

August 9, 1988

Docket No. 50-400

Mr. E. E. Utley  
Senior Executive Vice President  
Power Supply and Engineering & Construction  
Carolina Power & Light Company  
Post Office Box 1551  
Raleigh, North Carolina 27602

Dear Mr. Utley:

SUBJECT: EXEMPTION REGARDING UPDATING FINAL SAFETY ANALYSIS REPORT -  
SHEARON HARRIS NUCLEAR POWER PLANT, UNIT 1 (TAC NO. 68103)

Enclosed is a copy of an Exemption relative to the Shearon Harris Nuclear Power Plant, Unit 1, for your information. This Exemption relates to your January 30, 1986 request for exemption from certain requirements of 10 CFR 50.71(e).

This exemption has been forwarded to the Office of the Federal Register for publication.

Sincerely,

151

Bart C. Buckley, Senior Project Manager  
Project Directorate II-1  
Division of Reactor Projects I/II

Enclosure:  
Environmental Assessment

cc w/enclosure:  
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Mr. E. E. Utley  
Carolina Power & Light Company

Shearon Harris

cc:

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UNITED STATES NUCLEAR REGULATORY COMMISSION

In the Matter of )  
CAROLINA POWER & LIGHT COMPANY ) Docket No. 50-400  
(Shearon Harris Nuclear Power Plant, )  
Unit 1) )

EXEMPTION

I.

Carolina Power & Light Company (the licensee), acting for itself and the North Carolina Eastern Municipal Power Agency, is the holder of Facility Operating License No. NPF-63, issued on January 12, 1987, which authorized full power operation of the Shearon Harris Nuclear Power Plant, Unit 1 (the facility). A superceded license (NPF-53), issued October 24, 1986, authorized the licensee to operate the facility at steady-state reactor power levels not in excess of 139 megawatts thermal. This license provides, among other things, that they are subject to all rules and regulations and Orders of the Commission.

II.

Section 50.71(e)(3)(i) of 10 CFR Part 50 requires the licensees of nuclear power reactors to submit an updated Final Safety Analysis Report (UFSAR) within 24 months of either July 22, 1980, or the date of issuance of the operating license, whichever is later. The above regulation would have required submittal of the UFSAR for Shearon Harris, Unit 1, by October 24, 1988.

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By letter dated April 21, 1988, the licensee requested an exemption from 10 CFR 50.71(e) requiring the refiling of a complete Final Safety Analysis Report (FSAR) as the UFSAR within twenty-four months after the issuance of an operating license. The licensee proposes to continue to use the current FSAR and to update it through the issuance of a FSAR amendment in the same manner as the licensing process. The licensee, in the above cited letter, references and discusses three of the six special circumstances provided in 10 CFR 50.12(a)(2) that would support the consideration of the issuance of this exemption.

One of these categories, 10 CFR 50.12(a)(2)(ii), states:

Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule;

The underlying purpose of the rule was to provide a single complete updated integrated document that would accurately describe the facility. During the licensing process, the current FSAR was amended by Amendment No. 39 on October 30, 1986. The licensee states that the existing FSAR is in the state of completeness contemplated by the rule and the underlying purpose of the rule could be achieved through the amendment process.

### III.

The NRC staff has reviewed the licensee's request for an exemption from 10 CFR 50.71(e)(3)(i) which requires the filing of an UFSAR. Instead, the licensee would continue to use the existing FSAR and update it through the amendment process. Prior to the issuance of the rule, there was no regulation requiring the applicants or licensees to incorporate changes to, or amendments of, the application of the license into the FSAR. Consequently, the FSARs

were not kept up-to-date. In view of the recent licensing of the Shearon Harris, Unit 1, the current FSAR is in the comparable state of completeness contemplated by the rule, and the subsequent routine updating of the relatively small percentage of the FSAR text and figures would meet the underlying purpose of the rule. Because the necessary safety information will be provided in the amendment to update the existing FSAR, no undue risk would result from the proposed exemption.

#### IV.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a)(2)(ii), this exemption is authorized by law, and that the application of the regulation would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(iii) and (vi) apply to this situation.

Application of the 10 CFR 50.71(e) requirement for updating the FSAR in this situation, i.e., submitting a new and separate UFSAR, is not necessary to achieve the underlying purpose of the rule, which is to ensure that the updated information be available in the FSAR. Since updating the current FSAR by means of the amendment process does not conflict with the intent of the rule, the granting of the exemption complies with the intent of the regulation and comports with the special circumstances described in 10 CFR 50.12(a)(2)(ii).

Accordingly, the Commission hereby grants an exemption, as described in Section III above from Section 50.71(e)(3)(i) of 10 CFR Part 50, from the requirement to file a separate and new updated FSAR for the Shearon Harris Nuclear Power Plant, Unit 1.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment ( 53 FR 26693 ). This exemption is effective upon issuance.

FOR THE NUCLEAR REGULATORY COMMISSION

151

Steven A. Varga, Director  
Division of Reactor Projects I/II  
Office of Nuclear Reactor Regulation

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