

## SAFEGUARDS INFORMATION

September 25, 2003

Mr. C. S. Hinnant  
Senior Vice President and Chief Nuclear Officer  
Progress Energy, Inc.  
411 Fayetteville Street Mall  
Raleigh, NC 27602

SUBJECT: ORDERS MODIFYING LICENSES FOR REVISED DESIGN BASIS THREAT  
AND FOR TRAINING AND PHYSICAL FITNESS ENHANCEMENTS  
APPLICABLE TO SECURITY FORCE PERSONNEL (TAC NOS. MB9266,  
MB9267, MB9280, MB9296, MB9335, MB9370, MB9371, MB9384, MB9400  
AND MB9439)

Dear Mr. Hinnant:

On April 29, 2003, the U.S. Nuclear Regulatory Commission (NRC or the Commission) issued Orders modifying the operating licenses for Brunswick Steam Electric Plant, Unit Nos. 1 and 2, Crystal River Nuclear Generating Plant, Unit 3, Shearon Harris Nuclear Power Plant, Unit 1, and H.B. Robinson Steam Electric Plant, Unit 2, to: (1) require compliance with a revised Design Basis Threat (DBT); (2) implement new security force personnel training and physical fitness requirements; and (3) prescribe compensatory measures related to fitness-for-duty enhancements applicable to security force personnel.

The Orders required that licensees respond to the Commission within thirty-five (35) days. By letters dated June 3, 2003, you submitted a response to the Orders for Brunswick Steam Electric Plant, Unit Nos. 1 and 2, Crystal River Nuclear Generating Plant, Unit 3, Shearon Harris Nuclear Power Plant, Unit 1, and H.B. Robinson Steam Electric Plant, Unit 2,. In your response to the Orders, you requested that the NRC provide clarification of five DBT-related issues described in the safeguards attachment to a letter from Mr. Colvin, President and CEO of the Nuclear Energy Institute, to Chairman Diaz dated May 16, 2003. You specifically requested that the NRC provide further clarification associated with the NRC's use of force-on-force testing upon implementation of the revised safeguards contingency plans, security plans and security officer training and qualification plans. You requested a timely response from the Commission on this matter, since the Commission's clarifications may affect the manner of your compliance with the Orders.

**NOTICE:** Enclosure 1 to this letter contains Safeguards Information. Upon separation from Enclosure 1, this letter and Enclosure 2 are DECONTROLLED.

SAFEGUARDS INFORMATION

By letter dated July 18, 2003, Chairman Diaz replied to Mr. Colvin's letter, providing the Commission's response and clarification on the five DBT-related issues. In response to your request, a copy of Chairman Diaz's July 18, 2003, letter, including the safeguards attachment, is provided as Enclosure 1. Furthermore, I am including a list of guiding principles (Enclosure 2) that the NRC staff intends to follow when it reviews the revised security plans that will be submitted in response to the April 29, 2003, Orders. This information was previously shared with members of the Nuclear Energy Institute, and other industry representatives, during a meeting held on August 28, 2003.

Finally, in your letters dated June 3, 2003, you stated your "understanding that the Commission intends to exercise enforcement discretion to accommodate issues which may arise as licensees, in good faith, take reasonable actions to implement the specific requirements of this Order." You further stated that you understood that the Commission would exercise enforcement discretion for "the period necessary to resolve such issues," and to integrate the requirements of these Orders with the Order issued February 25, 2002, as well as with other pertinent regulatory requirements, and safeguards contingency plans, security plans and security officer training and qualification plans. The NRC staff is currently evaluating the enforcement-related aspects of implementing the Orders to determine the extent to which enforcement discretion is appropriate, and the NRC intends to clarify its policy on this matter in separate correspondence.

The NRC staff is reviewing your response to the Orders, and will reply to you with its determination of whether or not your response met the requirements of the Orders in separate correspondence.

Please contact Robert J. Fretz at 301-415-1324, if you have any other questions on these issues.

Sincerely,

***/RA by ELeeds for/***

Ledyard B. Marsh, Director  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Docket Nos. 50-325, 50-324, 50-302, 50-400 and 50-261

Enclosures: As stated

cc w/o encls: See next page

By letter dated July 18, 2003, Chairman Diaz replied to Mr. Colvin's letter, providing the Commission's response and clarification on the five DBT-related issues. In response to your request, a copy of Chairman Diaz's July 18, 2003, letter, including the safeguards attachment, is provided as Enclosure 1. Furthermore, I am including a list of guiding principles (Enclosure 2) that the NRC staff intends to follow when it reviews the revised security plans that will be submitted in response to the April 29, 2003, Orders. This information was previously shared with members of the Nuclear Energy Institute, and other industry representatives, during a meeting held on August 28, 2003.

Finally, in your letters dated June 3, 2003, you stated your "understanding that the Commission intends to exercise enforcement discretion to accommodate issues which may arise as licensees, in good faith, take reasonable actions to implement the specific requirements of this Order." You further stated that you understood that the Commission would exercise enforcement discretion for "the period necessary to resolve such issues," and to integrate the requirements of these Orders with the Order issued February 25, 2002, as well as with other pertinent regulatory requirements, and safeguards contingency plans, security plans and security officer training and qualification plans. The NRC staff is currently evaluating the enforcement-related aspects of implementing the Orders to determine the extent to which enforcement discretion is appropriate, and the NRC intends to clarify its policy on this matter in separate correspondence.

The NRC staff is reviewing your response to the Orders, and will reply to you with its determination of whether or not your response met the requirements of the Orders in separate correspondence.

Please contact Robert J. Fretz at 301-415-1324, if you have any other questions on these issues.

Sincerely,  
**/RA by ELeeds for/**  
 Ledyard B. Marsh, Director  
 Division of Licensing Project Management  
 Office of Nuclear Reactor Regulation

Docket Nos. 50-325, 50-324, 50-302, 50-400 and 50-261

Enclosures: As stated

cc w/o encls: See next page

**DISTRIBUTION:**

PUBLIC	RFretz	DLPM Project Managers
PD Reading Files	VNerses	DLPM Licensing Assistants
TMarsh	CRaynor	Loren R. Plisco, Region II
CHolden	DLPM Project Directors	OGC
JClifford	DLPM Section Chiefs	ACRS

\*\* Concurrence via e-mail dated 8/26/03

\* See previous concurrence

ADAMS Accession Number: ML032160615

OFFICE	PDI-2/LPM	PDI-2/LPM*	PDI-2/LA	PDI-2/SC*
NAME	RFretz	VNerses	CRaynor	JClifford
DATE	09/25/03	09/16/03	09/25/03	09/16/03
OFFICE	OGC**	NSIR/DNS*	PDI/D*	DLPM/D
NAME	JGoldberg	GTracy	CHolden	ELeeds for TMarsh
DATE	08/26/03	09/17/03	09/16/03	09/25/03

**OFFICIAL RECORD COPY**

**LETTER FROM NILS DIAZ, NRC CHAIRMAN,  
TO MR. JOE COLVIN, PRESIDENT AND CEO, NUCLEAR ENERGY INSTITUTE,  
DATED JULY 18, 2003**

# **U.S. NUCLEAR REGULATORY COMMISSION STAFF GUIDING PRINCIPLES AND CRITERIA FOR CONDUCTING THE REVIEW OF REVISED PHYSICAL SECURITY PLANS, SAFEGUARDS CONTINGENCY PLANS, AND TRAINING AND QUALIFICATION PLANS**

## **PURPOSE:**

To inform affected licensees of the criteria the U.S. Nuclear Regulatory Commission (NRC or the Commission) staff intends to adhere to in reviewing revisions made to site-specific Physical Security Plans, Safeguards Contingency Plans, and Training and Qualification Plans as a result of the nuclear security and safeguards-related Commission Orders dated February 25, 2002, January 7, 2003, and April 29, 2003.

## **DISCUSSION:**

The information presented herein is intended to provide general information to licensees regarding the NRC staff's review criteria, but is not intended to be all-inclusive. The NRC staff is currently developing detailed criteria against which the revised site-specific plans will be reviewed for acceptance and approval. The NRC staff is also coordinating this effort with the Nuclear Energy Institute and industry working groups. Final review guidance will be developed no later than December 31, 2003.

## **GUIDING PRINCIPLES:**

1. Revised plans must comprehensively comply with all requirements of Orders (February 25, 2002; January 7, 2003; and April 29, 2003) except to the extent that a more stringent requirement is set forth in the licensee's current plans.
2. Revised plans must comprehensively comply with Title 10 of the *Code of Federal Regulations* (10 CFR), Section 73.55, in particular, the plans must comply with Section 73.55, paragraphs (b) through (h) unless other alternative measures are explicitly approved by the NRC staff.
3. Measures other than those in 10 CFR 73.55, paragraphs (b) through (h), may be approved by the staff if, and only if, they meet the objective of "high assurance" and provide a level of protection equivalent to that provided by paragraphs (b) through (h).
4. Upon NRC approval of the revised plans and their full implementation, licensees may seek relaxation or rescission, in whole or in part, of the Interim Compensatory Measures (ICMs) provided in the Orders dated February 25, 2002.
5. Subsequent to NRC approval of the revised plans, licensees may make changes to their revised plans, without prior NRC approval, in accordance with 10 CFR 50.54(p), *i.e.*, if the changes would not decrease the effectiveness of the plans (plan changes may also be made in accordance with the provisions of 10 CFR 50.90, and 73.5).
6. All licensee actions and activities which the staff deems essential, necessary, or important in complying with the Orders or 10 CFR 73.55 must be included in the plans and, therefore, will be enforceable.

ADDITIONAL GUIDANCE:

Consistent with guiding principles 1 and 2:

- Pursuant to 10 CFR 73.55 and the DBT Orders, licensees must develop and implement an effective site-specific security system and organization that will protect against the threat capabilities of the revised DBT, satisfy the requirements of all the Orders, and comply with 10 CFR 73.55, paragraphs (b) through (h).
- Each plan should clearly and specifically identify each Commission requirement that is to be complied with, or is intended to be satisfied, by each site-specific measure, procedure, policy, or action addressed in the plan.

Consistent with guiding principles 3 and 6:

- While a licensee may identify a more efficient or effective method for satisfying a specific requirement of the Orders or 10 CFR 73.55, paragraphs (b) through (h), such site-specific measures, procedures, policies, or actions that are intended to be an alternative to a specific requirement of the Orders or 10 CFR 73.55, paragraphs (b) through (h), should be clearly and explicitly identified in each plan.
- The NRC may authorize a licensee to provide alternative measures for protection against radiological sabotage other than those required by the Orders or 10 CFR 73.55, paragraphs (b) through (h), if:
  - a. the licensee demonstrates that the proposed alternative measure has the same high-assurance objective specified by 10 CFR 73.55(a),
  - b. the overall level of system performance provides protection against radiological sabotage equivalent to that which would be provided by compliance with the specific requirement of the Orders or 10 CFR 73.55, paragraphs (b) through (h), for which the measure is an alternative, and
  - c. the plan contains sufficient detailed information to support an NRC staff conclusion that the proposed alternative measure is consistent with a. and b. above through satisfying the intent of the specific requirement for which it is an alternative.
- Where a licensee does not clearly and explicitly identify a site-specific measure, procedure, policy, or action as a proposed alternative to a specific Commission requirement, the NRC staff will conduct its review on the basis that the intent of the licensee is to comply with the specific requirement as written in the Orders or 10 CFR 73.55, paragraphs (b) through (h).

Consistent with guiding principle 4 and 5:

- Upon NRC approval of the revised plans, or no later than October 29, 2004, licensees must, in accordance with the DBT Order, implement all site-specific measures, procedures, policies, actions, and alternatives, as written in each plan.
- The NRC staff intends to provide timely information to all licensees regarding the possible use of enforcement discretion at a later date.

SUMMARY:

The NRC intends to review and approve all revised site-specific plans between April 29 and October 29, 2004. If, for whatever reason, the NRC has not yet approved a revised site-specific plan by the full-implementation date, each licensee is, nonetheless, required to implement the revised plans in accordance with the DBT Order, no later than October 29, 2004.

Brunswick Steam Electric Plant, Units 1 and 2  
Carolina Power & Light Company

cc:

Steven R. Carr  
Associate General Counsel - Legal  
Department  
Progress Energy Service Company, LLC  
Post Office Box 1551  
Raleigh, North Carolina 27602-1551

Mr. David R. Sandifer, Chairperson  
Brunswick County Board of Commissioners  
Post Office Box 249  
Bolivia, North Carolina 28422

Resident Inspector  
U. S. Nuclear Regulatory Commission  
8470 River Road  
Southport, North Carolina 28461

Mr. John H. O'Neill, Jr.  
Shaw, Pittman, Potts & Trowbridge  
2300 N Street NW.  
Washington, DC 20037-1128

Ms. Beverly Hall, Section Chief  
Division of Radiation Protection  
N.C. Department of Environment  
and Natural Resources  
3825 Barrett Dr.  
Raleigh, North Carolina 27609-7721

Mr. W. C. Noll  
Plant Manager  
Carolina Power & Light Company  
Brunswick Steam Electric Plant  
Post Office Box 10429  
Southport, North Carolina 28461

Public Service Commission  
State of South Carolina  
Post Office Drawer 11649  
Columbia, South Carolina 29211

Ms. Margaret A. Force  
Assistant Attorney General  
State of North Carolina  
Post Office Box 629  
Raleigh, North Carolina 27602

Mr. Robert P. Gruber  
Executive Director  
Public Staff - NCUC  
4326 Mail Service Center  
Raleigh, North Carolina 27699-4326

Mr. C. J. Gannon  
Director - Site Operations  
Carolina Power & Light Company  
Brunswick Steam Electric Plant  
Post Office Box 10429  
Southport, North Carolina 28461-0429

Mr. Norman R. Holden, Mayor  
City of Southport  
201 East Moore Street  
Southport, North Carolina 28461

Mr. Dan E. Summers  
Emergency Management Coordinator  
New Hanover County Department of  
Emergency Management  
Post Office Box 1525  
Wilmington, North Carolina 28402

Mr. James W. Holt, Manager  
Performance Evaluation and  
Regulatory Affairs PEB 7  
Progress Energy  
Post Office Box 1551  
Raleigh, North Carolina 27602-1551

Mr. Edward T. O'Neil  
Manager - Support Services  
Carolina Power & Light Company  
Brunswick Steam Electric Plant  
Post Office Box 10249  
Southport, North Carolina 28461

Brunswick Steam Electric Plant, Units 1 and 2  
Carolina Power & Light Company

cc:

Mr. J. S. Keenan, Vice President  
Brunswick Steam Electric Plant  
Carolina Power & Light Company  
Post Office Box 10429  
Southport, North Carolina 28461-0429

Crystal River Nuclear Plant Unit 3  
Florida Power Corporation

cc:

Mr. R. Alexander Glenn  
Associate General Counsel (MAC-BT15A)  
Florida Power Corporation  
P.O. Box 14042  
St. Petersburg, Florida 33733-4042

Mr. Jon A. Franke  
Plant General Manager  
Crystal River Nuclear Plant (NA2C)  
15760 W. Power Line Street  
Crystal River, Florida 34428-6708

Mr. Jim Mallay  
Framatome ANP  
1911 North Ft. Myer Drive, Suite 705  
Rosslyn, Virginia 22209

Mr. William A. Passetti, Chief  
Department of Health  
Bureau of Radiation Control  
2020 Capital Circle, SE, Bin #C21  
Tallahassee, Florida 32399-1741

Attorney General  
Department of Legal Affairs  
The Capitol  
Tallahassee, Florida 32304

Mr. Craig Fugate, Director  
Division of Emergency Preparedness  
Department of Community Affairs  
2740 Centerview Drive  
Tallahassee, Florida 32399-2100

Steven R. Carr  
Associate General Counsel - Legal Dept.  
Progress Energy Service Company, LLC  
Post Office Box 1551  
Raleigh, North Carolina 27602-1551

Chairman  
Board of County Commissioners  
Citrus County  
110 North Apopka Avenue  
Inverness, Florida 34450-4245

Mr. Donald L. Taylor  
Manager Support Services  
Crystal River Nuclear Plant (NA2C)  
15760 W. Power Line Street  
Crystal River, Florida 34428-6708

Mr. Daniel L. Roderick  
Director Site Operations  
Crystal River Nuclear Plant (NA2C)  
15760 W. Power Line Street  
Crystal River, Florida 34428-6708

Senior Resident Inspector  
Crystal River Unit 3  
U.S. Nuclear Regulatory Commission  
6745 N. Tallahassee Road  
Crystal River, Florida 34428

Mr. Richard L. Warden  
Manager Nuclear Assessment  
Crystal River Nuclear Plant (NA2C)  
15760 W. Power Line Street  
Crystal River, Florida 34428-6708

Mr. Dale E. Young, Vice President  
Crystal River Nuclear Plant (NA1B)  
ATTN: Supervisor, Licensing  
& Regulatory Programs  
15760 W. Power Line Street  
Crystal River, Florida 34428-6708

Shearon Harris Nuclear Power Plant Unit 1  
Carolina Power & Light Company

cc:

Steven R. Carr  
Associate General Counsel - Legal  
Department  
Progress Energy Service Company, LLC  
Post Office Box 1551  
Raleigh, North Carolina 27602-1551

Resident Inspector/ Harris NPS  
c/o U. S. Nuclear Regulatory Commission  
5421 Shearon Harris Road  
New Hill, North Carolina 27562-9998

Ms. Margaret A. Force  
Assistant Attorney General  
State of North Carolina  
Post Office Box 629  
Raleigh, North Carolina 27602

Public Service Commission  
State of South Carolina  
Post Office Drawer 11649  
Columbia, South Carolina 29211

Ms. Beverly Hall, Section Chief  
Division of Radiation Protection  
N.C. Department of Environment  
and Natural Resources  
3825 Barrett Drive  
Raleigh, North Carolina 27609-7721

Mr. James W. Holt  
Manager  
Performance Evaluation and  
Regulatory Affairs PEB 7  
Progress Energy  
Post Office Box 1551  
Raleigh, North Carolina 27602-1551

Mr. Benjamin C. Waldrep  
Plant General Manager - Harris Plant  
Carolina Power & Light Company  
Shearon Harris Nuclear Power Plant  
P. O. Box 165, Mail Zone 3  
New Hill, North Carolina 27562-0165

Mr. John H. O'Neill, Jr.  
Shaw, Pittman, Potts & Trowbridge  
2300 N Street, NW.  
Washington, DC 20037-1128

Mr. Robert J. Duncan II  
Director of Site Operations  
Carolina Power & Light Company  
Shearon Harris Nuclear Power Plant  
Post Office Box 165, Mail Zone 1  
New Hill, North Carolina 27562-0165

Mr. Robert P. Gruber  
Executive Director  
Public Staff NCUC  
4326 Mail Service Center  
Raleigh, North Carolina 27699-4326

Chairman of the North Carolina  
Utilities Commission  
Post Office Box 29510  
Raleigh, North Carolina 27626-0510

Mr. Herb Council, Chair  
Board of County Commissioners  
of Wake County  
P. O. Box 550  
Raleigh, North Carolina 27602

Mr. Tommy Emerson, Chair  
Board of County Commissioners  
of Chatham County  
P. O. Box 87  
Pittsboro, North Carolina 27312

Mr. Terry C. Morton, Manager  
Support Services  
Carolina Power & Light Company  
Shearon Harris Nuclear Power Plant  
P. O. Box 165, Mail Zone 1  
New Hill, North Carolina 27562-0165

Shearon Harris Nuclear Power Plant Unit 1  
Carolina Power & Light Company

cc:

Mr. John R. Caves, Supervisor  
Licensing/Regulatory Programs  
Carolina Power & Light Company  
Shearon Harris Nuclear Power Plant  
P. O. Box 165, Mail Zone 1  
New Hill, NC 27562-0165

Mr. James Scarola, Vice President  
Shearon Harris Nuclear Power Plant  
Carolina Power & Light Company  
Post Office Box 165, Mail Code: Zone 1  
New Hill, North Carolina 27562-0165

H. B. Robinson Steam Electric Plant, Unit No. 2  
Carolina Power & Light Company

cc:

Steven R. Carr  
Associate General Counsel - Legal  
Department  
Progress Energy Service Company, LLC  
Post Office Box 1551  
Raleigh, North Carolina 27602-1551

Ms. Margaret A. Force  
Assistant Attorney General  
State of North Carolina  
Post Office Box 629  
Raleigh, North Carolina 27602

U. S. Nuclear Regulatory Commission  
Resident Inspector's Office  
H. B. Robinson Steam Electric Plant  
2112 Old Camden Road  
Hartsville, South Carolina 29550

Mr. T. P. Cleary  
Plant General Manager  
Carolina Power & Light Company  
H. B. Robinson Steam Electric Plant,  
Unit No. 2  
3581 West Entrance Road  
Hartsville, South Carolina 29550

Mr. Chris L. Burton  
Director of Site Operations  
Carolina Power & Light Company  
H. B. Robinson Steam Electric Plant,  
Unit No. 2  
3581 West Entrance Road  
Hartsville, South Carolina 29550

Public Service Commission  
State of South Carolina  
Post Office Drawer 11649  
Columbia, South Carolina 29211

Mr. B. L. Fletcher III  
Manager - Support Services - Nuclear  
Carolina Power & Light Company  
H. B. Robinson Steam Electric Plant,  
Unit No. 2  
3581 West Entrance Road  
Hartsville, South Carolina 29550-0790

Mr. C. T. Baucom  
Supervisor, Licensing/Regulatory Programs  
Carolina Power & Light Company  
H. B. Robinson Steam Electric Plant,  
Unit No. 2  
3581 West Entrance Road  
Hartsville, South Carolina 29550

Ms. Beverly Hall, Section Chief  
N.C. Department of Environment  
and Natural Resources  
Division of Radiation Protection  
3825 Barrett Dr.  
Raleigh, North Carolina 27609-7721

Mr. Robert P. Gruber  
Executive Director  
Public Staff - NCUC  
4326 Mail Service Center  
Raleigh, North Carolina 27699-4326

Mr. Henry H. Porter, Assistant Director  
South Carolina Department of Health  
Bureau of Land & Waste Management  
2600 Bull Street  
Columbia, South Carolina 29201

Mr. James W. Holt  
Manager  
Performance Evaluation and  
Regulatory Affairs PEB 7  
Progress Energy  
Post Office Box 1551  
Raleigh, North Carolina 27602-1551

H. B. Robinson Steam Electric Plant, Unit No. 2  
Carolina Power & Light Company

cc:

Mr. John H. O'Neill, Jr.  
Shaw, Pittman, Potts, & Trowbridge  
2300 N Street NW.  
Washington, DC 20037-1128

Mr. J. W. Moyer, Vice President  
Carolina Power & Light Company  
H. B. Robinson Steam Electric Plant  
Unit No. 2  
3581 West Entrance Road  
Hartsville, South Carolina 29550-0790