

submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated January 20, 2006, available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agency wide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737 or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 13th day of February 2006.

For the Nuclear Regulatory Commission.

**Deirdre W. Spaulding,**

*Project Manager, Plant Licensing Branch III-1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-443]

### FPL Energy Seabrook, LLC, Seabrook Station, Unit No. 1; Notice of Consideration of Approval of Application Regarding Proposed Merger and Opportunity for a Hearing

The Nuclear Regulatory Commission (NRC or the Commission) is considering the issuance of an order under Title 10 of the Code of Federal Regulations (10 CFR) Section 50.80 approving the indirect transfer of Facility Operating License No. NPF-86 for the Seabrook Station, Unit No. 1 (Seabrook), to the extent currently held by FPL Energy Seabrook, LLC (FPLE) as a co-owner and licensed operator of Seabrook.

According to an application for approval filed by FPLE, FPL Group, Inc., the parent organization of FPLE, will merge with a newly created subsidiary of Constellation Energy Group, Inc. and become a wholly owned subsidiary of Constellation Energy Group, Inc. FPLE will continue to own its 88.23 percent ownership interest in Seabrook, operate Seabrook, and hold the license to the same extent now held. The other co-owners of Seabrook, Hudson Light & Power Department, Massachusetts Municipal Wholesale Electric Company, and Taunton Municipal Light Plant, are not involved in the proposed transaction.

No physical changes to the Seabrook facility or operational changes are being proposed in the application.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. The Commission will approve the application for the indirect transfer of the license if the Commission determines that the proposed merger will not affect the qualifications of the licensee to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

Within 20 days from the date of publication of this notice, any person whose interest may be affected by the Commission's action on the application may request a hearing and, if not the applicant, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart C "Rules of General Applicability: Hearing Requests, Petitions to Intervene, Availability of Documents, Selection of Specific Hearing Procedures, Presiding Officer Powers, and General Hearing Management for NRC Adjudicatory Hearings," of 10 CFR part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.309. Untimely requests and petitions may be denied, as provided in 10 CFR 2.309(c)(1), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also

consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.309(c)(1)(i) through (viii).

In accordance with 10 CFR Sections 2.302 and 2.305, requests for a hearing and petitions for leave to intervene should be served upon M. S. Ross, Managing Attorney, Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL 33408-0420 (telephone: 561-691-7126, fax: 561-694-6274, e-mail: [mitch\\_ross@fpl.com](mailto:mitch_ross@fpl.com)); the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001 (e-mail address for filings regarding license transfer cases only: [OGCLT@NRC.gov](mailto:OGCLT@NRC.gov)); and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, within 30 days from the date of publication of this notice, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated January 20, 2006, available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR reference staff by telephone at 1-800-397-4209, 301-415-4737 or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland this 13th day of February 2006.

For the Nuclear Regulatory Commission.

**G. Edward Miller,**

*Project Manager, Plant Licensing Branch I-2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. 06-1557 Filed 2-21-06; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

### In the Matter of National Aeronautics and Space Administration; Confirmatory Order (Effective Immediately)

National Aeronautics and Space Administration (NASA or Licensee) is the holder of Byproduct Material Licenses 19-05748-02 and 19-05748-03 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 30. License No. 19-05748-02 was originally issued on June 28, 1960, and is due to expire on July 3, 2011. License No. 19-05748-03 was originally issued on October 1, 1963, and is due to expire on September 30, 2015.

On January 16, 2003, the NRC Office of Investigations (OI) initiated an investigation (OI Case No. 1-2003-011) at NASA. Based on the evidence developed during its investigations, OI substantiated that the contract RSO deliberately failed to report missing licensed material as required, and provided incomplete and inaccurate information, verbally and in writing, to the NRC in violation of 10 CFR 30.9(a). The results of the investigation completed on May 25, 2005, were sent to NASA in a letter dated August 18, 2005.

Subsequent to the NRC's identification of the apparent violations, NASA took several actions to assure that these events would not recur. These actions included: (a) Selecting a new contract RSO to provide radiation safety services; (b) changing the inventory database to improve tracking of sources; (c) implementing recommendations made by NASA Security Office following its evaluation of the materials storage area to improve security of the facility; (d) conducting a physical inventory of all items and determining that all but two sources, which were below reportable quantities, were accounted for; and (e) instructing the contract RSO that all notifications shall be made within required regulatory timeframes.

Also, in response to the NRC's August 18, 2005, letter, NASA requested the use

of Alternative Dispute Resolution (ADR) to resolve the apparent violations and pending enforcement action. ADR is a process in which a neutral mediator, with no decision-making authority, assists the NRC and NASA to resolve any disagreements on whether a violation occurred, the appropriate enforcement action, and the appropriate corrective actions. At NASA's request: (1) A joint Alternative Dispute Resolution (ADR) mediation session was held at the NASA facility in Greenbelt, Maryland, on November 4, 2005, between NASA, its contract Radiation Safety Officer (RSO), and the NRC; and (2) an individual ADR session was held in the Region I Office in King of Prussia, PA on December 19, 2005, between NASA and the NRC at which the contract RSO participated in portions of the mediation. These ADR sessions were mediated by a professional mediator, arranged through Cornell University's Institute of Conflict Management. Based on the discussions during the ADR sessions, a settlement agreement was reached regarding this matter. The elements of the settlement agreement are as follows:

1. The NRC determined that violations of NRC requirements occurred at NASA when: (a) Contrary to 10 CFR 20.1501, its contract Radiation Safety Officer (RSO) failed to perform a reasonable and necessary evaluation of information provided to him in memoranda from a health physics technician on September 10, 2002, and October 21, 2002, to determine whether the licensed material reported as missing in those memoranda, at the NASA Goddard Space Flight Center in Greenbelt, Maryland, reached the threshold for reportability under 10 CFR 20.2201; and (b) contrary to 10 CFR 30.9(a), the contract RSO provided inaccurate information to an NRC inspector during an NRC inspection on December 18-19, 2002, when he provided an inspector with an inventory form indicating all sources were accounted for when, in fact, sources were not accounted for at the time.

2. NASA agreed that the contract RSO caused NASA to violate NRC requirements when he failed to perform a reasonable and necessary evaluation, pursuant to 10 CFR 20.1501, of information provided to him by the health physics technician, to determine whether the licensed material reported as missing in the memoranda identified in Item 1 reached the threshold for reportability under 10 CFR 20.2201. NASA also agreed that the contract RSO provided inaccurate information during the December 18-19, 2002 inspection, as noted in Item 1. The NRC maintained

that the contract RSO's actions were willful, at a minimum, in careless disregard of NRC requirements, because the contract RSO had reasonable information that material was not accounted for, yet he failed to investigate and take appropriate action, and he provided information to the inspector that was inaccurate. NASA contended that the contract RSO's actions were not in careless disregard, in part, because he had doubts about the accuracy of the information. The NRC and NASA agreed to disagree on the willfulness of the actions by the contract RSO.

3. While NASA and the NRC agreed to disagree on the willfulness of the contract RSO's actions, NASA and the NRC agreed that the contract RSO's actions caused NASA to be in violation of NRC requirements, which resulted in an enforcement action that will be taken against NASA as part of this ADR agreement.

4. NASA also agreed to complete, in addition to the actions it has already taken, other actions to ensure that others at NASA Goddard, other NASA facilities, and other NRC licensees, learned from these violations. Those additional actions included: (a) Increasing the frequency of its internal audits of its radiation safety program from annually to quarterly, for, at a minimum, through the end of 2007; (b) retaining an organization independent of NASA Goddard to conduct an annual independent review of the radiation safety program, at a minimum, for 2006 and 2007; and (c) providing a presentation at the NASA Occupational Health Conference in 2006, and include, at a minimum, in that presentation, a description of the violations that are described in Item 1 of this agreement, as well as the circumstances that led to the violations, lessons learned, and the corrective actions taken and planned to prevent recurrence.

5. NASA agreed to complete all of the additional actions in Item 4 by December 31, 2007, and send a letter to the NRC informing the NRC that these actions are complete. NASA agreed to send this letter to the NRC within 30 days of completion of all actions.

6. In light of the corrective actions that NASA has taken or has committed to take as described above, NASA agreed to the NRC issuance of a Notice of Violation for the two violations described in Item 1, which the NRC will characterize as a Severity Level III problem, as well as for the other violations described in the NRC inspection report attached to the NRC August 18, 2005, letter which will be characterized at Severity Level IV. This