

**NUCLEAR REGULATORY COMMISSION**

**Docket No. 50-382**

**Entergy Operations, Inc.**

**Waterford Steam Electric Station, Unit 3 Exemption**

**I. Background.**

Entergy Operations, Inc. (Entergy or the licensee) is the holder of Renewed Facility Operating License No. NPF-38, which authorizes operation of Waterford Steam Electric Station, Unit 3 (Waterford 3). 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 single pressurized-water reactor located in Saint Charles Parish, Louisiana.

**II. Request/Action.**

Sections IV.F.2.b and IV.F.2.c of Appendix E, "Emergency Planning and Preparedness for Production and Utilization Facilities," to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50 require the licensee at each site to conduct an exercise of its onsite emergency plan and of its offsite emergency plan biennially, with full or partial participation by each offsite authority having a role under the offsite plan. By letter dated October 12, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21285A290), as supplemented by e-mail dated December 13, 2021 (ADAMS Accession No. ML21349A224), the licensee requested a one-time exemption from these requirements that would allow the licensee to delay conduct of the biennial emergency preparedness (EP) exercise from October 26, 2021, to March 15, 2022. The licensee's request states that Hurricane Ida made landfall as a Category 4 hurricane near Port Fourchon, Louisiana, on Sunday, August 29, 2021, at 1155 hours Central Standard Time. Hurricane Ida brought damaging winds of 150 miles per hour, heavy rain, and caused loss of power and localized flooding to several areas within the State of

Louisiana. Due to the significant widespread damage throughout the State, a Presidential Major Disaster Declaration occurred on August 30, 2021,<sup>1</sup> which included both St. John the Baptist Parish and St. Charles Parish as part of the 25 parishes able to receive additional Federal support.

The licensee states that a good faith effort to comply with the regulations has been made in that the biennial exercise was previously scheduled to be performed on October 26, 2021. However, Hurricane Ida making landfall in Southeast Louisiana caused widespread devastation and flooding throughout the Waterford 3 site and surrounding areas. The damage onsite required the station to direct all resources to perform hurricane recovery activities. With the amount of damage to the plant site, and the offsite response agencies notifying Entergy that they could not support the originally scheduled biennial EP exercise date due to the magnitude of destruction in their respective jurisdictions (Attachments 1, 2, and 3 in letter dated October 12, 2021), the decision was made to postpone the biennial EP exercise. In a letter to the Federal Emergency Management Agency (FEMA) dated September 8, 2021 (Attachment 4 in the letter dated October 12, 2021), the State of Louisiana, through the Louisiana Department of Environmental Quality (LDEQ), requested that FEMA postpone the exercise until the first quarter of CY 2022, citing the State's focus on ongoing recovery operations due to Hurricane Ida. The licensee states that it has made reasonable efforts to reschedule the biennial EP exercise during CY 2021 but described those efforts as being unsuccessful due to the magnitude of devastation experienced by St. Charles Parish and St. John the Baptist Parish because of Hurricane Ida.

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<sup>1</sup> 4611-DR-LA Initial Notice, <https://www.fema.gov/disaster-federal-register-notice/4611-dr-la-initial-notice>, dated August 29, 2021.

### **III. 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, Appendix E, 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.

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

This exemption would allow the licensee and offsite response organizations to accommodate Hurricane Ida's impacts upon their resources by postponing the exercise from the previously scheduled date of October 26, 2021, until March 15, 2022.

As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR Part 50, Appendix E. The NRC staff has determined that granting of the licensee's proposed exemption will 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.

#### **B. The Exemption Presents no Undue Risk to Public Health and Safety**

The underlying purpose of 10 CFR Part 50, Appendix E, Sections IV.F.2.b and IV.F.2.c is to ensure that the emergency organization personnel are familiar with their duties, to identify and correct any weaknesses that may exist in the licensee's EP Program, and to test and maintain interfaces among affected State and local authorities and the licensee. In order to accommodate the scheduling of full participation exercises, the NRC has allowed licensees to schedule the exercises at any time during the calendar biennium. As stated previously, the last Waterford 3 full participation biennial EP exercise was conducted on November 20, 2019. Conducting the Waterford 3 full participation exercise on March 15, 2022, rather than in CY 2021, places the exercise outside of the required biennium. The licensee provided information in its letter dated October 12, 2021, that since the last biennial EP exercise on November 20, 2019, the licensee has conducted 27 internal tabletop exercises in addition to

3 workshops, 1 evaluated drill, and 38 training sessions that have involved interface with State and/or local authorities. These drills and training sessions did not exercise all of the proposed rescheduled onsite and offsite functions, but they do support the licensee's assertion that it has a continuing level of engagement to ensure that the emergency organization personnel are familiar with their duties, to identify and correct any weaknesses that may exist in the licensee's EP Program, and to test and maintain interfaces among affected State and local authorities and the licensee. The NRC staff has determined that by conducting these tabletop exercises, workshops, drill, and training sessions, the licensee has met the purpose underlying the 10 CFR Part 50, Appendix E Sections IV.F.2.b and 2.c requirements.

Additionally, since the November 20, 2019, Waterford 3 exercise, the State of Louisiana Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) and LDEQ satisfactorily participated in a FEMA evaluated offsite participation only exercise for the River Bend Station on March 31, 2021 (ADAMS Accession No. ML21195A196). Also, on September 2, 2021, FEMA conducted a Disaster Initiated Review (ADAMS Accession No. ML21250A078) of the State of Louisiana and local offsite response organizations' continued capability to respond to an incident at Waterford 3 following landfall of Hurricane Ida. Based on the review of this information, FEMA concluded that offsite radiological EP is adequate to provide reasonable assurance that appropriate measures can be taken to protect the health and safety of the public in the event of a radiological emergency at Waterford 3.

No new accident precursors are created by allowing the licensee to postpone the selected offsite portions of the exercise from CY 2021 until CY 2022. Thus, the probability and consequences of postulated accidents are not increased.

Therefore, there is no undue risk to public health and safety.

**C. The Exemption is Consistent with Common Defense and Security**

The proposed exemption would allow rescheduling of the biennial EP exercise from the previously scheduled date of October 26, 2021, until March 15, 2022. This change to the biennial EP exercise schedule has no relation to security issues. Therefore, the common defense and security is not impacted by the proposed exemption.

**D. Special Circumstances**

In order to grant exemptions in accordance with 10 CFR 50.12, special circumstances must be present. Special circumstances per 10 CFR 50.12 that apply to this exemption request are 10 CFR 50.12(a)(2)(ii) and (v). Special circumstances, per 10 CFR 50.12(a)(2)(ii), are present when: "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule." Section IV.F.2.b of Appendix E to 10 CFR Part 50 requires that each licensee conduct a subsequent exercise of its onsite emergency plan every 2 years, which may be included in the full participation biennial exercise required by Section IV.F.2.c. Sections IV.F.2.c of Appendix E to 10 CFR Part 50 require licensees to exercise offsite plans biennially, with full or partial participation by each offsite authority having a role under the plan. The underlying purposes of 10 CFR Part 50, Appendix E, Sections IV.F.2.b and IV.F.2.c are to ensure that the emergency organization personnel are familiar with their duties, to identify and correct any weaknesses that may exist in the licensee's EP Program, and to test and maintain interfaces among affected State and local authorities, and the licensee. No NRC findings were identified for the previous biennial EP exercise conducted on November 20, 2019 (ADAMS Accession No. ML20031E865), nor did FEMA identify any findings as part of its offsite evaluation (ADAMS Accession No. ML20062B335). As previously discussed, the licensee has conducted 27 internal tabletop exercises in addition to 3 workshops, 1 evaluated drill, and 38 training sessions that have involved interface with State and/or local authorities since the previous biennial exercise. The NRC staff has determined that these measures are adequate to satisfy

the underlying purpose of the rule. Furthermore, although this one-time exemption in the exercise schedule would increase the interval between biennial exercises, the NRC has allowed licensees the flexibility to schedule their exercises at any time during the biennial calendar year as highlighted in Regulatory Issue Summary (RIS) 2006-003, "Guidance on Requesting an Exemption from Biennial Emergency Preparedness Exercise Requirements," dated February 24, 2006 (ADAMS Accession No. ML053390039). RIS 2006-003 provides a 13-35-month window to schedule exercises while still meeting the biennial requirement. The licensee's request of conducting the postponed exercise on the proposed March 15, 2022, date, falls within the 35-month window from the last exercise, which was conducted on November 20, 2019, thus meeting the intent of the regulation.

Under 10 CFR 50.12(a)(2)(v), special circumstances are present whenever the exemption would provide only temporary relief from the applicable regulation, and the licensee or applicant has made good faith efforts to comply with the regulation. The licensee has made a good faith effort to comply with the regulations in that the biennial exercise was scheduled to be performed on October 26, 2021. However, because of the effects of Hurricane Ida and the widespread flooding and devastation throughout the Waterford 3 facility and the surrounding areas, the Offsite Response Agencies (OROs) informed the licensee that they could not support the originally scheduled Exercise date due to the magnitude of destruction in their respective jurisdictions. Furthermore, the requested exemption to conduct the biennial EP exercise in 2022, instead of 2021, would grant only temporary relief from the applicable regulation. Additionally, the licensee has acknowledged returning to the previous biennial EP exercise schedule of every odd year and conducting the next follow-on biennial EP exercise in CY 2023.

Therefore, since the underlying purpose of 10 CFR Part 50, Appendix E, Sections IV.F.2.b and IV.F.2.c is achieved, the licensee has made a good faith effort to comply with the regulation, and the exemption would grant only temporary relief from the applicable

regulation, the special circumstances required by 10 CFR 50.12(a)(2)(ii) and (v) exist for the granting of an exemption.

#### **E. Environmental Considerations**

NRC approval of the requested exemption is categorically excluded under 10 CFR 51.22(c)(25), and there are no extraordinary circumstances present that would preclude reliance on this exclusion. The NRC staff has determined, per 10 CFR 51.22(c)(25)(vi)(G) and (E), that the requirements from which the exemption is sought involve scheduling requirements and also involve education, training, experience, qualification, requalification, or other employment suitability requirements.

The NRC staff also determined that approval of this exemption involves no significant hazards consideration because it does not authorize any physical changes to the facility or any of its safety systems, change any of the assumptions or limits used in the licensee's safety analyses, or introduce any new failure modes. There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite because this exemption does not affect any effluent release limits as provided in the licensee's technical specifications or by the regulations in 10 CFR Part 20, "Standards for Protection Against Radiation." There is no significant increase in individual or cumulative public or occupational radiation exposure because this exemption does not affect limits on the release of any radioactive material, or the limits provided in 10 CFR Part 20 for radiation exposure to workers or members of the public.

There is no significant construction impact because this exemption does not involve any changes to a construction permit. There is no significant increase in the potential for or consequences from radiological accidents because the exemption does not alter any of the assumptions or limits in the licensee's safety analysis. In addition, the NRC staff determined that there would be no significant impacts to biota, water resources, historic properties, cultural resources, or socioeconomic conditions in the region. Therefore, pursuant to 10 CFR 51.22(b),

no environmental impact statement or environmental assessment need be prepared in connection with the approval of the requested exemption.

#### **IV. Conclusion.**

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants Entergy Operations, Inc., an exemption from the requirements of 10 CFR Part 50, Appendix E, Sections IV.F.2.b and IV.F.2.c. to conduct the Waterford 3 biennial EP exercise required for CY 2021, permitting the exercise to be conducted in coordination with FEMA, NRC Region IV and Waterford 3 schedules by the licensee-provided date of March 15, 2022.

This exemption is effective upon issuance. This exemption expires on March 15, 2022, or when the biennial EP exercise is performed in CY 2022, whichever occurs first.

Dated at Rockville, Maryland, this 21st day of December 2021.

For the Nuclear Regulatory Commission.

Bo M. Pham, Director,  
Division of Operating Reactor Licensing,  
Office of Nuclear Reactor Regulation