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With regard to the Brunswick Environmental Report Site Audit Follow-Up List, response to Item # 17 is as follows:

17. Update Endangered Species guidance document of Progress Energy's actions with regard to other protected plants and animals when we are aware of their presence. [provide to Amanda Stegen/Mike Sackschewsky] [Responsible individual: Robin Bryson]

Progress Energy's Endangered and Threatened Species guidance document, EVC-SUBS-00011, has been revised informing employees that they should report an observation of a federally or state-listed endangered or threatened species to his/her supervisor and/or appropriate company environmental personnel and to not disturb these species in any way. (see Page 6 of the attached Revision 2 to this guidance document.)

<<evcsubs00011.pdf>>

If you have further questions or need additional information, please let us know.

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# Endangered and Threatened Species

Document number

EVC-SUBS-00011

Applies to: Progress Energy Carolinas, Inc.; Progress Energy Florida, Inc.

Keywords: environmental; environmental compliance manual – common

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**GLOSSARY**

**1.0 BACKGROUND**

- As defined in the Federal Endangered Species Act (ESA), it is unlawful to “take” a Federally-listed species. “Take” is defined as to “harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect or attempt to engage in any such conduct”.
- These regulations apply to any activity on lands, rights-of-way and adjacent waters that:
  - ✓ Results in the injury or death of an endangered or threatened species;
  - ✓ Has the potential to annoy an endangered or threatened species; or
  - ✓ Changes the habitat of an endangered or threatened species in a manner that may affect its ability to:
    - ☞ Reproduce,
    - ☞ Obtain food, or
    - ☞ Have shelter.

<b>EXAMPLES OF ACTIVITIES THAT MAY IMPACT ENDANGERED OR THREATENED SPECIES</b>
Mowing and other maintenance operations on rights-of-way that kill, injure, or alter habitat for endangered or threatened plant populations living in the rights-of-way.
Cutting a <u>red-cockaded woodpecker</u> cavity tree while removing danger trees along a transmission right-of-way.
Creating a disturbance (i.e., operating a chain saw, bulldozer, line truck, or other equipment) in the vicinity of a <u>bald eagle</u> nest or a <u>red-cockaded woodpecker</u> nest cavity. <sup>7</sup>
Discharging oil, chemicals, or sediments into a stream that kill, injure, or alter the habitat of endangered or threatened fish or freshwater mussels living in the stream.
Possessing the feathers, talons, beak, or any other body parts of a bald eagle.

- Failure to comply with the Endangered Species Act can result in:
  - ✓ Civil penalties up to \$25,000 per violation;
  - ✓ Criminal penalties up to \$50,000 and/or one year in jail; and
  - ✓ Penalties from citizen suits.
- Both Progress Energy and its contractors may be held accountable and individual Company employees can be held personally responsible.

2.0 PROGRAM REQUIREMENTS

2.1 COMPANY

A. PROGRESS ENERGY CAROLINAS BEST MANAGEMENT PRACTICES FOR RARE PLANTS

- Learn about the rare plant sites in your work area.
  - ✓ Company and contract construction and maintenance crews must be aware of the sites in their particular area.
  - ✓ Refer to the “Management of Rare Plant Sites on CP&L Power Line Rights of Way” manual. A copy of this manual may be obtained from your environmental contact.
- Appropriate personnel from each Customer Services Region or Transmission Area install, maintain, and monitor stakes and signs at the right-of-way sites where rare plants have been identified.
  - ✓ Each rare plant site must be delineated with white-topped metal stakes and marked with signs, available from the Progress Energy warehouse, stating:

SENSITIVE HABITAT AREA  
 USE CAUTION  
 NO MOWING BETWEEN APRIL 1 AND OCTOBER 31  
 NO HERBICIDES

- ✓ They must be painted in the field. These sites are managed cooperatively with the North Carolina Natural Heritage Program and, in some instances, with the N.C. Department of Transportation (NCDOT) and/or the landowner. The NCDOT uses white topped stakes to delineate their “no mowing” areas. You should be especially sensitive to other signs on or near the power line right-of-way that refer to threatened or endangered species.
    - ✓ Contact ESS Threatened/Endangered Species personnel if you have questions about any of these signs.
- Research any permits and conditions that apply to the work.
  - ✓ Review the files on each line to find these permits. Contact engineering staff for more information as local files may not contain all the appropriate information.
- Threatened and endangered plants require special protection from mowing, herbicide applications, and other disturbances during their reproductive stages.
  - ✓ Grading, creating ruts, etc. is prohibited in all situations, including outages and other emergencies, on rare plant sites. This type of ground disturbance can alter drainage and subsequently alter the habitat. When soft or wet areas are encountered, try to find another way to access the site, use mats, or work the site by hand.

- Schedule construction, regular maintenance, or other activities during the late fall through the early spring to avoid the growing and reproductive season for these rare plants.
  - ✓ Any work orders or descriptions of work that may include these sites must identify and describe the location of the site and specifically instruct the contractor or Company crew to avoid that area between April 1 and October 31.
  
- Taking or impacting a threatened or endangered species on federal property is prohibited.
  - ✓ Contact ESS Threatened/Endangered Species personnel prior to performing work on federal property where there is a threatened or endangered plant. They will have to call upon a state biologist, a U.S. Fish and Wildlife Service representative, and/or the local person responsible for endangered species on those Federal lands before you proceed with your work.
  
- The following BMPs apply to rare plant sites that are not on federal lands:
  - ✓ Assess the urgency and severity of operational or maintenance situations. Contact appropriate personnel (ESS, Environmental Specialist, and/or Contract Administrator) before proceeding to minimize impacts to the rare plant by suggesting alternative methods or providing specific plant locations.
  
  - ✓ If there is an emergency and these contacts cannot be made, then the work must proceed with caution.
    - ☞ Emergencies include outages to critical customers such as hospitals, public safety facilities, etc., and situations where worker or public safety is jeopardized.
  
    - ☞ Attempt to avoid the rare plant site. If the site cannot be avoided, then minimize impact by trying to find another way to access the site, using mats, or working the site by hand.
  
    - ☞ As soon as possible after the incident contact ESS Threatened/Endangered Species personnel with a full report of actions taken.
  
    - ☞ A state biologist, a U.S. Fish & Wildlife Service representative, and/or the local person responsible for endangered species will be contacted to report the incident and discuss mitigation.
  
- Most of these sites---particularly the wet boggy areas---that contain rare plants can not tolerate extensive foot traffic, heavy equipment, or compacted soils. Therefore equipment in these areas is not recommended even during the non-growing season when plants are dormant, which for posting purposes is defined as after October 31 and before April 1 each year.
  
- Hand cutting is recommended.

- If possible, approach the posted areas from the edge of the right-of-way to avoid creating paths in the area and further compacting the soils.
- No herbicides are to be used in the posted areas.
- Contractors and company workers need to be fully apprised of the exact location of these plants.
- Some of the plants are quite showy; to discourage poaching and collecting of these plants, do not reveal their location to those that do not need to know. Do **not** organize "show and tell" field trips for school groups, citizen groups, or the media.

**2.2 FEDERAL**

- All employees have the responsibility to comply with the Endangered Species Act (ESA).
- Engineers and planners have the responsibility to consider the presence of threatened or endangered species early in the planning and design phases of any proposed new construction project or operational change affecting Company lands and rights-of-way and adjacent waters.
- ✓ ESS Threatened/Endangered Species personnel may be contacted to conduct biological surveys of any proposed new construction site.
  - ☞ Surveys may need to be conducted during the entire growing season to ensure there are no endangered plants present.
  - ☞ The surveys may require up to a year to complete.
- All employees must follow all conservation guidelines for the protection of the Federally-listed threatened and endangered species.
- The observation of a federally or state-listed endangered or threatened species (alive or dead) around company facilities, structures, or equipment should be reported to your supervisor and/or the appropriate company environmental personnel. By definition, you may not "take" or disturb these species in any way. Contact your Environmental Coordinator or ESS Threatened/Endangered Species personnel with a detailed description and location, along with any other pertinent information about the sighting (photographs and maps are helpful), to aid in proper identification, documentation, and disposition (if necessary).
- ✓ ESS will report your observation to state and/or federal wildlife officers.

**2.3 FLORIDA**

- State-listed threatened and endangered species and Species of Special Concern listed in Florida are forwarded protection status under state regulations to ensure conservation of the species.
- ✓ Protection measures are species-specific.

**2.4 GEORGIA**

- Species of Special Concern listed in Georgia are forwarded protection status under state regulations to ensure conservation of the species.
- ✓ Protection measures are species specific.

**2.5 NORTH CAROLINA**

- State-listed threatened and endangered species and Species of Special Concern listed in North Carolina (site for plants) are forwarded protection status under state regulations to ensure conservation of the species.
- ✓ Protection measures are species specific.
- A Memorandum of Understanding (MOU) has been signed between Progress Energy Carolinas, Inc. and the NC Department of Environment, Health, and Natural Resources regarding the management of rare plants on the Company's power line rights-of-way.
- ✓ This MOU commits Progress Energy Carolinas, Inc. to the preservation and protection of these sites.
- In an effort to protect rare plants on Progress Energy Carolinas, Inc. lands, the following responsibilities have been established:
  - ✓ Personnel from each Customer Services Region or Transmission Area are responsible for installing, maintaining, and monitoring stakes and signs at the sites.
  - ✓ Construction and maintenance personnel, including contractors, are responsible for familiarizing themselves with any identified rare plant sites in their work area and the management practices which have been designed to avoid harming these areas (see the "Management of Rare Plant Sites on CP&L Power Line Rights of Way" manual for a list of rare plants and management practices used by Progress Energy Carolinas in the rights-of-way).

**2.6 SOUTH CAROLINA**

- State-listed threatened and endangered species and Species of Special Concern listed in South Carolina are forwarded protection status under state regulations to ensure conservation of the species.

✓ Protection measures are species specific.

**3.0 PERMITS & CERTIFICATIONS**

**3.1 COMPANY**

N/A

**3.2 FEDERAL**

N/A

**3.3 FLORIDA**

- ESS in Florida holds a permit issued annually by the Fish and Wildlife Conservation Commission for the capture, tagging, and relocation of sea turtles.

✓ ESS is responsible for obtaining this permit and compliance with the permit conditions.

- The Crystal River Nuclear Plant has an “incidental take statement” issued by the National Marine Fisheries Service which authorizes the capture and relocation of sea turtles.

✓ The Plant is responsible for compliance with the provisions of the incidental take statement.

**3.4 GEORGIA**

N/A

**3.5 NORTH CAROLINA**

■ The Brunswick Nuclear Plant holds a permit issued annually by the North Carolina Wildlife Resources Commission for the capture, tagging, and relocation of sea turtles from the Brunswick Nuclear Plant's intake canal.

✓ The Plant is responsible for obtaining this permit and compliance with the permit conditions.

■ The Brunswick Nuclear Plant has an "incidental take statement" issued by the National Marine Fisheries Service which authorizes the capture and relocation of sea turtles.

✓ The Plant is responsible for compliance with the provisions of the incidental take statement.

**3.6 SOUTH CAROLINA**

N/A

**4.0 TRAINING REQUIREMENTS**

**4.1 COMPANY**

N/A

**4.2 FEDERAL**

N/A

**4.3 FLORIDA**

N/A

**4.4 GEORGIA**

N/A

**4.5 NORTH CAROLINA**

N/A

**4.6 SOUTH CAROLINA**

N/A

**5.0 RECORD KEEPING REQUIREMENTS**

**5.1 COMPANY**

N/A

**5.2 FEDERAL**

- All records must be kept for five years.
- Crystal River Nuclear Plant maintains records of incidental takes of sea turtles and reports annually to National Marine Fisheries.

**5.3 FLORIDA**

- All records must be kept for five years.
- Each sea turtle stranding occurrence is reported to the state by ESS.

**5.4 GEORGIA**

All records must be kept for five years.

**5.5 NORTH CAROLINA**

- All records must be kept for five years.
- Brunswick Nuclear Plant maintains records of incidental takes of sea turtles and provides an annual report to NCWRC.

**5.6 SOUTH CAROLINA**

All records must be kept for five years.

**6.0 SELF-ASSESSMENTS**

FRM-SUBS-00063 Other Items Compliance Checklist

**7.0 REFERENCES**

**7.1 COMPANY**

Agency Links  
ESS Contact List

**7.2 FEDERAL**

Legislation: U.S. Code, Title 16 Chapter 35: Endangered Species

Regulation: Code of Federal Regulations Title 50, Part 17: Endangered Wildlife and Plants  
Code of Federal Regulations Title 50, Part 402: Interagency cooperation--  
Endangered Species Act of 1973, as amended  
Code of Federal Regulations Title 50, Part 424: Listing endangered and  
threatened species and designating critical habitat

**7.3 FLORIDA**

Legislation: Florida Statute Title XXVIII, Chapter 372.072: Florida Endangered and  
Threatened Species Act

Regulation: Florida Administrative Code Rule 68A-27: Rules Relating to Endangered or  
Threatened Species  
Florida Administrative Code Rule 62-11: Aquatic Animal Damage Valuation

**7.4 GEORGIA**

Legislation: Official Code of Georgia 12-6-170: Wildflower Preservation Act of 1973  
Official Code of Georgia 27-3-130: Endangered Wildlife Act of 1973

Regulation: Rules of Georgia Department of Natural Resources Chapter 391-4-10:  
Protection of Endangered, Threatened, Rare or Unusual Species

**7.5 NORTH CAROLINA**

Legislation: North Carolina General Statute Chapter 113, Article 25: Endangered and  
Threatened Wildlife and Wildlife of Special Concern

Regulation: Title 15A, North Carolina Administrative Code, Chapter 10I: Endangered and  
Threatened Species

**7.6 SOUTH CAROLINA**

Legislation: South Carolina Code of Laws Title 50, Chapter 15: Nongame and  
Endangered Species Conservation Act

Regulation: South Carolina Code of Regulations Chapter 123-150, Article 5: Non-Game  
and Endangered Species