



Public Service

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Company of Colorado

1680E WCR 19 1/2, Platteville, Colorado 80651

May 13, 1992
Fort St. Vrain
Unit No. 1
P-92190

U. S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, D.C. 20555

Attention: Dr. Seymour H. Weiss, Director
Non-Power Reactor, Decommissioning
and Environmental Project Directorate

Docket No. 50-267

SUBJECT: EXEMPTION REQUEST FROM 10 CFR 50 APPENDIX
E.IV.F.2 REQUIREMENTS DURING DECOMMISSIONING

REFERENCES: (1) PSC Letter, Warenbourg to Weiss, dated
March 6, 1992 (P-92088)
(2) NRC Letter, Crutchfield to Crawford,
dated December 31, 1990 (G-90314)
(3) NRC Letter, Erickson to Crawford,
dated May 21, 1991 (G-91106)

Dear Dr. Weiss:

Fort St. Vrain (FSV) reactor defueling to the onsite Independent Spent Fuel Storage Installation (ISFSI) is near completion, and plant decommissioning is scheduled to begin in a few months. When all nuclear fuel has been removed from the FSV Emergency Planning Zone (EPZ), the Decommissioning Emergency Response Plan (ERP) transmitted to the NRC in Reference (1) will be implemented.

During Decommissioning, the FSV plant will be defueled and will essentially be a byproduct materials storage and handling facility. The spent nuclear fuel is expected to remain within the ISFSI until it can be unloaded and shipped to Idaho. Emergency Plan requirements specified in 10 CFR 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material", and 10 CFR 70, "Domestic Licensing of Special Nuclear Material", require Emergency Preparedness exercises to be conducted only biennially. PSC is also aware of an NRC proposed rule regarding Emergency Response plans for ISFSIs which only requires biennial exercises of the Emergency Preparedness Program.

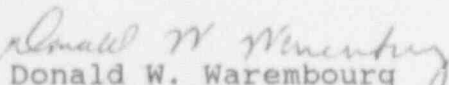
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PSC feels that a parallel can be drawn between FSV plant conditions during Decommissioning and the basis for 10 CFR 30.32 emergency plan requirements; also, a parallel can be drawn between the ISFSI conditions and 10 CFR 70 requirements. This is the impetus for the attached exemption request from the annual Emergency Preparedness exercise requirements and the proposed biennial exercise requirement during Decommissioning of FSV.

Should you have any questions regarding this exemption request, please contact Mr. M. H. Holmes at (303) 620-1701.

Sincerely,


Donald W. Warembourg
Manager, Nuclear Operations

DWW/GMK/lmg

Attachment

cc: Regional Administrator, Region IV (2 copies)

Mr. J. B. Baird
Senior Resident Inspector
Fort St. Vrain

Mr. Robert M. Quillin, Director
Radiation Control Division
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Mr. Frederick C. Sturz
Section Leader, Irradiated Fuel Section
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Nuclear Regulatory Commission

Attachment to P-92190

EXEMPTION REQUEST
FROM 10 CFR 50 APPENDIX E.IV.F.2 REQUIREMENTS
DURING DECOMMISSIONING

EXEMPTION REQUEST
FROM 10CFR50 APPENDIX E.IV.F.2 REQUIREMENTS
DURING DECOMMISSIONING

(Requirement to perform an annual Emergency Preparedness Exercise)

I. REQUEST FOR EXEMPTION

Pursuant to 10CFR50.12(a), Public Service Company of Colorado (PSC) hereby applies to the Nuclear Regulatory Commission (NRC) for an exemption from the requirements of 10CFR50 Appendix E.IV.F.2 for the Fort St. Vrain Nuclear Generating Station (FSV) during Decommissioning.

10CFR50 Appendix E.IV.F.2 states, "Each licensee at each site shall annually exercise its emergency plan."

The NRC granted an exemption from 10CFR50.54(q) requirements to have offsite emergency response planning with the approval of the Defueling Emergency Response Plan (DERP) in Reference (2). Thus, the only emergency response facilities that are manned during an emergency are onsite facilities. This exemption was based on the fact that the FSV Emergency Planning Zone (EPZ) was reduced to the FSV site (thus containing no residents), and that the highest emergency classification achievable is an Alert (based on postulated maximum accident conditions). These conditions remain true for the ERP, which provides Emergency Preparedness procedures for FSV and the ISFSI.

Reference (3) transmitted Amendment #82 to Facility Operating License No. DPR-34 which converted the license to 'Possession Only' status. The license now reads, "The licensee is prohibited from taking the Fort St. Vrain reactor to criticality, and the facility shall not be operated at any power level." In view of the defueled status of the reactor during Decommissioning, no potential for nuclear criticality will remain within the FSV EPZ, and the plant will essentially become a byproduct materials storage and handling facility. Further, there is no potential for inadvertent nuclear criticality within the ISFSI, as described in the ISFSI Safety Analysis Report (SAR).

FSV remains licensed under the requirements of 10CFR50. 10CFR50.54(q) requires emergency plans to be maintained in effect meeting the standards of 10CFR50.47(b) and the requirements of 10CFR50 Appendix E. 10CFR50.47(b) requires, in part, periodic exercises to be conducted to evaluate major portions of emergency response capabilities, and periodic drills to be conducted to develop and maintain key skills. 10CFR50 Appendix E.IV.F.2 requires that a licensee exercise its emergency plan annually. However, Appendix E.I stipulates that the degree of compliance with this section will be determined on a case-by-case basis.

As discussed, there will be no potential for nuclear criticality in the FSV reactor or in the ISFSI. Further, the reduced radiological consequences during postulated accidents have already been recognized by PSC and the NRC per Reference (2), and offsite emergency planning is no longer required at FSV. PSC believes that the underlying purpose of some of the 10CFR50 Appendix E emergency plan requirements relate solely to an operating nuclear plant where criticality is common and operational risks are significant in contrast to a defueled plant. In consideration of the above and the periodic drill schedule specified in the ERP, PSC considers that an annual exercise during Decommissioning is not necessary to achieve the underlying purpose of assuring that adequate Emergency Preparedness provisions exist to protect site personnel and the public in case of an accident involving radioactive materials at FSV or spent fuel at the ISFSI. Therefore, PSC requests an exemption from the annual exercise requirement.

Periodic drills to develop and maintain skills relative to the ERP will continue to be conducted consistent with the Part 50.47 standards and the ERP as transmitted in Reference (1). On the other hand, PSC recognizes that reasonable precedence exists in 10CFR70 [Part 70.22(i)(3)], "Domestic Licensing of Special Nuclear Material," and in an NRC proposed rule regarding the content of emergency response plans for Independent Spent Fuel Storage Installations to require a biennial exercise of the Emergency Preparedness Program. In addition to 10CFR70, further precedence exists in 10CFR30.32 for byproduct materials licensees to biennially exercise the emergency plan. Therefore, upon approval of this exemption request a change will be made to the ERP to require an Emergency Preparedness exercise to be conducted biennially.

II. REGULATORY PROVISIONS

A. GENERAL EXEMPTION CRITERIA

The following provides justification that this exemption request is consistent with the general exemption criteria of 10CFR50.12(a)(1).

Authorized by law:

The requested exemption is fully authorized by law. 10CFR50 Appendix E.I. states in part, "the degree to which compliance with the requirements of this section and sections II, III, IV, and V as necessary will be determined on a case-by-case basis." The degree of compliance with Appendix E requirements is therefore subject to the NRC's discretion per regulations.

Will not present an undue risk to the public health and safety:

There is reasonable assurance that the public health and safety will not be endangered by operations at FSV or the ISFSI due to these changes. The highest emergency classification achievable during Decommissioning is an ALERT, based on postulated maximum accident conditions within the FSV and ISFSI EPZs. No offsite consequences are predicted. As a result of Reference (2) and the decreased radiological consequences of postulated accidents, no offsite emergency planning is required.

In view of the defueled status of the reactor during Decommissioning, no potential for nuclear criticality will remain within the FSV EPZ. Further, there is no potential for inadvertent nuclear criticality within the ISFSI, as described in the ISFSI SAR.

Periodic drills to develop and maintain skills relative to the ERP will continue to be conducted consistent with the Part 50.47 standards and the ERP as transmitted in Reference (1). However, PSC recognizes that reasonable precedence exists in 10CFR30.32, 10CFR70.22 and in an NRC proposed rule regarding the content of emergency response plans for Independent Spent Fuel Storage Installations, which will require a biennial exercise of the Emergency Preparedness Program. Therefore, a change will be made to the ERP to require an Emergency Preparedness exercise to be conducted biennially upon approval of this exemption request.

Based on the above, the Emergency Preparedness Program will be adequately exercised, personnel training will be properly maintained, and the health and safety of the public will continue to be reasonably assured with a change in requirements to a biennial exercise of the ERP.

Consistent with the common defense and security:

The requested exemption is consistent with the common defense and security, and no proposed action would adversely impact those considerations. This request proposes no changes that relate to plant, ISFSI, or spent nuclear fuel security or protection. This request impacts no facility related security plan or fire protection program plan.

B. SPECIAL CIRCUMSTANCES

The following provides justification that special circumstances exist for granting the requested exemption as set forth in 10CFR50.12(a)(2)(ii).

Application of the regulation is not necessary to achieve the underlying purpose of the rule:

PSC believes that the underlying purpose of some emergency plan requirements relate solely to an operating nuclear plant where nuclear criticality is common and operational risks are significant in contrast to a defueled plant.

No offsite consequences are predicted for any postulated FSV accident involving radioactive materials during Decommissioning. Moreover, the FSV reactor will contain no fuel during Decommissioning and the spent nuclear fuel will be stored in the ISFSI. Since the FSV reactor will be defueled, there will be no potential for nuclear criticality within the FSV EPZ, and the plant will essentially become a byproduct materials storage and handling facility. 10CFR30.32 only requires biennial onsite exercises for byproduct materials licensees.

No offsite consequences are predicted for any postulated ISFSI accident involving spent nuclear fuel. Further, the ISFSI SAR shows there is no potential for nuclear criticality of the fuel while it is being stored or handled in the ISFSI. 10CFR70.22 only requires biennial exercises for special nuclear material licensees, as does an NRC proposed rule regarding the content of emergency response plans for Independent Spent Fuel Storage Installations.

Periodic drills to develop and maintain skills relative to the ERP will continue to be conducted throughout the year consistent with the Part 50.47 standards, and the ERP as transmitted in Reference (1). PSC recognizes reasonable precedence to exist in 10CFR30.32, 10CFR70.22, and the new proposed NRC rule for ISFSI emergency plans for a biennial exercise requirement during Decommissioning, based on the plant and ISFSI conditions during this period. Shifting to a biennial exercise requirement is considered appropriate, in conjunction with the ERP drill schedule, and will achieve the underlying purpose of assuring adequate Emergency Preparedness provisions exist to protect site personnel and the public in case of an accident involving radioactive materials on the FSV site or involving spent nuclear fuel in the ISFSI. Therefore, an annual Emergency Preparedness exercise is not required to meet the underlying purpose of the rule.

III. CONCLUSION

Based on the information presented, this request is in accordance with the general exemption criteria of 10CFR50.12(a)(1). Further, special circumstances exist due to the status of the plant and ISFSI, and associated accident analyses, which justify approval of the exemption request as required by 10CFR50.12(a)(2)(ii).