

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-313 and 50-368; NRC-2010-0111]

Entergy Operations, Inc., Arkansas Nuclear One, Units 1 And 2; Exemption**1.0 Background**

Entergy Operations, Inc. (the licensee), is the holder of Facility Operating License Nos. DPR-51 and NPF-6, which authorize operation of the Arkansas Nuclear One, Units 1 and 2 (ANO-1 and 2). The licenses provide, 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 Pope County, Arkansas.

2.0 Request/Action

Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, "Physical protection of plants and materials," Section 73.55, "Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage," published March 27, 2009, effective May 26, 2009, with a full implementation date of March 31, 2010, requires licensees to protect, with high assurance, against radiological sabotage by designing and implementing comprehensive site security programs. The amendments to 10 CFR 73.55 published on March 27, 2009 (74 FR 13926), establish and update generically applicable security requirements similar to those previously imposed by Commission orders issued after the terrorist attacks of September 11, 2001, and implemented by licensees. In addition, the amendments to 10 CFR 73.55 include additional requirements to further enhance site security based upon insights gained from implementation of the post-September 11, 2001, security orders. It is from three of these new requirements Entergy now seeks an exemption from the March 31, 2010, implementation date. All other physical security requirements established by this recent rulemaking have already been or will be implemented by the licensee by March 31, 2010.

By letter dated January 14, 2010, as supplemented by letter dated January 28, 2010, the licensee requested an exemption in accordance with 10 CFR 73.5, "Specific exemptions." The licensee's letters dated January 14 and 28, 2010, contain security-related information and, accordingly, those

portions are being withheld from public disclosure. Redacted versions of the letters dated January 14 and 28, 2010, are publicly available in the Agencywide Documents Access and Management System (ADAMS) Accession No. ML100190140 and ML100710021, respectively. The licensee has requested an exemption from the March 31, 2010, implementation date stating that it must complete a number of significant modifications to the current site security configuration before all requirements can be met. Specifically, the request is to extend the compliance date from the current March 31, 2010, deadline to October 31, 2010, for two requirements and August 31, 2011, for one requirement. Granting this exemption for the three items would allow the licensee to complete the modifications designed to update aging equipment and incorporate state-of-the-art technology to meet or exceed the noted regulatory requirement.

3.0 Discussion of Part 73 Schedule Exemptions From the March 31, 2010, Full Implementation Date

Pursuant to 10 CFR 73.55(a)(1), "By March 31, 2010, each nuclear power reactor licensee, licensed under 10 CFR Part 50, shall implement the requirements of this section through its Commission-approved Physical Security Plan, Training and Qualification Plan, Safeguards Contingency Plan, and Cyber Security Plan referred to collectively hereafter as 'security plans.'" Pursuant to 10 CFR 73.5, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 73 when the exemptions are authorized by law, and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

NRC approval of this exemption would, as noted above, allow an extension from March 31, 2010, to October 31 2010, for two specific requirements, and to August 31, 2011 for one specific requirement. As stated above, 10 CFR 73.5 allows the NRC to grant exemptions from the requirements of 10 CFR Part 73. The NRC staff has determined that granting of the licensee's proposed exemption would not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemption is authorized by law.

In the draft final Power Reactor Security rule provided to the Commission, the NRC staff proposed that the requirements of the new regulation be met within 180 days. The

Commission directed a change from 180 days to approximately 1 year for licensees to fully implement the new requirements. This change was incorporated into the final rule. From this, it is clear that the Commission wanted to provide a reasonable timeframe for licensees to achieve full compliance.

As noted in the final rule, the Commission also anticipated that licensees would have to conduct site-specific analyses to determine what changes were necessary to implement the rule's requirements, and that changes could be accomplished through a variety of licensing mechanisms, including exemptions. Since issuance of the final rule, the Commission has rejected a request to generically extend the rule's compliance date for all operating nuclear power plants, but noted that the Commission's regulations provide mechanisms for individual licensees, with good cause, to apply for relief from the compliance date (*Reference*: June 4, 2009, letter from R. W. Borchardt, NRC, to M. S. Fertel, Nuclear Energy Institute). The licensee's request for an exemption is therefore consistent with the approach set forth by the Commission and discussed in the June 4, 2009, letter.

ANO-1 and 2 Schedule Exemption Request

The licensee provided detailed information in attachments to its application dated January 14, 2010, and supplemental letter dated January 28, 2010, requesting an exemption. It describes a comprehensive plan to upgrade the security capabilities of its ANO site and provides a timeline for achieving full compliance with the new regulation. Attachments to the letters contain security-related information regarding the site security plan, details of the specific requirements of the regulation for which the site cannot achieve compliance by the March 31, 2010, deadline, justification for the extension request, a description of the required changes to the site's security configuration, and a timeline with critical path activities that would enable the licensee to achieve full compliance by August 31, 2011. The timeline provides dates indicating when critical equipment will be ordered, receipt of the equipment, installation, tested, and training.

Notwithstanding the scheduler exemptions for these limited requirements, the licensee would continue to be in compliance with all other applicable physical security requirements as described in 10 CFR 73.55 and reflected in its current NRC-

approved physical security program. By October 31, 2010, ANO-1 and 2 will be in full compliance with all but one specified requirement. By August 31, 2011, ANO-1 and 2 will be in full compliance with all the regulatory requirements of 10 CFR 73.55, as issued on March 27, 2009.

4.0 Conclusion for Part 73 Schedule Exemption Request

The staff has reviewed the licensee's submittals and concludes that the licensee has justified its request for an extension of the compliance date with regard to two specified requirements of 10 CFR 73.55 until October 31, 2010, and one specified requirement until August 31, 2011.

Accordingly, the Commission has determined that pursuant to 10 CFR 73.5, "Specific exemptions," exemption from the March 31, 2010, compliance date is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants the requested exemption.

The NRC has determined that the long-term benefits that will be realized when the complete system is in place justifies extending the full compliance date in the case of this particular licensee. The security measures for which ANO-1 and 2 need additional time to implement are new requirements imposed by March 27, 2009, amendments to 10 CFR 73.55, and are in addition to those required by the security orders issued in response to the events of September 11, 2001. Therefore, the NRC staff concludes that the licensee's actions are in the best interest of protecting the public health and safety through the security changes that will result from granting this exemption.

As per the licensee's request and the NRC's regulatory authority to grant an exemption to the March 31, 2010, deadline for the three items specified in the attachments to the Entergy letters dated January 14 and 28, 2010, the licensee is required to be in full compliance with 10 CFR 73.55 by August 31, 2011. In achieving compliance, the licensee is reminded that it is responsible for determining the appropriate licensing mechanism (*i.e.*, 10 CFR 50.54(p) or 10 CFR 50.90) for incorporation of all necessary changes to its security plans.

Pursuant to 10 CFR 51.32, "Finding of no significant impact," the Commission has previously determined that the granting of this exemption will not have a significant effect on the quality of the

human environment (75 FR 13607; dated March 22, 2010).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 23rd day of March 2010.

For the Nuclear Regulatory Commission.

Joseph G. Giitter,

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

[FR Doc. 2010-7031 Filed 3-29-10; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[NRC-2010-0002]

Sunshine Act Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATES: Weeks of March 29; April 5, 12, 19, 26; May 3, 2010.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of March 29, 2010

Tuesday, March 30, 2010

9:30 a.m. Briefing on Safety Culture (Public Meeting). (Contact: Jose Ibarra, 301-415-2581.)

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

Week of April 5, 2010—Tentative

Tuesday, April 6, 2010

9 a.m. Periodic Briefing on New Reactor Issues—Design Certifications (Public Meeting). (Contact: Amy Snyder, 301-415-6822.)

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

Thursday, April 8, 2010

9:30 a.m. Briefing on Regional Programs—Programs, Performance, and Future Plans (Public Meeting). (Contact: Richard Barkley, 610-337-5065.)

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

Week of April 12, 2010—Tentative

Thursday, April 15, 2010

9:30 a.m. Briefing on Resolution of Generic Safety Issue (GSI)—191, Assessment of Debris Accumulation on Pressurized Water Reactor (PWR) Sump Performance (Public Meeting). (Contact: Michael Scott, 301-415-0565.)

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

Week of April 19, 2010—Tentative

There are no meetings scheduled for the week of April 19, 2010.

Week of April 26, 2010—Tentative

Thursday, April 29, 2010

9:30 a.m. Briefing on the Fuel Cycle Oversight Process Revisions (Public Meeting). (Contact: Michael Raddatz, 301-492-3108.)

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

Week of May 3, 2010—Tentative

Tuesday, May 4, 2010

9:30 a.m. Briefing on Human Capital and Equal Employment Opportunity (Public Meeting). (Contact: Kristin Davis, 301-415-2673.)

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

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*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415-1292.

Contact person for more information: Rochelle Baval, (301) 415-1651.

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The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/about-nrc/policy-making/schedule.html>.

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Angela Bolduc, Chief, Employee/Labor Relations and Work Life Branch, at 301-492-2230, TDD: 301-415-2100, or by e-mail at angela.bolduc@nrc.gov.

Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

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Dated: March 25, 2010.

Rochelle C. Baval,
Office of the Secretary.

[FR Doc. 2010-7185 Filed 3-26-10; 4:15 pm]

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