

September 19, 2005

Mr. C. S. Hinnant
Senior Vice President
and Chief Nuclear Officer
Progress Energy
PO Box 1551
Raleigh, NC 27602

SUBJECT: NRC RESPONSE TO PROGRESS ENERGY'S LETTER OF INTENT TO
ADOPT 10 CFR 50.48(c) (NFPA 805 RULE)
DOCKET NOS. 50-261, 50-302, 50-324, 50-325, 50-400

Dear Mr. Hinnant:

This letter responds to your letter of intent (LOI), dated June 10, 2005, in which you informed us that Progress Energy intends to adopt National Fire Protection Association (NFPA) 805, "Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants, 2001 Edition" (NFPA 805 Rule) in accordance with 10 CFR 50.48(c) for Brunswick Units Nos. 1 and 2 (Brunswick), Shearon Harris Unit No. 1 (Harris), H. B. Robinson Unit No. 2 (Robinson) and Crystal River Unit No. 3 (Crystal River). This letter addresses specific questions from your letter:

Harris as a NFPA 805 Transition Pilot Plant

The Office of Nuclear Reactor Regulation (NRR) will be conducting a NFPA 805 Transition Pilot Program with the following goals:

- increase communication between the NRC and transitioning licensees
- develop transition lesson learned reports from observation visits
- improve the NFPA 805 Regulatory Guide & Inspection Procedures
- gain insights on the Enforcement Discretion Policy
- develop License Amendment Request and Safety Evaluation Report templates

Your letter proposed Harris be considered a pilot plant for the transition to the NFPA 805 Rule. The Staff agrees that Harris should be a NFPA 805 Transition Pilot Plant.

Request for a Transition Pilot Plant Fee Waiver

Your letter also requested the licensing and review fees for the Harris transition be waived for the license amendment requests. In consideration of your request and in light of the pilot program benefits described above, the Office of the Chief Financial Officer has approved your request for the fee waiver (ML052100126).

Progress Energy's Schedule for Transition

Your letter notes that you have started transitioning all your plants as of June 10, 2005, and plan to complete the transition of all plants by 2011. You estimated it will take approximately 36 months to complete the development of each site's license amendment request (LAR) and Harris would submit their LAR to the NRC by May 2008. Each subsequent year, one of the three remaining sites will complete their transition. The staff is planning to receive and evaluate additional details of your schedule to determine whether modifications are necessary to the enforcement discretion policy.

One-Year Extension of Enforcement Discretion

Your letter requests a one year extension of the enforcement discretion period for all four of your sites. The current NRC Enforcement Discretion Policy provides a two-year discretion period for transitioning to NFPA 805. Based on your request and feedback received from other licensees, NRR, in consultation with the Office of Enforcement, is considering whether changes to the interim policy on enforcement discretion for plants transitioning to 10 CFR 50.48(c) are appropriate. Your request for an additional year of enforcement discretion remains under consideration.

Enforcement Discretion for Existing Noncompliances

For Harris, your LOI has been submitted before the deadline to receive enforcement discretion for existing noncompliances in accordance with the policy. For the other sites, the two-year discretion period for noncompliances identified during the transition will begin when the NRC receives the additional plant-specific LOIs. Based, in part, on your request and other stakeholder feedback that the NRC has received, we are considering whether changes to the interim policy on enforcement discretion for plants transitioning to 10 CFR 50.48(c) are appropriate.

If you have any questions regarding this letter, please contact Dr. Sunil Weerakkody, Chief, Fire Protection Engineering Section of the Nuclear Regulatory Commission at (301) 415-2870.

Sincerely,

/RA/

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

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

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NRR-106

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