

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-336; NRC-2010-0128]

Dominion Nuclear Connecticut, Inc.

Millstone Power Station, Unit 2, Revocation of Exemption

1.0 BACKGROUND

Dominion Nuclear Connecticut, Inc., (DNC or the licensee) is the holder of Facility Operating License No. DPR-65, which authorizes operation of the Millstone Power Station, Unit 2 (MPS2). 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 a pressurized-water reactor located in New London County, Connecticut.

2.0 REQUEST/ACTION

By letter dated November 5, 2004,¹ as supplemented by letters dated January 6 and January 25, 2005,² the licensee submitted a request for an exemption from the requirements in section 50.68(b)(1) of Title 10 of the *Code of Federal Regulations* (10 CFR) for loading, unloading, and handling of the components of the Transnuclear (TN) NUHOMS®-32PT dry cask

¹ Agencywide Document Access and Management System (ADAMS) Accession No. ML043130360.

² ADAMS Accession Nos. ML050110079 and ML050260675, respectively.

storage system at MPS2. By Exemption dated February 15, 2005,³ the NRC granted DNC's request.

Section 50.68(b)(1) of 10 CFR set forth the following requirement, at the time the exemption was granted, 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 was unable to satisfy the above requirement for handling the 10 CFR Part 72 licensed contents of the TN NUHOMS®-32PT system. Section 50.12(a) allows licensees to apply for an exemption from the requirements of 10 CFR Part 50 if the regulation is not necessary to achieve the underlying purpose of the rule and other conditions are met. The licensee stated in the application that compliance with 10 CFR 50.68(b)(1) is not necessary for handling the 10 CFR Part 72 licensed contents of the cask system to achieve the underlying purpose of 10 CFR 50.68(b)(1). The Commission determined that, pursuant to 10 CFR 50.12(a), the exemption was authorized by law, would not present an undue risk to the public health and safety, and was consistent with the common defense and security. Also, special circumstances were present. Therefore, the Commission granted DNC an exemption from the requirements of 10 CFR 50.68(b)(1) for the loading, unloading, and handling of the components of the TN NUHOMS®-32PT storage system at MPS2.

On November 16, 2006 (71 FR 66648), the NRC published a direct final rule in the *Federal Register* amending its regulations "so that the requirements governing criticality control for the spent fuel pool storage racks do not apply to the fuel within the spent fuel transportation

³ ADAMS Accession No. ML050420058.

package or storage cask when the package or cask is in the spent fuel pool.” The regulation in 10 CFR 50.68 was amended by adding a new paragraph (c) which states the following:

- (c) While a spent fuel transportation package approved under Part 71 of this chapter or spent fuel storage cask approved under Part 72 of this chapter is in the spent fuel pool:
 - (1) The requirements in § 50.68(b) do not apply to the fuel located within that package or cask; and
 - (2) The requirements in Part 71 or 72 of this chapter, as applicable, and the requirements of the Certificate of Compliance for that package or cask apply to the fuel within that package or cask.

The statements of consideration state that for licensees with an approved exemption, these licensees can continue to use their approved exemption or they may choose to comply with the amended rule. The statements of consideration go on to say, “[o]perating under the exemption or the amended rule have effectively the same criticality accident requirements for fuel within a package or cask in a spent fuel pool, namely only those of 10 CFR Part 71 or 72, as applicable.”

By letter dated April 10, 2012,⁴ DNC stated that MPS2 will comply with the amended rule instead of the February 15, 2005, exemption.

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. On February 15, 2005, the NRC granted the above exemption for

⁴ ADAMS Accession No. ML12102A057.

the technical requirements of 10 CFR 50.68(b)(1) for loading, unloading, and handling of the components of the TN NUHOMS®-32PT storage system at MPS2.

Based on the NRC rule change that amended the requirements of 10 CFR 50.68, in November 2006, DNC is able to comply with all requirements of 10 CFR 50.68. The NRC staff examined the licensee's rationale, and concluded that the revocation is acceptable because the licensee has established compliance with 10 CFR 50.68 for loading, unloading, and handling of the components of the TN NUHOMS®-32PT storage system at MPS2.

This revocation of exemption would remove the licensee's exemption from the associated requirements of 10 CFR 50.68(b)(1) for loading, unloading, and handling of the components of the TN NUHOMS®-32PT dry cask storage system at MPS2, which was granted by the Commission on February 15, 2005. With the exemption removed, MPS2 will be subject to all of the applicable requirements of 10 CFR 50.68. The NRC staff has determined that revoking the exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations.

No Undue Risk to Public Health and Safety

The underlying purposes of 10 CFR 50.68 is to maintain spent fuel pools subcritical in an unborated, maximum moderation condition. DNC has decided to comply with all of the amended requirements of 10 CFR 50.68 which were issued in November 2006, without exemption. Based on compliance with the requirements of 10 CFR 50.68, no new accident precursors are created by the revocation of this exemption, thus, the probability of postulated accidents is not increased. Also, based on compliance with the requirements of 10 CFR 50.68, 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 revocation of exemption would restore the requirements of 10 CFR 50.68 for loading, unloading, and handling of the components of the TN NUHOMS®-32PT dry cask storage system at MPS2 . This change to the operation of the plant has no relation to security issues. Therefore, the common defense and security is not impacted by this exemption.

4.0 CONCLUSION

Accordingly, the Commission has determined that the exemption granted February 15, 2005, related to loading, unloading, and handling of the components of the TN NUHOMS®-32PT dry cask storage system at MPS2 is hereby revoked.

Pursuant to 10 CFR 51.32, the Commission has determined that the revocation of this exemption will not have a significant effect on the quality of the human environment (71 FR 66650).

This exemption revocation is effective upon issuance.

Dated at Rockville, Maryland, this 3rd day of October 2012.

FOR THE NUCLEAR REGULATORY COMMISSION

/ra/

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