and information on customer response and related matters, and thereby determine whether it should seek to establish these products as permanent offerings.

**DATES:** See **SUPPLEMENTARY INFORMATION** for dates.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>.