Entergy

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Everett P. Perkins, Jr.
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February 7, 2017

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555-0001

SUBJECT: Request for Exemption from Specific Provisions in 10 CFR 73.55

Pilgrim Nuclear Power Station
Docket No. 50-293
Renewed License No. DPR-35

REFERENCES:

1. Letter, Entergy Nuclear Operations, Inc., to NRC, "Notification of Permanent Cessation of Power Operations," dated November 10, 2015 (Letter Number: 2.15.080) (ML15328A053)

2. Letter, Entergy Nuclear Operations, Inc., to NRC, "Request for Approval of a Certified Fuel Handler Training and Retraining Program," dated February 2, 2017 (Letter Number: 2.17.001)

LETTER NUMBER: 2.17.002

Dear Sir or Madam:

In accordance with 10 Code of Federal Regulations (CFR) 73.5, "Specific Exemptions," Entergy Nuclear Operations, Inc. (ENO) requests an exemption from 10 CFR 73.55(p)(1)(i) and 10 CFR 73.55(p)(1)(ii), related to the suspension of security measures in an emergency or during severe weather for Pilgrim Nuclear Power Station (PNPS). 10 CFR 73.55(p)(1)(i) and 10 CFR 73.55(p)(1)(ii) require that the suspension of security measures be approved by a licensed senior operator before taking this action. ENO is requesting an exemption from these rules to allow either a licensed senior operator or a Certified Fuel Handler (CFH) to approve the suspension of security measures following the submittal of the certifications of permanent cessation of operations and permanent removal of fuel from the reactor vessel in accordance with 10 CFR 50.82(a)(1)(i) and (ii). Approval of this exemption request will align 10 CFR 73.55(p)(1)(i) and 10 CFR 73.55(p)(1)(ii) with 10 CFR 50.54(y) which includes a provision regarding the CFH for facilities that have submitted the certifications required by 10 CFR 50.82(a)(1)(i) and (ii). The Attachment provides the justification for the requested exemption.

On November 10, 2015, in accordance with 10 CFR 50.82(a)(1)(i), ENO notified the U.S. Nuclear Regulatory Commission (NRC) that it intends to permanently cease power operations of the PNPS no later than June 1, 2019 (Reference 1). After the certifications of permanent cessation of power operations and permanent removal of fuel from the reactor vessel are submitted in accordance with 10 CFR 50.82(a)(1)(i) and (ii), the 10 CFR Part 50 license will no longer authorize reactor operation or emplacement or retention of fuel in the reactor vessel

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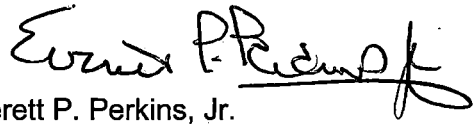
pursuant to 10 CFR 50.82(a)(2). To support the decommissioning of PNPS, ENO submitted a CFH Training and Retraining Program for NRC approval in Reference 2.

ENO requests approval of this exemption request by December 15, 2017, and an effective date that follows NRC approval of the PNPS CFH Training and Retraining Program (Reference 2) and submittal of the certifications required by 10 CFR 50.82(a)(1).

If you have any questions regarding the content of this submittal, please contact me at 508-830-8323.

There are no regulatory commitments contained in this letter.

Sincerely,



Everett P. Perkins, Jr.
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EPP/sd

Attachment: Request for Exemption from Specific Provisions in 10 CFR 73.55

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NRC Resident Inspector
Pilgrim Nuclear Power Station

Attachment

Letter Number 2.17.002

Pilgrim Nuclear Power Station
Request for Exemption from Specific Provisions in 10 CFR 73.55

REQUEST FOR EXEMPTION FROM SPECIFIC PROVISIONS IN 10 CFR 73.55
PILGRIM NUCLEAR POWER STATION
ENTERGY NUCLEAR OPERATIONS, INC
DOCKET NO. 50-293

I. PROPOSED EXEMPTION

In accordance with 10 Code of Federal Regulations (CFR) 73.5, "Specific Exemptions," Entergy Nuclear Operations, Inc. (ENO) is requesting an exemption from 10 CFR 73.55(p)(1)(i) and 10 CFR 73.55(p)(1)(ii) for Pilgrim Nuclear Power Station (PNPS), related to the suspension of security measures in an emergency or during severe weather. These rules require that the suspension of security measures be approved by a licensed senior operator before taking the action. Consistent with 10 CFR 50.54(y), the proposed exemption would allow either a licensed senior operator or a Certified Fuel Handler (CFH) to approve the suspension of security measures in an emergency or during severe weather at PNPS after the certifications required under 10 CFR 50.82(a)(1) have been docketed and NRC approval of the PNPS CFH Training and Retraining Program (Reference 2) has been received.

II. BACKGROUND

On November 10, 2015, in accordance with 10 CFR 50.82(a)(1)(i), ENO notified the NRC that it intends to permanently cease power operations of the PNPS no later than June 1, 2019 (Reference 1). After the certifications of permanent cessation of power operations and permanent removal of fuel from the reactor vessel are submitted in accordance with 10 CFR 50.82(a)(1)(i) and (ii), the 10 CFR Part 50 license will no longer authorize reactor operation or emplacement or retention of fuel in the reactor vessel pursuant to 10 CFR 50.82(a)(2).

III. BASIS FOR EXEMPTION

Approval of this exemption request will align 10 CFR 73.55(p)(1)(i) and 10 CFR 73.55(p)(1)(ii) with 10 CFR 50.54(y) and 10 CFR 50.2 for PNPS as a nuclear power reactor facility for which the certifications required under 10 CFR 50.82(a)(1) will have been docketed. 10 CFR 73.55(p)(1)(i) starts by stating, "In accordance with 10 CFR 50.54(x) and 10 CFR 50.54(y) of this chapter," and concludes by stating, "The suspension of security measures must be approved as a minimum by a licensed senior operator before taking this action." 10 CFR 73.55(p)(1)(ii) concludes by stating, "The suspension of security measures must be approved, as a minimum, by a licensed senior operator, with input from the security supervisor or manager, before taking this action."

10 CFR 50.54(x) states:

> "A licensee may take reasonable action that departs from a license condition or a technical specification (contained in a license issued under this part) in an emergency when this action is immediately needed to protect the public health and safety and no action consistent with license conditions and technical specifications that can provide adequate or equivalent protection is immediately apparent."

10 CFR 50.54(y) states:

> "Licensee action permitted by paragraph (x) of this section shall be approved, as a minimum, by a licensed senior operator, or, at a nuclear power reactor facility for which the certifications required under [10 CFR 50.82(a)(1)] have been submitted, by either a licensed senior operator or a certified fuel handler, prior to taking the action."

10 CFR 73.55(p) states:

> "(1)The licensee may suspend implementation of affected requirements of this section under the following conditions:
>
> (i) In accordance with §§ 50.54(x) and 50.54(y) of this chapter, the licensee may suspend any security measures under this section in an emergency when this action is immediately needed to protect the public health and safety and no action consistent with license conditions and technical specifications that can provide adequate or equivalent protection is immediately apparent. This suspension of security measures must be approved as a minimum by a licensed senior operator before taking this action.
>
> (ii) During severe weather when the suspension of affected security measures is immediately needed to protect the personal health and safety of security force personnel and no other immediately apparent action consistent with the license conditions and technical specifications can provide adequate or equivalent protection. This suspension of security measures must be approved, as a minimum, by a licensed senior operator, with input from the security supervisor or manager, before taking this action."

10 CFR 50.2 provides the following definition:

> "*Certified fuel handler* means, for a nuclear power reactor facility, a non-licensed operator who has qualified in accordance with a fuel handler training program approved by the Commission."

The permissibility and equivalency of decision making by a CFH is reflected in 10 CFR 50.54(y), which was promulgated as part of a rulemaking to clarify and codify practices that have been accepted for licensees of a facility undergoing decommissioning. In proposing this provision (Reference 3), the Commission explained:

> "A nuclear power reactor that has permanently ceased operations and no longer has fuel in the reactor vessel does not require a licensed individual to monitor core conditions. A certified fuel handler at a permanently shutdown and defueled nuclear power reactor undergoing decommissioning is an individual who has the requisite knowledge and experience to evaluate plant conditions and make these judgments."

Therefore, application of 10 CFR 73.55(p)(1)(i) and 10 CFR 73.55(p)(1)(ii) to require licensed senior operator approval for a facility that is permanently shutdown and defueled is not necessary to achieve their underlying purpose of the rules [10 CFR 50.12(a)(2)(ii)].

IV. Justification for Exemption

The specific conditions for granting an exemption from regulations in 10 CFR Part 73 are set forth in 10 CFR 73.5. In accordance with 10 CFR 73.5, the NRC is authorized to grant an exemption from the requirements of the regulations in 10 CFR Part 73 as it determines are: (i) authorized by law, (ii) will not endanger life or property or the common defense and security, and (iii) is otherwise in the public interest. The following addresses each of these conditions and demonstrates that the NRC may grant the exemption request pursuant to the regulations.

The Exemption Request is Authorized by Law

The NRC's authority to grant an exemption from its regulations in 10 CFR Part 73 is established by law as discussed in 10 CFR 73.5. Therefore, granting an exemption is explicitly authorized by the NRC's regulations.

The Exemption Request Will Not Endanger Life or Property or the Common Defense and Security

Approval of an exemption to allow as a minimum either a CFH or a licensed senior operator to suspend security measures in an emergency or during severe weather at PNPS (i.e., a facility for which the certifications required by 10 CFR 50.82(a)(1) will have been submitted) will not endanger life or property. The CFH will be sufficiently trained and qualified to approve the suspension of security measures. The exemption would not reduce the measures currently in place to protect against radiological sabotage.

In addition, the common defense and security would not be adversely affected as a result of this exemption because the exemption does not reduce the overall effectiveness of the Physical Security Plan, Training and Qualification Plan, or Safeguards Contingency Plan.

Therefore, allowing a CFH or a licensed senior operator as a minimum to approve the suspension of security measures in an emergency or during severe weather does not adversely affect public health and safety or the assurance of the common defense and security.

The Exemption is in the Public Interest

An exemption to allow either a CFH or a licensed senior operator to suspend security measures for an emergency or during severe weather at PNPS does not present a risk to the public health and safety. The exemption will allow a trained, qualified individual to approve the suspension of security measures in an emergency or during severe weather. The exemption will maintain the current level of safety, be consistent with 10 CFR 50.54(y) and avoid an unnecessary impact on the decommissioning trust fund from the costs associated with maintaining a redundant training program.

V. ENVIRONMENTAL ASSESSMENT

The proposed exemption meets the eligibility criterion for categorical exclusion set forth in 10 CFR 51.22(c)(25), because the proposed exemption involves: (i) no significant hazards consideration; (ii) no significant change in the types or significant increase in

the amounts of any effluents that may be released offsite; (iii) no significant increase in individual or cumulative public or occupational radiation exposure; (iv) no significant construction impact; (v) no significant increase in the potential for or consequences from radiological accidents; and (vi) the requirements from which the exemption is sought involve safeguards plans or other requirements of an administrative, managerial or organizational nature. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the proposed exemption.

(i) No Significant Hazards Consideration Determination

ENO has evaluated the proposed exemption to determine whether or not a significant hazards consideration is involved by focusing on the three standards set forth in 10 CFR 50.92 as discussed below:

1. Does the proposed exemption involve a significant increase in the probability or consequences of an accident previously evaluated?

   The proposed exemption would allow either a licensed senior operator or a CFH to suspend security measures in an emergency or during severe weather at Pilgrim Nuclear Power Station (PNPS) (i.e., a facility for which the certifications required by 10 CFR 50.82(a)(1) will have been submitted). The proposed exemption has no effect on facility structures, systems, and components (SSCs) and no effect on the capability of any facility SSC to perform its design function, and therefore would not increase the likelihood of a malfunction of any facility SSC. The proposed exemption does not alter any assumptions or methodology associated with the previously evaluated accidents in the PNPS Final Safety Analysis Report, and therefore would not increase the consequences of an accident previously evaluated. The proposed exemption will not affect the probability of occurrence of any previously analyzed accident. Therefore, the proposed exemption does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed exemption create the possibility of a new or different kind of accident from any accident previously evaluated?

   The proposed exemption does not involve a physical alteration of the facility. No new or different type of equipment will be installed and there are no physical modifications to existing equipment associated with the proposed exemption.

   Similarly, the proposed exemption would not physically change any SSCs involved in the mitigation of any accidents. Thus, no new initiators or precursors of a new or different kind of accident are created. Furthermore, the proposed exemption does not create the possibility of a new accident as a result of new failure modes associated with any equipment or personnel failures. No changes are being made to parameters within which the facility is normally operated, or in the setpoints which initiate protective or mitigative actions, and no new failure modes are being introduced.

   Therefore, the proposed exemption does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed exemption involve a significant reduction in a margin of safety?

   The proposed exemption does not alter the design basis or any safety limits for the facility. The proposed exemption does not impact station operation or any facility SSC that is relied upon for accident mitigation.
   Therefore, the proposed exemption does not involve a significant reduction in a margin of safety.

Based on the above, ENO concludes that a finding of "no significant hazards consideration" is justified for the proposed exemption.

(ii) There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite.

There are no changes in the types, characteristics, or quantities of effluents discharged to the environment associated with the proposed exemption. There are no materials or chemicals introduced into the facility that could affect the characteristics or types of effluents released offsite. In addition, the method of operation of waste processing systems will not be affected by the exemption. The proposed exemption will not result in changes to the design basis requirements of SSCs that function to limit or monitor the release of effluents. All the SSCs associated with limiting the release of effluents will continue to be able to perform their functions. Therefore, the proposed exemption will result in no significant change to the types or significant increase in the amounts of any effluents that may be released offsite.

(iii) There is no significant increase in individual or cumulative public or occupational radiation exposure.

The exemption would result in no increases in individual or cumulative occupational radiation exposure on either the workforce or the public. There are no changes in normal occupational doses. Likewise, design basis accident dose is not impacted by the proposed exemption.

(iv) There is no significant construction impact.

No construction activities are associated with the proposed exemption.

(v) There is no significant increase in the potential for consequences from radiological accidents.

See the no significant hazards considerations discussion provided in Item (i) above.

(vi) The requirements from which exemptions are sought involve safeguard plans or other requirements of an administrative, managerial or organizational nature.

The purpose of the exemption is to change the requirements in 10 CFR 73.55(p)(1)(i) and 10 CFR 73.55(p)(1)(ii) to permit either a licensed senior

operator or a CFH to approve the suspension of security measures in an emergency or during severe weather, so it does involve a safeguards plan.

VI. REFERENCES

1. Letter, Entergy Nuclear Operations, Inc., to NRC, "Notification of Permanent Cessation of Power Operations," dated November 10, 2015 (Letter Number: 2.15.080) (ML15328A053)

2. Letter, Entergy Nuclear Operations, Inc., to NRC, "Request for Approval of a Certified Fuel Handler Training and Retraining Program," dated February 2, 2017 (Letter Number: 2.17.001)

3. Federal Register Notice, Vol. 60, No. 139 (60 FR 37374), Decommissioning of Nuclear Power Reactors, dated July 20, 1995