



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

March 19, 2010

Mr. Paul Freeman
Site Vice President
c/o Michael O'Keefe
Seabrook Station
NextEra Energy Seabrook, LLC
P.O. Box 300
Seabrook, NH 03874

SUBJECT: SEABROOK STATION, UNIT NO. 1 - EXEMPTION FROM THE
REQUIREMENTS OF 10 CFR PART 73, SECTION 73.55 (TAC NO. ME3428)

Dear Mr. Freeman:

The Commission has approved the enclosed exemption from specific requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, Section 73.55, for Seabrook Station Unit 1. This action is in response to your application dated February 25, 2010, as supplemented by letter dated March 5, 2010. Your letters requested an extension of the deadline from March 31, 2010, until June 4, 2010, for the implementation of one measure 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, reading "John D. Hughey".

John D. Hughey, Project Manager
Plant Licensing Branch I-2
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-443

Enclosure:
Exemption

cc w/encl: Distribution via Listserv

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
NEXTERA ENERGY SEABROOK, LLC, ET AL.*
DOCKET NO. 50-443
SEABROOK STATION, UNIT NO. 1
EXEMPTION

1.0 BACKGROUND

NextEra Energy Seabrook, LLC, (the licensee) is the holder of Facility Operating License No. NPF-86, which authorizes operation of the Seabrook Station Unit No. 1 (Seabrook). 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 Seabrook, New Hampshire.

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

* NextEra Energy Seabrook, LLC is authorized to act as agent for the: Hudson Light & Power Department, Massachusetts Municipal Wholesale Electric Company, and Taunton Municipal Light Plant and has exclusive responsibility and control over the physical construction, operation and maintenance of the facility.

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 one of these new requirements that Seabrook 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 February 25, 2010, as supplemented by letter dated March 5, 2010, the licensee requested an exemption in accordance with 10 CFR 73.5, "Specific exemptions." The licensee's February 25, 2010, and March 5, 2010, letters contain security-related information and, accordingly, portions are withheld from the public pursuant to 10 CFR 2.390(d)(1). The licensee has requested an exemption from the March 31, 2010, compliance date stating that it must complete installation and testing of modifications to the current site security configuration before all requirements can be met. Completion of these activities has been delayed by inclement weather. Specifically, the request is to extend the compliance date for one specific requirement from the current March 31, 2010, deadline to June 4, 2010. Being granted this exemption for the one item would allow the licensee to complete the modifications designed to incorporate state-of-the-art technology to meet 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, as noted above, would allow an extension from March 31, 2010, until June 4, 2010, for one specific requirement in the new rule. As stated above, 10 CFR 73.5 allows the NRC to grant exemptions from the requirements of 10 CFR 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 sent 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.

Seabrook Schedule Exemption Request

The licensee provided detailed information in Enclosure 1 to the letter dated March 5, 2010. It provides details addressing an upgrade and change of components and provides a date for achieving full compliance with the new regulation. Enclosure 1 also contains details of the specific portion of the regulation with which the site cannot be in compliance by the deadline of March 31, 2010, why the site cannot be in compliance by the deadline, and identifies a date of full compliance of June 4, 2010.

Notwithstanding the schedule exemption for this one requirement, the licensee 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 June 4, 2010, Seabrook indicated that it would 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 provided adequate justification for its request for an extension of the compliance date to June 4, 2010, with regard to one specified requirement 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 security upgrades are complete justifies extending the March 31, 2010, full compliance date for the one item specified in the licensee's exemption request. The security measure Seabrook

needs additional time to implement is a new requirement imposed by March 27, 2009, amendments to 10 CFR 73.55, and is 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.

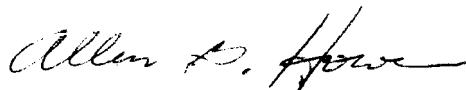
As per the licensee's request and the NRC's regulatory authority to grant an exemption from the March 31, 2010, deadline for the one item specified in Enclosure 1 of NextEra letter dated March 5, 2010, the licensee is required to be in full compliance by June 4, 2010. In achieving compliance, the licensee 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 13319; dated March 19, 2010].

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 19th day of March 2010.

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in black ink, appearing to read "Allen G. Howe". The signature is fluid and cursive, with a long horizontal stroke at the end.

Allen G. Howe, Acting Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

March 19, 2010

Mr. Paul Freeman
Site Vice President
c/o Michael O'Keefe
Seabrook Station
NextEra Energy Seabrook, LLC
P.O. Box 300
Seabrook, NH 03874

SUBJECT: SEABROOK STATION, UNIT NO. 1 - EXEMPTION FROM THE
REQUIREMENTS OF 10 CFR PART 73, SECTION 73.55 (TAC NO. ME3428)

Dear Mr. Freeman:

The Commission has approved the enclosed exemption from specific requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, Section 73.55, for Seabrook Station Unit 1. This action is in response to your application dated February 25, 2010, as supplemented by letter dated March 5, 2010. Your letters requested an extension of the deadline from March 31, 2010, until June 4, 2010, for the implementation of one measure 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,
/RA/

John D. Hughey, Project Manager
Plant Licensing Branch I-2
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-443

Enclosure:
Exemption

cc w/encl: Distribution via Listserv

DISTRIBUTION:

PUBLIC

RidsAcrsAcnw_MailCTR Resource
RidsNrrDorlLpl1-2 Resource
RidsNrrPMSeabrook Resource
RidsRgn1MailCenter Resource

LPLI-2 R/F

RidsNrrDirRerb Resource
RidsNrrLAABaxter Resource
RidsOgcRp Resource
RidsNsirDsp Resource

ADAMS Accession Numbers: Package/ML100700620; Letter/ML100700623; Exemption/ML100700649

** concurrence via email*

OFFICE	LPL1-2/PM	LPL1-2/LA	NSIR/RSRLB/BC	NSIR/DSP/DD	OGC
NAME	DEgan	ABaxter *	DHuyck	SMorris (with comments)	MSpencer
DATE	03/12/2010	03/19/2010 *	03/17/2010	03/17/2010	03/18/2010
OFFICE	LPL1-2/PM	LPL1-2/BC	NRR/DORL/D (acting)		
NAME	JHughey	HChernoff	AHowe		
DATE	03/19/2010	03/19/2010	03/19/2010		

OFFICIAL RECORD COPY