

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–250 and 50–251; NRC–2010–0025]

### Florida Power and Light Company; Turkey Point, Units 3 and 4; Exemption

#### 1.0 Background

Florida Power and Light Company (FPL, the licensee), is the holder of Facility Operating License Nos. DPR–31 and DPR–41, which authorize operation of the Turkey Point, Unit Nos. 3 and 4 (Turkey Point 3 and 4). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect. The facility consists of two pressurized-water reactors located in Florida City, Florida.

#### 2.0 Request

Title 10 of the *Code of Federal Regulations* (10 CFR), part 50, Appendix G requires that fracture toughness requirements for ferritic materials of pressure-retaining components of the reactor coolant pressure boundary of light water nuclear power reactors need to provide adequate margins of safety during any condition of normal operation, including anticipated operational occurrences and system hydrostatic tests, to which the pressure boundary may be subjected over its service lifetime; and 10 CFR 50.61 provides fracture toughness requirements for protection against pressurized thermal shock (PTS) events. By letter dated March 18, 2009, (Agencywide Documents Access and Management System (ADAMS) Accession No. ML090920408), FPL proposed exemptions from the requirements of 10 CFR Part 50, Appendix G and 10 CFR 50.61, to revise certain Turkey Point 3 and 4, reactor pressure vessel (RPV) initial (unirradiated) properties using Framatome Advanced Nuclear Power Topical Report (TR) BAW–2308, Revisions 1A and 2A, “Initial  $RT_{NDT}$  of Linde 80 Weld Materials.” This exemption addresses only those parts of the regulations (i.e., 10 CFR 50.61 and 10 CFR part 50, Appendix G) which discuss the definition or use of unirradiated nil-ductility reference temperature,  $RT_{NDT(U)}$ , and its associated uncertainty,  $\sigma\Delta$ . All other requirements of 10 CFR 50.61 and 10 CFR part 50, Appendix G are unchanged by this exemption.

The licensee requested an exemption from Appendix G to 10 CFR part 50 to

replace the required use of the existing Charpy V-notch and drop weight-based methodology and allow the use of an alternate methodology to incorporate the use of fracture toughness test data for evaluating the integrity of the Turkey Point 3 and 4 RPV circumferential beltline welds based on the use of the 1997 and 2002 Editions of American Society for Testing and Materials (ASTM) Standard Test Method E 1921, “Standard Test Method for Determination of Reference Temperature,  $T_0$ , for Ferritic Steels in the Transition Range,” and American Society for Mechanical Engineering (ASME), *Boiler and Pressure Vessel Code* (Code), Code Case N–629, “Use of Fracture Toughness Test Data to establish Reference Temperature for Pressure Retaining Materials of Section III, Division 1, Class 1.” The exemption is required since Appendix G to 10 CFR part 50, through reference to Appendix G to Section XI of the ASME Code pursuant to 10 CFR 50.55(a), requires the use of a methodology based on Charpy V-notch and drop-weight data. The licensee also requested an exemption from 10 CFR 50.61 to use an alternate methodology to allow the use of fracture toughness test data for evaluating the integrity of the Turkey Point 3 and 4 RPV circumferential beltline welds based on the use of the 1997 and 2002 Editions of ASTM E 1921 and ASME Code Case N–629. The exemption is required since the methodology for evaluating RPV material fracture toughness in 10 CFR 50.61 requires the use of the Charpy V-notch and drop-weight data for establishing the PTS reference temperature ( $RT_{PTS}$ ).

On February 3, 2010, a new rule, 10 CFR 50.61a, “Alternate Fracture Toughness Requirements for Protection Against PTS Events,” became effective. The NRC staff reviewed this new rule against Turkey Point’s exemption request and determined that there is no effect on the exemption request. The new rule does not modify the requirements from which the licensee has sought an exemption, and the alternative provided by the new rule does not address the scope of issues associated with both 10 CFR 50.61 and 10 CFR part 50, Appendix G that the requested exemption does.

#### 3.0 Discussion

Pursuant to 10 CFR 50.12(a), 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. The licensee requested an exemption from the use of the Charpy V-notch and drop-weight-based methodology required by 10 CFR part 50, Appendix G and 10 CFR 50.61. This exemption only modifies the methodology to be used by the licensee for demonstrating compliance with the requirements of 10 CFR part 50, Appendix G and 10 CFR 50.61, and does not exempt the licensee from meeting any other requirement of 10 CFR part 50, Appendix G and 10 CFR 50.61.

#### Authorized by Law

These exemptions would allow the licensee to use an alternate methodology to make use of fracture toughness test data for evaluating the integrity of the Turkey Point 3 and 4 RPV circumferential beltline welds, and would not result in changes to operation of the plant. Section 50.60(b) of 10 CFR Part 50 allows the use of alternatives to 10 CFR part 50, Appendix G, or portions thereof, when an exemption is granted by the Commission under 10 CFR 50.12. In addition, Section 50.60(b) of 10 CFR part 50 permits different NRC-approved methods for use in determining the initial material properties. As stated above, 10 CFR 50.12(a) allows the NRC to grant exemptions from the requirements of 10 CFR Part 50, Appendix G and 10 CFR 50.61. The NRC staff has determined that granting of the licensee’s proposed exemptions will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission’s regulations. Therefore, the exemptions are authorized by law.

#### No Undue Risk to Public Health and Safety

The underlying purpose of Appendix G to 10 CFR part 50 is to set forth fracture toughness requirements for ferritic materials of pressure-retaining components of the reactor coolant pressure boundary of light water nuclear power reactors to provide adequate margins of safety during any condition of normal operation, including anticipated operational occurrences and system hydrostatic tests, to which the pressure boundary may be subjected over its service lifetime. The methodology underlying the requirements of Appendix G to 10 CFR part 50 is based on the use of Charpy V-notch and drop-weight data. The licensee proposes to replace the use of the existing Charpy V-notch and drop-weight-based methodology by a fracture toughness-based methodology to

demonstrate compliance with Appendix G to 10 CFR part 50.

The NRC staff has concluded that the exemptions are justified based on the licensee utilizing the fracture toughness methodology specified in BAW-2308, Revisions 1A and 2A, within the conditions and limitations delineated in the NRC staff's safety evaluations (SEs), dated August 4, 2005 (ADAMS Accession Number ML052070408) and March 24, 2008 (ML080770349). The use of the methodology specified in the NRC staff's SEs will ensure that pressure and temperature limits developed for the Turkey Point 3 and 4 RPVs will continue to be based on an adequately conservative estimate of RPV material properties and ensure that the pressure-retaining components of the reactor coolant pressure boundary retain adequate margins of safety during any condition of normal operation, including anticipated operational occurrences. This exemption only modifies the methodology to be used by the licensee for demonstrating compliance with the requirements of Appendix G to 10 CFR part 50, and does not exempt the licensee from meeting any other requirement of Appendix G to 10 CFR part 50.

The underlying purpose of 10 CFR 50.61 is to establish requirements that ensure a licensee's RPV will be protected from failure during a PTS event by evaluating the fracture toughness of RPV materials. The licensee seeks an exemption from 10 CFR 50.61 to use a methodology for the determination of adjusted/indexing reference temperatures. The licensee proposes to use ASME Code Case N-629 and the methodology outlined in its submittal, which are based on the use of fracture toughness data, as an alternative to the Charpy V-notch and drop-weight-based methodology required by 10 CFR 50.61 for establishing the initial, unirradiated properties when calculating  $RT_{PTS}$  values. The NRC staff has concluded that the exemption is justified based on the licensee utilizing the methodology specified in the NRC staff's SEs regarding TR BAW-2308, Revisions 1A and 2A, dated August 4, 2005, and March 24, 2008. This TR established an alternative method for determining initial (unirradiated) material reference temperatures for RPV welds manufactured using Linde 80 weld flux (i.e., "Linde 80 welds") and established weld wire heat-specific and Linde 80 weld generic values of this reference temperature. These weld wire heat-specific and Linde 80 weld generic values may be used in lieu of the nil-ductility reference temperature ( $RT_{NDT}$ )

parameter, the determination of which is specified by paragraph NB-2331 of Section III of the ASME Code. Regulations associated with the determination of RPV material properties involving protection of the RPV from brittle failure or ductile rupture include Appendix G to 10 CFR Part 50 and 10 CFR 50.61, the PTS rule. These regulations require that the initial (unirradiated) material reference temperature,  $IRT_{NDT}$ , be determined in accordance with the provisions of the ASME Code, and provide the process for determination of  $RT_{PTS}$ , the reference temperature  $RT_{NDT}$ , evaluated for the end of license fluence.

In TR BAW-2308, Revision 1, the Babcock and Wilcox Owners Group (B&WOG) proposed to perform fracture toughness testing based on the application of the "Master Curve" evaluation procedure, which permits data obtained from sample sets tested at different temperatures to be combined, as the basis for redefining the initial (unirradiated) material properties of Linde 80 welds. NRC staff evaluated this methodology for determining Linde 80 weld initial (unirradiated) material properties and uncertainty in those properties, as well as the overall method for combining unirradiated material property measurements based on  $T_0$  values (i.e.,  $IRT_{T_0}$ ), property shifts from models in Regulatory Guide (RG) 1.99, Revision 2, which are based on Charpy V-notch testing and a defined margin term to account for uncertainties in the NRC staff SE. Table 3 in the SE contains the NRC staff-accepted  $IRT_{T_0}$  and initial margin (denoted as  $\sigma_i$ ) for specific Linde 80 weld wire heat numbers. In accordance with the conditions and limitations outlined in the NRC staff SE on TR BAW-2308, Revision 1, for utilizing the values in Table 3: the licensee has utilized the appropriate NRC staff-accepted  $IRT_{T_0}$  and  $\sigma_i$  values for Linde 80 weld wire heat numbers; applied a chemistry factor of 167 °F (the weld wire heat-specific chemical composition, via the methodology of RG 1.99, Revision 2, did not indicate that a higher chemistry factor should apply); applied a value of 28 °F for  $\sigma\Delta$  in the margin term; and submitted values for  $\Delta RT_{NDT}$  and the margin term for each Linde 80 weld in the RPV through the end of the current operating license. Additionally, the NRC's SE for TR BAW-2308, Revision 2 concludes that the revised  $RT_{PTS}$  values for Linde 80 weld materials are acceptable for referencing in plant specific licensing applications as delineated in TR BAW-2308, Revision 2 and to the extent specified under Section 4.0, Limitations

and Conditions, of the SE, which states: "Future plant-specific applications for RPVs containing weld heat 72105, and weld heat 299L44, of Linde 80 welds must use the revised  $IRT_{T_0}$  and  $\sigma_i$  values in TR BAW-2308, Revision 2." Therefore, all conditions and limitations outlined in the NRC staff SEs on TR BAW-2308, Revisions 1A and 2A, have been met for Turkey Point 3 and 4.

The use of the methodology in TR BAW-2308, Revisions 1A and 2A will ensure the PTS evaluation developed for the Turkey Point 3 and 4 RPVs will continue to be based on an adequately conservative estimate of RPV material properties and ensure the RPVs will be protected from failure during a PTS event.

Based on the above, no new accident precursors are created by allowing an exemption to use an alternate methodology to comply with the requirements of 10 CFR 50.61 in determining adjusted/indexing reference temperatures, thus, the probability of postulated accidents is not increased. Also, based on the above, the consequences of postulated accidents are not increased. Therefore, there is no undue risk to public health and safety.

#### *Consistent With Common Defense and Security*

The proposed exemption would allow the licensee to use an alternate methodology to allow the use of fracture toughness test data for evaluating the integrity of the Turkey Point 3 and 4 RPV circumferential beltline welds. This change to Turkey Point 3 and 4 has no relation to security issues. Therefore, the common defense and security is not impacted by these exemptions.

#### *Special Circumstances*

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(ii), are present whenever application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. The underlying purpose of 10 CFR Part 50, Appendix G and 10 CFR 50.61 is to protect the integrity of the reactor coolant pressure boundary by ensuring that each reactor vessel material has adequate fracture toughness. Therefore, since the underlying purpose of 10 CFR part 50, Appendix G and 10 CFR 50.61 is achieved by an alternative methodology for evaluating RPV material fracture toughness, the special circumstances required by 10 CFR 50(a)(2)(ii) for the granting of an exemption from portions of the requirements of 10 CFR part 50, Appendix G and 10 CFR 50.61 exist.

**4.0 Conclusion**

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemptions are authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Therefore, the Commission hereby grants the Florida Power and Light Company exemptions from portions of the requirements of Appendix G to 10 CFR part 50 and 10 CFR 50.61, to allow an alternative methodology that is based on using of fracture toughness test data to determine initial, unirradiated properties for evaluating the integrity of the Turkey Point RPV circumferential beltline welds. This exemption addresses only those parts of the regulations (i.e., 10 CFR 50.61 and 10 CFR part 50, Appendix G) which discuss the definition or use of unirradiated nil-ductility reference temperature, RT<sub>NDT(U)</sub>, and its associated uncertainty, σΔ. All other requirements of 10 CFR 50.61 and 10 CFR part 50, Appendix G are unchanged by this exemption.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (75 FR 4426)

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 11th day of March 2010.

For the Nuclear Regulatory Commission.

**Joseph G. Giitter,**

*Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

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**BILLING CODE 7590-01-P**

**SMALL BUSINESS ADMINISTRATION**

[Disaster Declaration #12072 and #12073]

**California Disaster #CA-00151**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of California (FEMA-1884-DR), dated 03/08/2010.

*Incident:* Severe Winter Storms, Flooding, and Debris and Mud Flows.

*Incident Period:* 01/17/2010 through 02/06/2010.

*Effective Date:* 03/08/2010.

*Physical Loan Application Deadline Date:* 05/07/2010.

*Economic Injury (EIDL) Loan Application Deadline Date:* 12/08/2010.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 03/08/2010, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Calaveras, Imperial, Los Angeles, Riverside, San Bernardino, Siskiyou

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	3.625
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000

The number assigned to this disaster for physical damage is 12072B and for economic injury is 12073B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2010-5882 Filed 3-17-10; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

[Disaster Declaration #12079 and #12080]

**South Dakota Disaster #SD-00028**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of South Dakota (FEMA-1887-DR), dated 03/10/2010.

*Incident:* Severe Winter Storm.

*Incident Period:* 01/20/2010 through 01/26/2010.

*Effective Date:* 03/10/2010.

*Physical Loan Application Deadline Date:* 05/10/2010.

*Economic Injury (EIDL) Loan Application Deadline Date:* 12/10/2010.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 03/10/2010, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Aurora, Brule, Buffalo, Campbell, Corson, Day, Deuel, Dewey, Douglas, Edmunds, Faulk, Grant, Gregory, Hand, Harding, Hughes, Hutchinson, Hyde, Jerauld, Mccook, Mcpherson, Meade, Perkins, Potter, Roberts, Sully, Turner, Walworth, Ziebach. And those portions of the Cheyenne River Indian Reservation, Sisseton-Wahpeton Indian Reservation, and Standing Rock Indian Reservation that lie within these counties.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere .....	3.625
Non-Profit Organizations without Credit Available Elsewhere .....	3.000
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere .....	3.000

The number assigned to this disaster for physical damage is 12079B and for economic injury is 12080B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Roger B. Garland,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2010-5885 Filed 3-17-10; 8:45 am]

**BILLING CODE 8025-01-P**