

hour for NRC licensees + 10.7 hours for Agreement State licensees + 1.17 hours recordkeeping).

10. *Abstract:* Title 10 of the Code of Federal Regulations (10 CFR) 31.11 establishes a general license authorizing any physician, clinical laboratory, veterinarian in the practice of veterinary medicine, or hospital to possess certain small quantities of byproduct material for *in vitro* clinical or laboratory tests not involving the internal or external administration of the byproduct material or the radiation there from to human beings or animals. Possession of byproduct material under 10 CFR 31.11 is not authorized until the physician, clinical laboratory, veterinarian in the practice of veterinary medicine, or hospital has filed NRC Form 483 and received from the Commission a validated copy of NRC Form 483 with a registration number.

The public may examine and have copied for a fee, publicly available documents, including the final supporting statement, at the NRC's Public Document Room, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20874. OMB clearance requests are available at the NRC Web site: <http://www.nrc.gov/public-involve/doc-comment/omb/index.html>. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by January 12, 2012. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Chad Whiteman, Desk Officer, Office of Information and Regulatory Affairs (3150-0038), NEOB-10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be emailed to CWhiteman@omb.eop.gov or submitted by telephone at (202) 395-4718.

The NRC Clearance Officer is Tremaine Donnell, (301) 415-6258.

Dated at Rockville, Maryland, this 6th day of December 2011.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52-029-COL, 52-030-COL; ASLBP No. 09-879-04-COL-BD01]

Atomic Safety and Licensing Board; In the Matter of Progress Energy Florida, Inc.; (Levy County Nuclear Power Plant, Units 1 and 2)

December 7, 2011.

Before Administrative Judges: Alex S. Karlin, Chairman, Dr. Anthony J. Baratta, Dr. William M. Murphy.

Notice

(Opportunity To Make Oral or Written Limited Appearance Statements)

This Atomic Safety and Licensing Board hereby gives notice that it will accept oral or written limited appearance statements from members of the public regarding the application of Progress Energy Florida, Inc. (PEF) to the United States Nuclear Regulatory Commission (NRC) for a license to construct and operate two nuclear power plants in Levy County, Florida. Two sessions to hear oral limited appearance statements will be held on January 12, 2012, in Crystal River, Florida.

I. Background and Scope of Proceeding

On December 8, 2008, the NRC published a notice in the **Federal Register** that any interested person could file a challenge to PEF's application to construct and operate two proposed nuclear power plants in Levy County, Florida and could request an adjudicatory hearing thereon. 73 FR 74,532 (Dec. 8, 2008) (ADAMS Accession No. ML083430114). On February 6, 2009, the Nuclear Information and Resource Service, the Ecology Party of Florida, and the Green Party of Florida (Intervenors) filed such a challenge and request.¹ On February 23, 2009, this Board was established to handle the matter and to preside over any contested adjudicatory proceeding relating to the PEF application.² On July 8, 2009, this Board granted the Intervenors' request, ruling that they had shown standing and had raised at least one admissible contention. *See* LBP-09-10, 70 NRC 51, 147 (2009) (ADAMS Accession No. ML091890822).

¹ Petition to Intervene and Request for Hearing by the Green Party of Florida, the Ecology Party of Florida and Nuclear Information and Resource Service (Feb. 6, 2009) (ADAMS Accession No. ML090371107).

² Progress Energy Florida, Inc.; Establishment of Atomic Safety and Licensing Board, 74 FR 9113 (Mar. 2, 2009) (ADAMS Accession No. ML090540936).

The scope of this contested adjudicatory proceeding, and thus the appropriate scope of any limited appearance statements, is defined by the contentions that have been raised by the Intervenors and that have been admitted, *i.e.*, have been ruled to satisfy the requirements set forth in the relevant NRC regulation, 10 CFR 2.309(f)(1).³ The Intervenors have proffered several contentions, but at this point only one such admitted contention remains in litigation—Contention 4A.⁴ Contention 4A, therefore, defines the appropriate scope of any limited appearance statements.⁵ Contention 4A reads as follows:

Contention 4A: The Draft Environmental Impact Statement (DEIS) fails to comply with 10 CFR part 51 and the National Environmental Policy Act because it fails to specifically and adequately address, and inappropriately characterizes as SMALL, certain direct, indirect, and cumulative impacts, onsite and offsite, of constructing and operating the proposed LNP facility:

A. Impacts to wetlands, floodplains, special aquatic sites, and other waters, associated with dewatering, specifically:

1. Impacts resulting from active and passive dewatering;
2. Impacts resulting from the connection of the site to the underlying Floridan aquifer system;
3. Impacts on Outstanding Florida Waters such as the Withlacoochee and Waccasassa Rivers;

4. Impacts on water quality and the aquatic environment due to alterations and increases in nutrient concentrations caused by the removal of water; and

5. Impacts on water quality and the aquatic environment due to increased nutrients resulting from destructive wildfires resulting from dewatering.

B. Impacts to wetlands, floodplains, special aquatic sites, and other waters, associated with salt drift and salt deposition resulting from cooling towers (that use salt water) being situated in an inland, freshwater wetland area of the LNP site.

³ In addition to the contested adjudicatory proceeding being conducted by this Board, there will be an uncontested adjudicatory proceeding concerning PEF's application to construct and operate the two proposed nuclear power plants in Levy County. *See* 42 U.S.C. 2239(a)(i)(A). The content of the uncontested proceeding is not within the scope of this adjudication. *See* "Conduct of Mandatory Hearings on Applications for Combined Licenses," Internal Commission Procedures at IV-12—IV-21 (ADAMS Accession No. ML11269A125).

⁴ Licensing Board Memorandum and Order (Admitting Contention 4A) (February 2, 2011) at 20 (unpublished) (ADAMS Accession No. ML110330394).

⁵ If additional contentions are subsequently admitted, or if Contention 4A is subsequently settled, dismissed, or revised, then the scope of this proceeding will change accordingly.

C. As a result of the omissions and inadequacies described above, the Draft Environmental Impact Statement also failed to adequately identify, and inappropriately characterizes as SMALL, the proposed project's zone of:

1. Environmental impacts;
2. Impact on Federally listed species;
3. Irreversible and irretrievable environmental impacts; and
4. Appropriate mitigation measures.

As specified below, members of the public are invited to submit oral or written statements, referred to as "limited appearance statements" related to Contention 4A.

II. Notice of Oral Limited Appearance Statement Sessions

A. Date, Time, and Location of Oral Limited Appearance Statement Sessions

The oral limited appearance statement sessions will be held on the following dates, at the specified location and times:

Date: Thursday, January 12, 2012.

Time: 1 p.m. to 4 p.m. and 7 p.m. to 10 p.m.

Location: Plantation Inn Resort, 9301 West Fort Island Trail, Crystal River, Florida.

B. Participation Guidelines for Oral Limited Appearance Statements

The purpose of the limited appearance statements is to allow members of the public who are not parties to the adjudication to provide the Board with statements setting forth their positions or concerns on matters relating to the admitted contentions.⁶ Such statements may be presented orally during the limited appearance sessions specified above or may be submitted in writing. Speakers should be aware, however, that the jurisdiction of this Board and the scope of this proceeding are limited to the PEF application, and, more particularly, to Contention 4A. Limited appearance statements enable members of the public to alert the Board to areas relating to the PEF application and the admitted contention where evidence may need to be adduced, and to assist the Board in its consideration of these issues. Oral limited appearance statements will be transcribed but are

not under oath or affirmation and do not constitute formal testimony or evidence.

Oral limited appearance statements will be entertained during the hours specified above, or such lesser time as may be sufficient to accommodate the speakers who are present. If all scheduled and unscheduled speakers present at a session have made a presentation, the Board reserves the right to terminate the session before the ending times listed above.

In order to allow all interested persons an opportunity to address the Board, the time allotted for each oral limited appearance statement will be no more than five minutes, and may be further limited depending on the number of written requests to make an oral statement that are submitted in accordance with section C below and/or the number of persons present at the designated times. At the outset of each statement, the speaker should identify himself or herself.

Members of the public who plan to attend the limited appearance sessions are advised that security measures may be employed at the entrance to the facility, including searches of hand-carried items such as briefcases or backpacks. Signs no larger than 18" by 18" will be permitted during the limited appearance sessions, but may not be attached to sticks, held up, or moved about in the room. Cf. Policy Statement on Enhancing Public Participation in NRC Meetings, 67 FR 36,920, 36,923 (May 28, 2002).

C. Submitting a Request To Make an Oral Limited Appearance Statement

Persons wishing to make an oral statement who have submitted a timely written request to do so will be given priority over those who have not filed such a request. To be considered timely, a written request to make an oral statement must be mailed, faxed, or sent by email so as to be received by the Board by 5 p.m. EST on Thursday, January 5, 2011. The request should specify the session (afternoon or evening) during which the requester wishes to make an oral statement. Based on its review of the requests received by the deadline, the Board reserves the right to cancel or shorten either of the sessions due to a lack of public interest.

Written requests to make an oral statement should be submitted to:

Mail: Office of the Secretary, Rulemakings and Adjudications Staff, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Fax: (301) 415-1101 (verification (301) 415-1966).

Email: hearingdocket@nrc.gov.

In addition, using the same method of service, a copy of the written request to make an oral statement should be sent to the Chairman of this Licensing Board as follows:

Mail: Alex S. Karlin, Chairman, c/o: Matthew E. Flyntz, Law Clerk, Atomic Safety and Licensing Board Panel, Mail Stop T-3 E2C, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Fax: (301) 415-5599 (verification (301) 415-7405).

Email: Matthew.Flyntz@nrc.gov and Sara.Culler@nrc.gov.

D. Written Limited Appearance Statements

A written limited appearance statement may be submitted to the Board in addition to, or in lieu of, an oral limited appearance statement. The Board encourages early submissions, however, so that Board members will be able to consider them while addressing the issues in this proceeding. Such statements should be sent to the Office of the Secretary using the methods prescribed above, with a copy to the Board Chairman. A person who has already filed a written limited appearance statement in this matter is not required to resubmit it, but should notify the Board, as specified above, if he or she wishes to make an oral statement during the January sessions.

III. Availability of Documentary Information Regarding the Proceeding

Documents relating to this proceeding are available for public inspection at the Commission's Public Document Room (PDR) or electronically from the publicly available records component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible by clicking "Begin Web-based ADAMS Search" on the NRC Web site at <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 (800) 397-4209, (301) 415-4737, or by email to pdr@nrc.gov.

IV. Scheduling Information Updates

Any updated/revised scheduling information regarding the limited appearance sessions can be found on the NRC Web site at <http://www.nrc.gov/public-involve/public-meetings/index.cfm> or by calling (800) 368-5642, extension 5036, or (301) 415-5036.

December 7, 2011.

It is so ordered.

⁶ The parties to the adjudication (acting via their officers, directors, lawyers, pro-se representatives, experts, and other witnesses) have the opportunity to file formal motions and other pleadings, and to submit testimony and other evidence in the adjudication. Thus, the parties are not entitled to make limited appearance statements. 10 CFR 2.315(a). In contrast, limited appearance statements are the opportunity for the public to provide input.

For the Atomic Safety and Licensing Board.

Alex S. Karlin,

Chairman, Administrative Judge, Rockville, Maryland.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-335; NRC-2011-0194]

Florida Power & Light Company; St. Lucie Plant, Unit No. 1; Exemption

1.0 Background

The Florida Power & Light Company (FPL, the licensee) is the holder of Renewed Facility Operating License No. DPR-67, which authorizes operation of St. Lucie Plant, Unit No. 1 (St. Lucie, Unit 1). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC, or the Commission) now or hereafter in effect. The facility consists of two pressurized-water reactors located in Jensen Beach, Florida. However, this exemption is applicable only to St. Lucie, Unit 1.

By letter dated December 15, 2010, FPL submitted a License Amendment Request (LAR) to increase the licensed core power level for St. Lucie, Unit 1, from 2700 megawatts thermal (MWt) to 3020 MWt. As part of the LAR, the licensee also proposed a revision of the pressure-temperature (P-T) operating limits for St. Lucie, Unit 1.

The above LAR referenced a topical report that stated that the proposed methodology for the P-T curves did not meet some of the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) part 50, Appendix G, thus requiring an exemption pursuant to 10 CFR 50.12. By letter dated March 3, 2011, the licensee responded to a request for additional information to the above LAR and also submitted a request for the subject exemption.

2.0 Request/Action

Part 50 of 10 CFR, Appendix G, "Fracture Toughness Requirements," which is invoked by 10 CFR 50.60, requires that P-T limits be established for the reactor coolant pressure boundary during normal operating and hydrostatic or leak rate testing conditions. Specifically, 10 CFR Part 50, Appendix G, Section IV.A.2, states that "[t]he appropriate requirements on both the pressure-temperature limits and the minimum permissible temperature must be met for all conditions," and "[t]he

pressure-temperature limits identified as 'ASME [American Society for Mechanical Engineers] Appendix G limits' in Table 3 require that the limits must be at least as conservative as limits obtained by following the methods of analysis and the margins of safety of Appendix G of Section XI of the ASME Code [Boiler and Pressure Vessel Code]." The regulations in 10 CFR part 50, Appendix G also specify the use of the applicable editions and addenda of the ASME Code, Section XI, which are incorporated by reference in 10 CFR 50.55a. In the 2009 Edition of 10 CFR, the 1977 Edition through the 2004 Edition of the ASME Code, Section XI are incorporated by reference in 10 CFR 50.55a. Finally, 10 CFR 50.60(b) states that, "[p]roposed alternatives to the described requirements in Appendix G of this part or portions thereof may be used when an exemption is granted by the Commission under [10 CFR] 50.12."

In conjunction with the LAR for an extended power uprate (EPU), the licensee proposed to revise the P-T limits but did not propose to relocate the P-T limits from the Technical Specifications to a Pressure-Temperature Limits Report (PTLR). However, in Section 2.1.2 of the Licensing Report for the St. Lucie, Unit 1, EPU (Agencywide Documents Access and Management System (ADAMS) Accession No. ML103560429), the licensee referenced the basis document for the revised P-T limits. The basis document, included as Appendix G to the Licensing Report, is Westinghouse Commercial Atomic Power report WCAP-17197-NP Revision 0, "St. Lucie Unit 1 RCS [reactor coolant system] Pressure and Temperature Limits and Low-Temperature Overpressure Protection Report [LTOP] for 54 Effective Full-Power Years" (ADAMS Accession No. ML103560511), which references Combustion Engineering (CE) Owners Group Topical Report CE NPSD-683-A, Revision 6, "Development of a RCS Pressure and Temperature Limits Report for the Removal of P-T Limits and LTOP Requirements from the Technical Specifications" (ADAMS Accession No. ML011350387), as the methodology for determining the P-T limits.

By letter dated March 3, 2011 (ADAMS Accession No. ML110660300), the licensee submitted a request for exemption from 10 CFR part 50, Appendix G, regarding the P-T limits calculation. The licensee requested an exemption from the requirements of 10 CFR 50, Appendix G, to use the methodology of CE NPSD-683-A, Revision 6 as the basis for the developing the P-T limits. Specifically,

the licensee requested an exemption from the requirements of 10 CFR 50, Appendix G, Section IV.A.2, because the P-T limits developed for St. Lucie, Unit 1, use a finite element method to determine the K_{Ic} factors.

The NRC staff evaluated the specific PTLR methodology in CE NPSD-683, Revision 6. This evaluation was documented in the NRC safety evaluation (SE) of March 16, 2001 (ADAMS Accession No. ML010780017), which specified additional licensee actions that are necessary to support a licensee's adoption of CE NPSD-683, Revision 6. The final approved version of this report was reissued as CE NPSD-683-A, Revision 6, which included the NRC SE and the required additional action items as an attachment to the report. One of the additional specified actions (#21) stated, "(applicable only if the CE NSSS [nuclear steam supply system] methods for calculating K_{Ic} and K_{II} factors, as stated in Section 5.4 of CE NPSD-683, Revision 6, are being used as the basis for generating the P-T limits for their facilities) apply for an exemption against requirements of Section IV.A.2. of Appendix G to part 50 to apply the CE NSSS methods to their P-T curves." The action item further stated that, "This is consistent with the 'note' on page 5-15 of CE NPSD-683, Revision 6. Exemption requests to apply the CE NSSS to the generation of P-T limit curves should be submitted pursuant to the provision of 10 CFR 50.60(b) and will be evaluated on a case-by-case basis against the exemption request acceptance criteria of 10 CFR 50.12."

An exemption to use the methodology of CE NPSD-683-A to calculate the K_{Ic} factors is no longer necessary because editions and addenda of the ASME Code, Section XI, that have been incorporated by reference into 10 CFR 50.55a subsequent to the issuance of the final SE of CE NPSD-683-A, allow methods for determining the K_{Ic} factors that are equivalent to the methods described in CE NPSD-683-A.

If a licensee proposes to use the methodology in CE NPSD-683-A, Revision 6, for the calculation of K_{Ic} , an exemption is required, since the methodology for the calculation of K_{Ic} values in CE NPSD-683-A, Revision 6, cannot be shown to be equally or more conservative than the methodology for the determination of K_{Ic} provided in editions and addenda of the ASME Code, Section XI, Appendix G, through the 2004 Edition. Therefore, the licensee submitted an exemption request, consistent with the requirements of 10 CFR 50.12 and 50.60, to apply the K_{Ic} calculational methodology of CE NPSD-