

**AGENCY HOLDING MEETING:** National Prison Rape Elimination Commission.

**DATE AND TIME:** 9:30 a.m. on Friday, August 19, 2005.

**PLACE:** Ceremonial Courtroom, United States District Court for the Northern District of California, Nineteenth floor, Phillip Burton Federal Building and United States Courthouse, 450 Golden Gate Avenue, San Francisco, California 94102.

**STATUS:** Open—Public Hearing.

**MATTERS CONSIDERED:** The victimization of vulnerable prisoners, including youth, gay, and mentally ill inmates. Survivors will testify about having been sexually assaulted while incarcerated, and expert witnesses will discuss the victimizing of vulnerable inmates.

**AGENCY CONTACT:** L. Jackson Thomas II, Acting Executive Director, National Prison Rape Elimination Commission, (202) 616-9052.

Dated: August 1, 2005.

**L. Jackson Thomas II,**

*Acting Executive Director, National Prison Rape Elimination Commission.*

[FR Doc. 05-15548 Filed 8-2-05; 3:01 pm]

**BILLING CODE 4410-18-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-219]

### **Amergen Energy Company, LLC; Notice of Receipt and Availability of Application for Renewal of Oyster Creek Nuclear Generating Station, Facility Operating License No. DPR-16, for an Additional 20-Year Period**

The U.S. Nuclear Regulatory Commission (NRC or Commission) has received an application, dated July 22, 2005, from AmerGen Energy Company, LLC, filed pursuant to Section 104b (DPR-16) of the Atomic Energy Act of 1954, as amended, and 10 CFR Part 54, to renew the operating license for the Oyster Creek Nuclear Generating Station. Renewal of the license would authorize the applicant to operate the facility for an additional 20-year period beyond the period specified in the current operating license. The current operating license for the Oyster Creek Nuclear Generating Station (DPR-16) expires on April 9, 2009. The Oyster Creek Nuclear Generating Station is a Boiling Water Reactor designed by General Electric. The unit is located near Forked River, NJ. The acceptability of the tendered application for docketing, and other matters including an opportunity to request a hearing, will

be the subject of subsequent **Federal Register** notices.

Copies of the application are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, 20852 or electronically from the NRC's Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room under accession number ML052080172. The ADAMS Public Electronic Reading Room is accessible from the NRC's Web site at <http://www.nrc.gov/reading-rm/adams.html>. In addition, the application is available at <http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html>, on the NRC's Web page, while the application is under review. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR Reference staff at 1-800-397-4209, extension 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

A copy of the license renewal application for the Oyster Creek Nuclear Generating Station is also available to local residents near the Oyster Creek Nuclear Generating Station at the Lacey Public Library, 10 East Lacey Road, Forked River, NJ 08731.

Dated at Rockville, Maryland, this 29th day of July, 2005.

For the Nuclear Regulatory Commission.

**Samson S. Lee,**

*Acting Program Director, License Renewal and Environmental Impacts Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.*

[FR Doc. E5-4146 Filed 8-3-05; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 72-60]

### **Carolina Power and Light Company; H.B. Robinson Independent Spent Fuel Storage Installation; Environmental Assessment and Finding of No Significant Impact**

The U.S. Nuclear Regulatory Commission (NRC or Commission) is considering issuance of an exemption to Progress Energy Carolinas, Inc. also known as Carolina Power & Light Company (CP&L or licensee), pursuant to 10 CFR 72.7, from specific provisions of 10 CFR 72.212(a)(2), 72.212(b)(2)(i)(A), 72.212(b)(7), and 72.214. The licensee wants to use the Transnuclear, Inc. (TN) NUHOMS

Storage System, Certificate of Compliance No. 1004 (CoC or Certificate) Amendment No. 8 (24PTH DCS), to store spent nuclear fuel under a general license in an Independent Spent Fuel Storage Installation (ISFSI) associated with the operation of the H. B. Robinson Steam Electric Plant, Unit No. 2 (HBRSEP2), located in Darlington County, South Carolina. The requested exemption would allow CP&L to use the TN NUHOMS®-24PTH system with revised transfer cask/dry shielded canister (TC/DSC) handling and lifting height specifications prior to completion of the proposed TN NUHOMS CoC Amendment No. 8 rulemaking.

### **Environmental Assessment (EA)**

*Identification of Proposed Action:* The proposed action would exempt CP&L from the requirements of 10 CFR 72.212(a)(2), 72.212(b)(2)(i)(A), 72.212(b)(7), and 72.214 and enable CP&L to use the TN NUHOMS®-24PTH cask design with modifications at HBRSEP2. These regulations specifically require storage in casks approved under the provisions of 10 CFR Part 72 and compliance with the conditions set forth in the CoC for each dry spent fuel storage cask used by an ISFSI general licensee. The TN NUHOMS® CoC provides requirements, conditions, and operating limits in Attachment A, Technical Specifications. The proposed action would exempt CP&L from the requirements of 10 CFR 72.212(a)(2) and 72.214 enabling the licensee to store fuel in the TN NUHOMS®-24PTH DSC system prior to the effective date of the final rule change for the Amendment No. 8 approving the issuance of this amended CoC. The proposed action would also exempt CP&L from the requirements of 10 CFR 72.212(b)(2)(i)(A) and 72.212(b)(7) to allow lifting and handling a loaded TC/DSC above the height limit in the proposed Amendment No. 8. Specifically, the exemption would be from the requirement to limit the lift height of a loaded TC/DSC to 80 inches when outside the spent fuel pool building. In lieu of this requirement, CP&L stated that the TC/DSC will not be lifted higher than 80 inches when not being handled by devices that meet the existing 10 CFR Part 50 license heavy load requirements.

Additionally, TN identified an issue in the proposed Amendment No. 8 CoC that resulted in a need for clarification to the proposed technical specifications in regard to thermal loading patterns and transit times for the 24PTH DSC. CP&L stated that a limit of 1.3 kilowatts decay heat level per fuel assembly will

be imposed to ensure cask loadings are bounded by the analyses supporting the proposed Amendment No. 8. Further, the NRC staff identified an issue in the proposed Amendment No. 8 CoC related to the potential for air (oxygen) to come in contact with spent fuel during DSC draining and vacuum drying evolutions. CP&L committed to implementing procedural controls to ensure that (1) only nitrogen or helium is used for blowdown during vacuum drying evolutions, and (2) when draining water from the DSC at or below the level of the fuel cladding, a nitrogen cover will be used. CP&L requested that the exemptions remain in effect for 90 days following the effective date of the final rule change to 10 CFR 72.214 to incorporate TN CoC No. 1004, Amendment No. 8. The proposed action would allow CP&L to use the -24PTH system as described in the TN NUHOMS® CoC amendment requests currently under staff review and subject to the commitments made by CP&L with respect to the issues that have been identified in the proposed CoC for TN NUHOMS® Amendment No. 8.

The proposed action is in accordance with the licensee's request for exemption dated June 13, 2005, as supplemented July 20, 2005.

**Need for the Proposed Action:** The proposed action is needed because CP&L plans to initiate the transfer of the HBRSEP2 spent fuel pool contents to the ISFSI in August 2005. The fuel transfer campaign was scheduled to begin in late July 2005. The licensee has planned its dry fuel campaign to support the HBRSEP2 Refuel Outage 23 (RO-23), currently scheduled to begin on September 17, 2005. The licensee stated that the exemption is requested to maintain the ability to offload a full core of 157 fuel assemblies upon restart from RO-23 in October 2005.

Additionally, if no fuel is transferred to dry storage prior to the start of RO-23, there would be insufficient space in the spent fuel pool for the 56 new fuel assemblies that will be loaded into the reactor core during RO-23. This would complicate the fuel handling evolutions required for core reload during the outage. The proposed action is necessary because the 10 CFR 72.214 rulemaking to implement the TN NUHOMS® CoC Amendment No. 8 is not projected for completion until late Fall 2005, which will not support the HBRSEP2 fuel transfer and dry cask storage loading schedule.

**Environmental Impacts of the Proposed Action:** The NRC has completed its evaluation of the proposed action and concludes that there will be no significant

environmental impact if the exemptions are granted. The staff reviewed the analyses provided in the TN NUHOMS amendment applications addressing the NUHOMS® -24PTH, -32PT, and -24PHB systems. Included in those applications were TC/DSC lifting and handling height technical specification revisions. The staff has completed Safety Evaluation Reports (SERs) associated with reviews of the applications. The SER for the TN NUHOMS® -24PTH system documenting the staff's safety findings and conclusions was published in the **Federal Register** on May 25, 2005. The SER documenting the staff's safety finding associated with the lifting and handling height restriction revision was included as an enclosure to the letter to U. B. Chopra, dated March 30, 2005.

The thermal loading pattern issue identified by TN was reviewed by the staff and found to be acceptable, with a 1.3 kW per assembly decay heat limit. The staff-identified issue regarding spent fuel in an oxidizing environment was reviewed and found acceptable provided the spent fuel environment for short term operations, draining and vacuum drying, is limited to an inert atmosphere (nitrogen or helium). The staff agrees that both CP&L commitments, regarding the decay heat limit per fuel assembly and the limiting of blowdown and draining evolutions to an environment of nitrogen or helium, will maintain safety regarding fuel loading and transfer operations. The NRC concludes that there is reasonable assurance that the proposed exemptions have no impact on off-site doses.

The potential environmental impact of using the NUHOMS® system was initially presented in the Environmental Assessment (EA) for the Final Rule to add the TN Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel to the list of approved spent fuel storage casks in 10 CFR 72.214 (59 FR 65898, dated December 22, 1994). The potential environmental impact of using the NUHOMS® -24PTH system was initially presented in the Environmental Assessment (EA) for the direct final rule to add the 24PTH system to the Standardized NUHOMS® system, Amendment No. 8 (70 FR 29931, dated May 25, 2005). The TN -24PTH, -32PT, and -24PHB systems do not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological

environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

**Alternative to the Proposed Action:** Since there is no significant environmental impact associated with the proposed action, alternatives with equal or greater environmental impact were not evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the exemption would result in no change in current environmental impact.

**Agencies and Persons Consulted:** This exemption request was discussed with Mr. Henry Porter, Assistant Director of the Division of Waste Management, Department of Health and Environmental Control, for the State of South Carolina, on July 13, and July 27, 2005. He stated that the State had no comments on the technical aspects of the exemption. The NRC staff has determined that a consultation under Section 7 of the Endangered Species Act is not required because the proposed action will not affect listed species or critical habitat. The NRC staff has also determined that the proposed action is not a type of activity having the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

#### **Finding of No Significant Impact**

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR Part 51. Based upon the foregoing Environmental Assessment, the Commission finds that the proposed action of granting the exemption from specific provisions of 10 CFR 72.212(a)(2), 72.212(b)(2)(i)(A), 72.212(b)(7), and 10 CFR 72.214, to allow CP&L to use a modified version of the proposed CoC No. 1004, Amendment No. 8, subject to conditions, will not significantly impact the quality of the human environment. Accordingly, the Commission has determined that an environmental impact statement for the proposed exemption is not warranted.

In accordance with 10 CFR 2.390 of NRC's "Rules of Practice," final NRC records and documents regarding this proposed action are publically available in the records component of NRC's Agencywide Documents Access and Management System (ADAMS). The request for exemption dated June 13, 2005, and July 20, 2005, was docketed under 10 CFR Part 72, Docket No. 72-60. These documents may be inspected at NRC's Public Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. These documents may also be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O1F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee. 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 or (301) 415-4737, or by e-mail to [pdrr@nrc.gov](mailto:pdrr@nrc.gov).

Dated at Rockville, Maryland, this 29th day of July, 2005.

For the Nuclear Regulatory Commission.

**L. Raynard Wharton,**

*Project Manager, Spent Fuel Project Office,  
Office of Nuclear Material Safety and  
Safeguards.*

[FR Doc. E5-4145 Filed 8-3-05; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-261]

### **Carolina Power and Light Company, H.B. Robinson Steam Electric Plant, Unit No. 2; Exemption**

#### **1.0 Background**

Carolina Power & Light Company (CP&L or the licensee) is the holder of Renewed Facility Operating License No. DPR-23, which authorizes operation of the H. B. Robinson Steam Electric Plant, Unit No. 2 (HBRSEP2). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a pressurized-water reactor located in Darlington County, South Carolina.

#### **2.0 Request/Action**

By letter dated February 22, 2005, as supplemented by letters dated May 10, July 6, and July 14, 2005, the licensee submitted a request for an exemption from the requirements of Title 10 of the

Code of Federal Regulations (10 CFR) Section 50.68(b)(1) during the spent fuel pool (SFP) activities related to the underwater handling, loading, and unloading of the dry shielded canister (DSC) NUHOMS®-24PTH, as described in proposed Amendment No. 8 to Certificate of Compliance No. 1004 listed in 10 CFR 72.214 at HBRSEP2.

Section 50.68(b)(1) of 10 CFR sets forth the following requirement that must be met, in lieu of a monitoring system capable of detecting criticality events.

Plant procedures shall prohibit the handling and storage at any one time of more fuel assemblies than have been determined to be safely subcritical under the most adverse moderation conditions feasible by unborated water.

The licensee is unable to satisfy the above requirement for handling of the Transnuclear (TN) NUHOMS®-24PTH DSC authorized by 10 CFR Part 72 at HBRSEP2. Section 50.12(a) allows licensees to apply for an exemption from the requirements of 10 CFR Part 50 if the application of the regulation is not necessary to achieve the underlying purpose of the rule and special conditions are met. The licensee stated in the application that compliance with 10 CFR 50.68(b)(1) is not necessary for handling the TN NUHOMS®-24PTH DSC system to achieve the underlying purpose of the rule.

#### **3.0 Discussion**

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Therefore, in determining the acceptability of the licensee's exemption request, the staff has performed the following regulatory, technical, and legal evaluations to satisfy the requirements of 10 CFR 50.12 for granting the exemption.

##### **3.1 Regulatory Evaluation**

The HBRSEP2 Technical Specifications (TS) currently permit the licensee to store spent fuel assemblies in high-density storage racks in its SFP. In accordance with the provisions of 10 CFR 50.68(b)(4), the licensee takes credit for soluble boron for criticality control and ensures that the effective multiplication factor ( $k_{eff}$ ) of the SFP does not exceed 0.95, if flooded with borated water. Section 50.68(b)(4) of 10 CFR also requires that if credit is taken

for soluble boron, the  $k_{eff}$  must remain below 1.0 (subcritical) if flooded with unborated water. However, the licensee is unable to satisfy the requirement to maintain the  $k_{eff}$  below 1.0 (subcritical) with unborated water, which is also the requirement of 10 CFR 50.68(b)(1), during cask handling operations in the SFP. Therefore, the licensee's request for exemption from 10 CFR 50.68(b)(1) proposes to permit the licensee to perform spent fuel loading, unloading, and handling operations related to dry cask storage without being subcritical under the most adverse moderation conditions feasible by unborated water.

Title 10 of the Code of Federal Regulations, Part 50, Appendix A, "General Design Criteria (GDC) for Nuclear Power Plants," provides a list of the minimum design requirements for nuclear power plants. According to GDC 62, "Prevention of criticality in fuel storage and handling," the licensee must limit the potential for criticality in the fuel handling and storage system by physical systems or processes. HBRSEP2 was licensed prior to the issuance of the GDC listed in 10 CFR 50, Appendix A; therefore, GDC 62 is not directly applicable. However, HBRSEP2 has committed to a plant-specific version of the 1967 draft GDC as discussed in its Updated Final Safety Analysis Report (FSAR), Section 3.1.2. The comparable GDC is Criterion 66, "Prevention of Fuel Storage Criticality," that states: "Criticality in the new and spent fuel storage pits shall be prevented by physical systems or processes. Such means as geometrically safe configurations shall be emphasized over procedural controls."

Section 50.68 of 10 CFR Part 50, "Criticality accident requirements," provides the NRC requirements for maintaining subcritical conditions in SFPs. Section 50.68 provides criticality control requirements that, if satisfied, ensure that an inadvertent criticality in the SFP is an extremely unlikely event. These requirements ensure that the licensee has appropriately conservative criticality margins during handling and storage of spent fuel. Section 50.68(b)(1) states, "Plant procedures shall prohibit the handling and storage at any one time of more fuel assemblies than have been determined to be safely subcritical under the most adverse moderation conditions feasible by unborated water." Specifically, 10 CFR 50.68(b)(1) ensures that the licensee will maintain the pool in a subcritical condition during handling and storage operations without crediting the soluble boron in the SFP water.

The licensee is authorized under general license to construct and operate