

**NUCLEAR REGULATORY COMMISSION**

**[Docket Nos.: 52-029 and 52-030; NRC-2008-0558]**

**Duke Energy Florida, LLC; Levy Nuclear Plant Units 1 and 2**

**AGENCY:** Nuclear Regulatory Commission

**ACTION:** Notice of intent to enter into a modified indemnity agreement.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing a notice of intent to enter into a modified indemnity agreement with Duke Energy Florida, LLC, (DEF) to operate Levy Nuclear Plant Units 1 and 2 (LNP 1 and 2). The NRC is required to publish notice of its intent to enter into an indemnity agreement which contains provisions different from the general form found in the NRC's regulations. A modification to the general form is necessary to accommodate the unique timing provisions of a combined license (COL).

**DATES:** On October 20, 2016, the Commission authorized the Director of the Office of New Reactors to issue COLs to DEF to construct and operate LNP 1 and 2. The modified indemnity agreement would be effective upon issuance of the COLs.

**ADDRESSES:** Please refer to Docket ID **NRC-2008-0558** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2008-0558**. Address questions about NRC dockets to Carol Gallagher;

telephone: 301-415-3463; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search.](#)" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Donald Habib, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-1035, e-mail: [Donald.Habib@nrc.gov](mailto:Donald.Habib@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On October 20, 2016, the Commission authorized issuance of COLs to DEF for LNP 1 and 2. These COLs would include a license pursuant to part 70 of title 10 of the *Code of Federal Regulations* (10 CFR), "Domestic Licensing of Special Nuclear Material." Pursuant to 10 CFR 140.20(a)(1)(iii), the NRC will execute and issue agreements of indemnity effective on the date of a license under 10 CFR part 70 authorizing the licensee to possess and store special nuclear material at the site of the nuclear reactor for use as fuel in operation of the nuclear reactor after

issuance of an operating license for the reactor. The general form of indemnity agreement to be entered into by the NRC with DEF is contained in 10 CFR 140.92, "Appendix B – Form of Indemnity Agreement with licensees furnishing insurance policies as proof of financial protection."

## **II. Request/Action**

Pursuant to 10 CFR 140.9, the NRC is publishing notice of its intent to enter into an indemnity agreement that contains provisions different from the general form found in 10 CFR 140.92. Modifications to the general indemnity agreement are addressed in the following discussion.

## **III. Discussion**

The provisions of the general form of indemnity agreement provided in 10 CFR 140.92 address insurance and indemnity for a licensee that is authorized to operate as soon as an operating license (OL) is issued pursuant to 10 CFR part 50, "Domestic licensing of production and utilization facilities." The DEF, however, has requested a COL pursuant to 10 CFR part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants" to construct and operate LNP 1 and 2. Unlike an OL, which authorizes operation of the facility as soon as the license is issued, a COL authorizes the construction of the facility but does not authorize operation of the facility until the Commission makes a finding pursuant to 10 CFR 52.103(g) that the acceptance criteria in the COL are met (also called a "§ 52.103(g) finding"). The COL holders are not required to maintain financial protection in the amount specified in 10 CFR 140.11(a)(4) before the § 52.103(g) finding is made, but must maintain financial protection in the amount specified by 10 CFR 140.13 upon receipt of a COL because the COL includes a license issued pursuant to

10 CFR part 70. Therefore, the provisions in the general form of indemnity agreement must be modified to address the timing differences applicable to COLs.

Modifications to the general form of indemnity agreement will reflect the timing distinctions applicable to COLs. In addition, other modifications and their intent are described below:

- (1) References to Mutual Atomic Energy Liability Underwriters have been removed because this entity no longer exists.
- (2) Monetary amounts have been updated to reflect changes that have been made to Sec. 170. "Indemnification and Limitation of Liability" of the Atomic Energy Act of 1954, as amended (42 USC 2210).

#### **IV. Conclusions**

Accordingly, for the reasons discussed in this notice and in accordance with 10 CFR 140.9, the NRC hereby provides notice of its intent to enter into an agreement of indemnity with DEF for LNP 1 and 2 with the described modifications to the general form of indemnity.

Dated at Rockville, Maryland, this 25th day of October 2016.

For the Nuclear Regulatory Commission.

**/RA/**

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