

February 14, 2006

Mr. Gordon L. Johnston
Acting Site Vice President
St. Lucie Nuclear Plant
Florida Power and Light Company
6351 S. Ocean Drive
Jensen Beach, FL 34957

SUBJECT: NRC RESPONSE TO FLORIDA POWER AND LIGHT COMPANY'S LETTER
OF INTENT TO ADOPT 10 CFR 50.48(c) (NFPA 805 RULE) FOR ST. LUCIE
NUCLEAR PLANT UNITS 1 AND 2

Dear Mr. Jefferson:

This letter responds to your letter dated December 22, 2005 (ML053640283), in which you informed the U.S. Nuclear Regulatory Commission (NRC) that Florida Power and Light Company (FPL) intends to adopt National Fire Protection Association (NFPA) 805, "NFPA 805, Performance-Based Standard for Fire Protection for Light-Water Reactor Electric Generating Plants," 2001 Edition, in accordance with the requirements of Title 10 of the *Code of Federal Regulations*, Part 50.48(c) for St. Lucie Nuclear Plant, Units 1 and 2.

Your letter requests enforcement discretion for existing identified noncompliances in accordance with the NRC's Interim Enforcement Policy (69 FR 33684 and 70 FR 2662). Since you have met the deadline to receive discretion for existing identified noncompliances, the NRC approves your request.

In your letter, you informed us that your transition to the performance-based standard for fire protection will commence in January 2006, and you expect to take 42 months to develop the license amendment request (LAR). You indicated that the schedule is subject to change depending on the extent to which St. Lucie determines the need for either physical modifications or changes to the fire protection program to comply with NFPA 805.

You provided numerous reasons for requesting an enforcement discretion window of 42 months, as opposed to the 24-month window approved by the Commission. Some of the key reasons that you provided for requesting an extension are:

- FPL will be one of the first licensees to follow the pilot plants in transition to NFPA 805; therefore, FPL believes that there is much to be learned from the pilot plants. The pilot plants are currently scheduled to submit their LARs in 2007 (Oconee Units 1, 2, and 3) and 2008 (Shearon Harris Unit 1).

- FPL has previously sent a letter of intent for Turkey Point Units 3 and 4 to adopt NFPA 805. The Turkey Point plant is the lead for the FPL fleet and the St. Lucie schedule will be behind that of Turkey Point to capture lessons learned and utilize the same resources for key analysis areas to provide consistency in the evaluations.
- Due to changes to regulations, standards, and regulatory interpretations over the years, noncompliances may be identified as FPL transitions to NFPA 805. The requested enforcement discretion window should ensure that FPL can perform a thorough investigation of the extent of condition at St. Lucie Units 1 and 2.
- FPL has determined that, in transitioning to a performance-based fire protection program, a key element will be development of a fire probabilistic risk assessment (PRA) for the St. Lucie plant. The development of a fire PRA is expected to take approximately 18 to 24 months. Therefore, the fire PRA being developed for the change will not be available until approximately 2 years after the start of the transition. Within FPL, and in the nuclear industry in general, there is a limited population of fire protection experts needed to support the transition to NFPA 805.
- FPL believes that the risk of granting the requested enforcement discretion window is low, since noncompliances for which FPL would request enforcement discretion must meet the requirements of the Interim Enforcement Policy. The Interim Enforcement Policy applies only to nonsafety-significant issues.

Under the enforcement discretion policy currently in place, the discretion period for St. Lucie Units 1 and 2 began on December 31, 2005, and will expire on December 31, 2007. However, a number of other licensees have raised issues similar to those you raised as the basis to request an extension to the enforcement discretion window. The staff is considering your request and will contact you when we have reached a decision.

A number of utilities that are not pilots for NFPA 805 have requested meetings with the NRC staff to review and discuss their transition issues. We recognize the benefits of communication among transitioning licensees, the Office of Nuclear Reactor Regulation and the regional staffs. Therefore, we plan to hold periodic workshops at the regional offices on NFPA 805 implementation issues. We plan to inform you about these workshops, and encourage you to send representatives.

Your letter indicates that it is your understanding that the letter of intent initiates a window of enforcement discretion for St. Lucie Units 1 and 2, where no enforcement action will be taken by the NRC for nonsafety-significant noncompliances, subject to the guidance provided in the Interim Enforcement Policy. Your understanding is accurate. The noncompliance must be determined to be less than Red, or would not be categorized as Severity Level I. Please note that in order to receive the discretion, you must enter all noncompliances into your corrective action program and implement and maintain appropriate compensatory measures until the staff approves your LAR to transition to NFPA 805 and issues the safety evaluation report. Please refer to NRC Regulatory Issue Summary 2005-07, "Compensatory Measures to Satisfy the Fire Protection Program Requirements," to determine appropriate compensatory measures.

If you have any questions regarding this matter, please contact Brendan T. Moroney at (301) 415-3974 or btm3@nrc.gov.

Sincerely,

/RA/

Catherine Haney, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-335 and 50-389

If you have any questions regarding this matter, please contact Brendan T. Moroney at (301) 415-3974 or btm3@nrc.gov.

Sincerely,

/RA/

Catherine Haney, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-335 and 50-389

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