

**NUCLEAR REGULATORY COMMISSION**

**[Docket No. 50-255; NRC-2017-0207]**

**Entergy Nuclear Operations, Inc.; Palisades Nuclear Plant**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Exemption; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to a June 29, 2017, request from Entergy Nuclear Operations, Inc. (Entergy or the licensee) from certain regulatory requirements. The exemption would allow, as a minimum, a certified fuel handler (CFH), in addition to a licensed senior operator, to approve the suspension of security measures for Palisades Nuclear Plant (Palisades) during certain emergency conditions or during severe weather after the certifications of permanent cessation of operations and permanent removal of fuel from the reactor vessel are docketed.

**DATES:** The exemption was issued on October 11, 2017.

**ADDRESSES:** Please refer to Docket ID NRC-2017-0207 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2017-0207. Address questions about NRC dockets to Carol Gallagher;

telephone: 301-415-3463; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that a document is referenced.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Scott P. Wall, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-2855; e-mail: [Scott.Wall@nrc.gov](mailto:Scott.Wall@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background.**

Entergy is the holder of Renewed Facility Operating License No. DPR-20 for Palisades. The license provides, among other things, that the facility is subject to all applicable rules, regulations, and orders of the NRC now or hereafter in effect. The Palisades facility consists of a pressurized-water reactor located in Van Buren County, Michigan.

By letter dated January 4, 2017 (ADAMS Accession No. ML17004A062), the licensee submitted a Notification of Permanent Cessation of Power Operations for Palisades. In this letter, Entergy provided notification to the NRC of its intent to permanently cease power operations at Palisades no later than October 1, 2018.

In accordance with §§ 50.82(a)(1)(i) and (ii), and 50.82(a)(2) of title 10 of the *Code of Federal Regulations* (10 CFR), the 10 CFR part 50 license for the facility will no longer authorize reactor operation or emplacement or retention of fuel in the reactor vessel after certifications of permanent cessation of operations and permanent removal of fuel from the reactor vessel are docketed for Palisades.

By letter dated August 21, 2017 (ADAMS Accession No. ML17151A350), the NRC approved the CFH Training and Retraining Program for Palisades.

## **II. Request/Action.**

By letter dated June 29, 2017 (ADAMS Accession No. ML17180A004), the licensee requested an exemption from § 73.55(p)(1)(i) and (ii), pursuant to § 73.5, "Specific exemptions." Section 73.55(p)(1)(i) and (ii) requires, in part, that the suspension of security measures during certain emergency conditions or during severe weather be approved as a minimum by a licensed senior operator before taking this action. Entergy requested an exemption from these rules to allow as a minimum either a licensed senior operator or a CFH to approve the suspension of security measures at Palisades after the certifications required by § 50.82(a)(1)(i) and (ii) have been submitted. There is no need for an exemption from these rules for a licensed senior operator to approve the suspension of security measures because the current regulation allows this. However, the exemption is needed to also allow, as a minimum, a CFH to provide this approval after the certifications required by § 50.82(a)(1)(i) and (ii) have been submitted.

### III. Discussion.

The NRC's security rules have long recognized the potential need to suspend security or safeguards measures under certain conditions. Accordingly, § 50.54(x) and (y), first published in 1983, allow a licensee to take reasonable actions in an emergency that depart from license conditions or technical specifications when those actions are immediately "needed to protect the public health and safety," and no actions consistent with license conditions and technical specifications that can provide adequate or equivalent protection are immediately apparent (48 FR 13970; April 1, 1983). This departure from license conditions or technical specifications must be approved, as a minimum, by a licensed senior operator. In 1986, in its final rule, "Miscellaneous Amendments Concerning the Physical Protection of Nuclear Power Plants" (51 FR 27817; August 4, 1986), the Commission issued § 73.55(a), which provided, in part, that, in accordance with § 50.54(x) and (y), the licensee may suspend any safeguards measures pursuant to § 73.55 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. The regulation further requires that this suspension be approved as a minimum by a licensed senior operator prior to taking the action.

In 1996, the NRC made a number of regulatory changes to address decommissioning. One of the changes was to amend § 50.54(x) and (y) to authorize a non-licensed operator called a "Certified Fuel Handler," in addition to a licensed senior operator, to approve such protective actions in an emergency situation. In addressing the role of the CFH during emergencies in § 50.54(y), the Commission stated in the proposed rule, "Decommissioning of Nuclear Power Reactors" (60 FR 37374; July 20, 1995):

The Commission is proposing to amend 10 CFR 50.54(y) to permit a certified fuel handler at nuclear power reactors that have permanently ceased operations and permanently removed fuel from the reactor

vessel, subject to the requirements of § 50.82(a) and consistent with the proposed definition of "Certified Fuel Handler" specified in § 50.2, to make these evaluations and judgments. 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.

In the final rule (61 FR 39298; July 29, 1996), the NRC added the following definition to § 50.2: "*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." However, the decommissioning rule did not propose or make parallel changes to § 73.55(a), and did not discuss the role of a non-licensed CFH.

In the final rule, "Power Reactor Security Requirements" (74 FR 13926; March 27, 2009), the NRC relocated the security suspension requirements from § 73.55(a) to § 73.55(p)(1)(i) and (ii). The role of a CFH was not discussed in this rulemaking; therefore, the suspension of security measures in accordance with § 73.55(p) continued to require approval as a minimum by a licensed senior operator, even for a facility that had permanently ceased operations and permanently defueled.

However, pursuant to § 73.5, the Commission may, upon application of any interested person or upon its own initiative, grant exemptions from the requirements of part 73, as it determines are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

**A. The Exemption is Authorized by Law.**

The requested exemption from § 73.55(p)(1)(i) and (ii) would allow, as a minimum, a CFH, in addition to a licensed senior operator, to approve the suspension of security measures for Palisades during certain emergency conditions or during severe weather after the certifications required by § 50.82(a)(1)(i) and (ii) have been submitted. The licensee's intent

with the requested exemption is to align the requirements of § 73.55(p)(1)(i) and (ii) with the requirements of § 50.54(y).

Per § 73.5, the Commission may grant exemptions from the regulations in part 73, as are authorized by law. The NRC staff has determined that granting the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or other laws. Therefore, the exemption is authorized by law.

**B. Will Not Endanger Life or Property or the Common Defense and Security.**

Relaxing the requirement to allow a CFH, in addition to a licensed senior operator, to approve the suspension of security measures for Palisades during certain emergency conditions or during severe weather after the certifications required by § 50.82(a)(1)(i) and (ii) have been submitted will not endanger life or property or the common defense and security for the reasons described in this section.

First, § 73.55(p)(2) will continue to require that “[s]uspended security measures must be reinstated as soon as conditions permit.”

Second, the suspension for non-weather emergency conditions under § 73.55(p)(1)(i) will continue to be invoked only “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.” Thus, the exemption would not prevent the licensee from meeting the underlying purpose of § 73.55(p)(1)(i) to protect the public health and safety.

Third, the suspension for severe weather under § 73.55(p)(1)(ii) will continue to be used only 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.” The requirement to receive input from the security supervisor or

manager will remain. Thus, the exemption would not prevent the licensee from meeting the underlying purpose of § 73.55(p)(1)(ii) to protect the health and safety of the security force.

Additionally, by letter dated August 21, 2017, the NRC approved Entergy's CFH Training and Retraining Program for Palisades. The NRC staff found that, among other things, the program addresses the safe conduct of decommissioning activities, the safe handling and storage of spent fuel, and the appropriate response to plant emergencies. Because a CFH at Palisades will be sufficiently trained and qualified under an NRC-approved program, the NRC staff considers the CFH to have sufficient knowledge of operational and safety concerns, such that allowing the CFH to suspend security measures during emergencies or severe weather will not result in undue risk to the public health and safety.

Finally, the exemption does not reduce the overall effectiveness of the Palisades physical security plan and has no adverse impacts to Entergy's ability to physically secure the site or protect special nuclear material at Palisades, and thus would not have an effect on the common defense and security. The NRC staff has determined that the exemption would not reduce security measures currently in place to protect against radiological sabotage. Instead, the exemption would align the requirements of § 73.55(p)(1)(i) and (ii) with the existing requirements of § 50.54(y).

For these reasons, the NRC staff concludes that relaxing the requirement to allow a CFH, in addition to a licensed senior operator, to approve the suspension of security measures for Palisades in an emergency or during severe weather after the certifications required by § 50.82(a)(1)(i) and (ii) have been submitted will not endanger life or property or the common defense and security.

**C. The Exemption Is Otherwise in the Public Interest.**

Entergy's proposed exemption would relax the current requirements by allowing a CFH, in addition to a licensed senior operator, to approve the suspension of security measures for

Palisades in an emergency when “immediately needed to protect the public health and safety” or during severe weather when “immediately needed to protect the personal health and safety of security force personnel” after the certifications required by § 50.82(a)(1)(i) and (ii) have been submitted. Without the exemption, the licensee cannot implement changes to its security plan to authorize a CFH to approve the temporary suspension of security measures during an emergency or severe weather, comparable to the authority given to the CFH by the NRC when it promulgated § 50.54(y). Instead, the regulations would continue to require that, as a minimum, a licensed senior operator be available to make these decisions even though, after the docketing of the certifications required by § 50.82(a)(1)(i) and (ii) and as a permanently shutdown and defueled plant, Palisades would no longer otherwise require licensed senior operators.

This exemption is in the public interest for two reasons. First, the exemption would allow the licensee to make decisions pursuant to § 73.55(p)(1)(i) and (ii) without having to maintain a staff of licensed senior operators at a nuclear power reactor that has permanently ceased operations and permanently removed fuel from the reactor vessel. The exemption would also allow the licensee to have an established procedure in place to allow a trained CFH to suspend security measures in the event of an emergency or severe weather after the certifications required by § 50.82(a)(1)(i) and (ii) have been submitted. Second, the consistent and efficient regulation of nuclear power plants serves the public interest. This exemption would assure consistency between the regulations in § 73.55(p) and § 50.54(y), and the requirements concerning licensed operators in 10 CFR part 55. The NRC staff has determined that granting the licensee’s proposed exemption would allow the licensee to designate a CFH, with qualifications appropriate for a permanently shutdown and defueled reactor, to approve the suspension of security measures during an emergency to protect the public health and safety, and during severe weather to protect the personal health and safety of the security force, consistent with the similar authority provided by § 50.54(y) after the certifications required by §



50.82(a)(1)(i) and (ii) have been submitted. For these reasons, the exemption is in the public interest.

**D. Environmental Considerations.**

The NRC's approval of the requested exemption belongs to a category of actions that the Commission, by rule or regulation, has declared to be a categorical exclusion, after first finding that the category of actions does not individually or cumulatively have a significant effect on the human environment. Specifically, the NRC's approval of the requested exemption is categorically excluded from further environmental analysis under § 51.22(c)(25).

Under § 51.22(c)(25), the granting of an exemption from the requirements of any regulation of Chapter I to 10 CFR is a categorical exclusion provided that: (i) there is no significant hazards consideration; (ii) there is no significant change in 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; (iv) there is no significant construction impact; (v) there is no significant increase in the potential for or consequences from radiological accidents; and (vi) the requirements from which an exemption is sought involve: safeguard plans, and materials control and accounting inventory scheduling requirements; or involve other requirements of an administrative, managerial, or organizational nature.

The NRC staff has determined that the approval of the requested exemption involves no significant hazards consideration because allowing a CFH, in addition to a licensed senior operator, to approve the security suspension at a permanently shutdown and defueled power plant does not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The requested exemption is unrelated to any operational restriction. Accordingly, there

is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite and no significant increase in individual or cumulative public or occupational radiation exposure. The requested exemption is not associated with construction, so there is no significant construction impact. The requested exemption does not concern the source term (i.e., potential amount of radiation in an accident), nor mitigation. Thus, there is no significant increase in the potential for, or consequences from, radiological accidents. Finally, the requirement to have a licensed senior operator approve suspensions of security measures from which the exemption is sought involves either safeguards, materials control, or managerial/organizational matters.

Therefore, pursuant to § 51.22(b) and (c)(25), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption request.

#### **IV. Conclusions.**

Accordingly, the Commission has determined that, pursuant to § 73.5, the exemption 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 licensee's request for an exemption from the requirements of § 73.55(p)(1)(i) and (ii), to authorize, after the

certifications required by § 50.82(a)(1)(i) and (ii) have been submitted, that the suspension of security measures for Palisades during certain emergency conditions or during severe weather must be approved as a minimum by either a licensed senior operator or a CFH before taking this action.

The exemption is effective upon receipt.

Dated at Rockville, Maryland, this 11<sup>th</sup> day of October 2017.

For the Nuclear Regulatory Commission.

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