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Progress Energy, Inc.

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10 CFR 50.48

ATTENTION: Document Control Desk
United States Nuclear Regulatory Commission
Washington, DC 20555-0001

BRUNSWICK STEAM ELECTRIC PLANT, UNIT NOS. 1 AND 2
DOCKET NOS. 50-325 AND 50-324 / LICENSE NOS. DPR-71 AND DPR-62

SHEARON HARRIS NUCLEAR POWER PLANT, UNIT NO. 1
DOCKET NO. 50-400 / LICENSE NO. NPF-63

H. B. ROBINSON STEAM ELECTRIC PLANT, UNIT NO. 2
DOCKET NO. 50-261 / LICENSE NO. DPR-23

CRYSTAL RIVER UNIT 3 NUCLEAR GENERATING PLANT
DOCKET NO. 50-302 / LICENSE NO. DPR-72

LETTER OF INTENT TO ADOPT NFPA 805, "PERFORMANCE-BASED STANDARD FOR FIRE PROTECTION FOR LIGHT WATER REACTOR ELECTRIC GENERATING PLANTS, 2001 EDITION"

REFERENCE: Final Rule: *Voluntary Fire Protection Requirements for Light Water Reactors; Adoption of NFPA 805 as a Risk-informed, Performance-Based Alternative* (69 FR 33536, June 16, 2004) – RIN 3150 – AG48

Ladies and Gentlemen:

This letter serves to inform you that it is the intent of Carolina Power & Light Company, doing business as Progress Energy Carolinas, Inc. (PEC), and Florida Power Corporation, doing business as Progress Energy Florida, Inc. (PEF), to adopt National Fire Protection Association (NFPA) Standard 805 "Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants, 2001 Edition," in accordance with 10 CFR 50.48(c) (NFPA 805) for the Brunswick Steam Electric Plant (BSEP) Unit Nos. 1 and 2, the Shearon Harris Nuclear Power Plant (SHNPP), Unit No. 1, the H. B. Robinson Steam Electric Plant (HBRSEP), Unit No. 2, and the Crystal River Unit No. 3 Nuclear Generating Plant (CR3).

During the review of the Safe Shutdown Analysis (SSA) for the PEC and PEF plants, issues have been identified that clearly have alternative means to ensure safety, but no clear path exists to approve deviations. NFPA 805 provides an alternate method to comply with NRC Fire Protection requirements. The NRC has encouraged licensees to consider the benefits of NFPA 805 and transfer the plant's Fire Protection Program to this standard. PEC and PEF recognize that the overall benefit of NFPA 805 is ensuring optimum focus on enhancing plant safety through the use of performance based standards and risk informed decision-making techniques; therefore, we have elected to transfer to that method.

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The transition to the performance-based standard for fire protection is being implemented as a fleet project and begins for all plants with this letter of intent. This transition will be completed in phases, with SHNPP being the first to implement. PEC expects SHNPP to begin the transition process in the second quarter of 2005, and estimates that it will take approximately thirty-six months to develop the License Amendment Request (LAR). CR3 should be the next to transition to NFPA 805, followed by HBRSEP, Unit No. 2, and BSEP.

This proposed schedule is subject to change as each plant determines what physical modifications or changes to the fire protection program will be required to comply with NFPA 805. An updated schedule will accompany the LAR that each plant will submit as required by 10 CFR 50.48(c)(3)(i).

The NRC interim Enforcement Policy (69 FR 33684, June 16, 2004) provides guidelines for enforcement discretion for identified noncompliances. 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 (SDP) would evaluate as Red, or would not be categorized at Severity Level I, and appropriate compensatory measures have been taken (non-safety significant). As outlined in the Enforcement Policy, enforcement discretion begins with the licensee's letter of intent. For reasons stated below, PEC and PEF request an enforcement discretion window of three years for each of our four plants.

PEC and PEF have chosen a phased transition of the fleet to NFPA 805. The phased transition, and a three year enforcement discretion window, is being requested for the following reasons:

- (1) Based on the fact that SHNPP will be the first plant within PEC and PEF and the second in the industry to transition to NFPA 805, PEC and PEF believe that there is much to be learned from SHNPP participating as a pilot plant. PEC and PEF plan to perform the transition at CR3, HBRSEP, Unit No. 2, and BSEP after SHNPP in order to learn from the pilot;
- (2) There is a strong desire to maintain consistency between our plants. As previously discussed with NRC staff, PEC and PEF are currently completing an update and validation of the SSA for each plant, with an overlapping completion schedule. Performing the SSA Validation Project and the NFPA 805 transition in parallel greatly increases the complexity and difficulty of the project overall and would result in added burden to maintain quality and consistency;
- (3) Due to interpretation changes to regulations and standards over the years, noncompliances may be identified as the PEC and PEF plants transition to NFPA 805. PEC and PEF plan to share these findings across the fleet to ensure that we have determined the extent of condition. By agreeing to the requested enforcement discretion window, the staff would ensure that PEC and PEF are not penalized for performing a thorough investigation of the extent of condition;

- (4) PEC and PEF have determined that, in transitioning to a performance-based fire protection program, a key element will be developing a Fire Probabilistic Risk Assessment (PRA) for each plant. The development of each PRA is expected to take approximately eighteen to twenty-four months. Therefore, the PRA being developed for the change analysis will not be available until approximately two years after the start of the transition;
- (5) Within PEC and PEF, and in the nuclear industry in general, there is a limited availability of Fire Protection experts needed to support validation of the SSA design basis, and the transition to NFPA 805; and
- (6) Finally, PEC and PEF believe that the risk of granting the requested enforcement discretion window is low since noncompliances for which we request enforcement discretion have been, or will have been, determined to be non-safety significant.

The proposed schedule for submitting the four LARs is:

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|-----------------------|-------------|
| 1. SHNPP | May 2008 |
| 2. CR3 | August 2009 |
| 3. HBRSEP, Unit No. 2 | August 2010 |
| 4. BSEP | August 2011 |

PEC understands that this letter of intent initiates a window of enforcement discretion for SHNPP, during which no enforcement actions will be taken for non-safety significant noncompliances discovered as a result of evaluations to support this licensing basis transition process.

As a follow-up, PEC and PEF will submit an additional letter of intent for each plant after SHNPP to identify the beginning of each plant's enforcement discretion window. In each letter, the licensee will request three years of enforcement discretion for non-safety significant noncompliances, beginning on the date that the letter is submitted.

Based on NRC Inspection Manual Chapter 0305, "Operating Reactor Assessment Program," Section 06.06 "Additional Action Matrix Guidance," after the date of this letter, and prior to the submittal of the follow-up letters of intent for CR3, HBRSEP, Unit No. 2, and BSEP, PEC and PEF request enforcement discretion for newly identified fire-induced circuit failures at all plants, provided that:

- A. The plant places the finding in their Corrective Action Program,
- B. The finding must not be evaluated as Red, and
- C. The plant performs an operability determination using the guidelines of Generic Letter 91-18.

Per this guidance, the staff does not need to complete an SDP, to determine that the finding was not Red. Also, this enforcement discretion will be exercised regardless of who identifies the failure. The basis for requesting this enforcement discretion is NRC Inspection Manual Section 06.06.a.2, "Violations in Specified Areas of Interest Qualifying for Enforcement Discretion," as well as NRC Enforcement Manual Section 8.1.7.1. "Fire Induced Circuit Failures."

The interim enforcement policy states that "Licensees will perform a plant-wide assessment to identify fire areas and fire hazards and evaluate compliance with their existing fire protection licensing basis." PEC and PEF will comply with this by performing an assessment in accordance with NEI 04-02, "*Guidance for Implementing a Risk-Informed, Performance-Based Fire Protection Program under 10 CFR 50.48(c)*," during each plant's transition window.

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

- Completion of SSA Validation Project
- Completion of Fire PRA
- 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 License Amendment authorizing the transition to NFPA 805.

PEC proposes that SHNPP be considered a pilot plant for the initial implementation of performance-based fire protection using NFPA 805. As a part of this pilot process, PEC requests that licensing and review fees be waived for the LAR. PEC believes that our participation in the pilot process will significantly benefit the NRC, and the industry, 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 PEC 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 PEC participation in the on-site observation process.

This correspondence contains no regulatory commitments.

Please refer any questions regarding this submittal to Mr. Christopher Burton at (919) 546-6901.

Sincerely,



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Senior Vice President and
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CSH/kmh

- c: W. D. Travers, Regional Administrator – Region II
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- B. L. Mozafari, NRR Project Manager – BSEP, Unit Nos. 1 and 2; CR3
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- NRC Chief Financial Officer
- USNRC Resident Inspector – BSEP, Unit Nos. 1 and 2
- USNRC Resident Inspector – CR3
- USNRC Resident Inspector – SHNPP, Unit No. 1
- USNRC Resident Inspector – HBRSEP, Unit No. 2