



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 25, 2010

Vice President, Operations
Entergy Nuclear Operations, Inc.
Palisades Nuclear Plant
27780 Blue Star Memorial Highway
Covert, MI 49043-9530

SUBJECT: PALISADES NUCLEAR PLANT – SCHEDULE EXEMPTION FROM CERTAIN
REQUIREMENTS OF 10 CFR PART 73, SECTION 73.55 (TAC NO. ME3080)

Dear Sir:

The Commission has approved the enclosed exemption from specific requirements of Title 10 of the *Code of Federal Regulations* (10 CFR), Part 73 for Palisades. This action is in response to your application dated January 14, 2010, inadvertently dated January 14, 2009, as indicated in the supplemental letter dated February 16, 2010. In this application you requested an extension of the deadline from March 31, 2010, until August 31, 2010, for the implementation of certain measures in 10 CFR Part 73, as revised on March 27, 2009.

A copy of the exemption is enclosed. The exemption has been forwarded to the Office of the *Federal Register* for publication.

Sincerely,

A handwritten signature in black ink that reads "Chawla M".

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

Docket No. 50-255

Enclosure:
Exemption

cc w/encl: Distribution via Listserv

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ENERGY NUCLEAR OPERATIONS, LLC
PALISADES NUCLEAR PLANT
DOCKET NO. 50-255
EXEMPTION

1.0 BACKGROUND

Entergy Nuclear Operations, LLC (ENO) (the licensee) is the holder of Facility Operating License No. DPR-20, which authorizes operation of Palisades Nuclear Plant (PNP). 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 one pressurized-water reactor located in Van Buren County, Michigan.

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, 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 that ENO 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, (inadvertently dated January 14, 2009), as supplemented by letter dated February 16, 2010, the licensee requested an exemption in accordance with 10 CFR 73.5, "Specific exemptions." The licensee's January 14, 2010, and February 16, 2010, letters, have certain portions which contain security-related information and, accordingly, are not available to the public. The licensee has requested an exemption from the March 31, 2010, compliance 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 for three requirements that would be in place by August 31, 2010, versus the March 31, 2010, deadline. Being granted this exemption for the three requirements 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 requirements.

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 request, as noted above, would allow an extension from March 31, 2010, to August 31, 2010, for the implementation date for three specified areas of the new rule. 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 any such changes could be accomplished through a variety of licensing mechanisms, including exemptions. Since issuance of the final rule, the Commission has rejected a generic industry request to 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.

ENO Schedule Exemption Request

The licensee provided detailed information in Attachments 1, 2, and 3 of its supplemental submittal to its January 14, 2010, letter, requesting an exemption. It describes a comprehensive plan which provides a timeline for achieving full compliance with the new regulation. Attachments 1, 2, and 3 contain security-related information regarding the site security plan, details of the specific requirements of the regulation for which the site cannot be in compliance by the March 31, 2010, deadline and why, 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, 2010. The timeline provides dates indicating when (1) construction will begin on various phases of the project (i.e., new buildings and fences), and (2) critical equipment will be installed, tested and become operational.

Notwithstanding the schedule exemptions of these limited requirements, the licensee indicated that it will 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 August 31, 2010, the licensee also stated that PNP will be in full compliance with the regulatory requirements of 10 CFR 73.55, as issued on March 27, 2009.

4.0 CONCLUSION FOR PART 73 SCHEDULE EXEMPTION REQUEST

The NRC staff has reviewed the licensee's submittals and concludes that the ENO has provided adequate justification for its request for an extension of the compliance date to August 31, 2010, with regard to three specified requirements of 10 CFR 73.55.

Accordingly, the Commission has determined that pursuant to 10 CFR 73.5, "Specific exemptions," an 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 staff has determined that the long-term benefits that will be realized when the PNP modifications are completed justifies exceeding the full compliance date in the case of this particular licensee. The security measures PNP needs additional time to implement are new requirements imposed by March 27, 2009, amendments to 10 CFR 73.55, and are in addition to those currently required by the security orders issued in response to the events of September 11, 2001. Therefore, the NRC 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 from the March 31, 2010, deadline for the three requirements specified in Attachments 1, 2, and 3 of the ENO letter dated January 14, 2010, supplemented by letter dated February 16, 2010, the licensee is required to be in full compliance by August 31, 2010. 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 14473; dated March 25, 2010].

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 25th day of March 2010.

FOR THE NUCLEAR REGULATORY COMMISSION



Joseph G. Giitter, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

March 25, 2010

Vice President, Operations
Entergy Nuclear Operations, Inc.
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Sincerely,

/RA/

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

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