

referencing the AP1000 design certification rule (DCR). This proposed DCR, as set out in Appendix D, is nearly identical to the AP600 DCR in Appendix C of the 10 CFR part 52. The information collection requirements for part 52 were based largely on the requirements for licensing nuclear facilities under 10 CFR part 50. The applicant for certification of the AP1000 design is Westinghouse Electric Company LLC.

A copy of the supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O-1 F21, Rockville, MD 20852. OMB clearance packages are available at the NRC worldwide Web site: <http://www.nrc.gov/public-involve/doc-comment/omb/index.html>. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer by February 21, 2006.

John A. Asalone, Office of Information and Regulatory Affairs (3150-0151), NEOB-10202, Office of Management and Budget, Washington DC 20503.

Comments can also be e-mailed to [John\\_A.\\_Asalone@omb.eop.gov](mailto:John_A._Asalone@omb.eop.gov) or submitted by telephone at (202) 395-4650.

The NRC Clearance Officer is Brenda Jo. Shelton, 301-415-7233.

Dated at Rockville, Maryland, this 12th day of December 2005.

For the Nuclear Regulatory Commission.

**Brenda Jo. Shelton,**

*NRC Clearance Officer, Office of Information Services.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-382]

### Entergy Operations, Inc.; Waterford Steam Electric Station, Unit 3; Exemption

#### 1.0 Background

Entergy Operations, Inc. (the licensee) is the holder of 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 one pressurized-water reactor located in St. Charles Parish, Louisiana.

#### 2.0 Request/Action

Sections IV.F.2.b and c of Appendix E, 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 plans biennially with full or partial participation by each offsite authority having a role under the offsite plan. During such biennial exercises, the NRC evaluates onsite and the Federal Emergency Management Agency (FEMA) evaluates offsite emergency preparedness activities, including interaction with the various State and local emergency management agencies. The licensee successfully conducted a full-participation emergency preparedness exercise on May 21, 2003, and it was evaluated by the NRC and FEMA.

The licensee had scheduled a plume exposure pathway exercise for December 7, 2005. However, due to Hurricanes Katrina and Rita, the State of Louisiana was unable to support the exercise. Under the current regulations, the licensee would have had until December 31, 2005, to complete its next biennial full or partial-participation emergency preparedness exercises consisting of both onsite and offsite exercises. By letter dated October 24, 2005, the licensee requested an exemption from Section IV.F.2.c of Appendix E to 10 CFR part 50. Though not referenced in the licensee's request, the NRC staff has determined that an exemption from Section IV.F.2.b of Appendix E to 10 CFR part 50 is also necessary, since the last full participation onsite exercise was completed on May 21, 2003. The licensee commits to conduct the next biennial full participation emergency preparedness exercise on June 28, 2006. Future onsite and offsite exercises will be scheduled biennially from the year 2005.

#### 3.0 Discussion

The Commission, pursuant to 10 CFR 50.12(a)(1), may grant exemptions from the requirements of 10 CFR Part 50 that are authorized by law, will not present an undue risk to public health and safety, and are consistent with the common defense and security. The Commission, however, pursuant to 10 CFR 50.12(a)(2), will not consider granting an exemption unless special circumstances are present. Under 10 CFR 50.12(a)(2)(ii), special circumstances 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. 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 underlying purposes for conducting a biennial exercise are to ensure that emergency organization personnel are familiar with their duties and to test the adequacy of emergency plans. In order to accommodate the scheduling of exercises, the NRC has allowed licensees to schedule the exercises at any time during the calendar biennium. Conducting the Waterford 3 exercise in calendar year 2006 places the exercise past the previously scheduled biennial calendar year of 2005.

Since the last exercise conducted at Waterford 3 on May 21, 2003, Waterford 3 has conducted two emergency response team tabletops (site drills without state or parish participation) on August 8 and December 9, 2003, and Waterford 3 site-wide drills (which includes state and parish participation) on March 11, June 17, September 30, and December 2, 2004, and February 17, and August 4, 2005. The licensee also states:

Emergency response team tabletops are conducted prior to each site-wide drill. The local parishes had limited participation (communication only) in each of the site-wide drills. The Louisiana Office of Homeland Security and Emergency Preparedness also participated to a limited extent (communications only) in these drills. The Louisiana Department of Environmental Quality participated in all the site-wide drills by manning the Waterford 3 Emergency Operations Facility and the Emergency News Center. The NRC and FEMA did not participate in any of the tabletops or site-wide drills. Although these drills were not evaluated by NRC and FEMA, the results were critiqued by the drill participants, our emergency response organization, and the parish and state officials who participated in the drills. The drills were also evaluated by our Quality Assurance Department. An emergency preparedness medical drill at Ochsner Medical Center (Ochsner) took place on July 23, 2003, and FEMA evaluated a medical drill at Ochsner on August 6, 2003. Issues identified during all emergency preparedness drills and in the critiques that follow all the drills have been resolved or are being resolved under our corrective action program.

The Waterford 3 emergency response, along with the parish and state emergency response, were further tested

as a result of Hurricane Katrina. Many of the elements of the Waterford 3 emergency response were implemented in the preparation, response, and restoration efforts for Hurricane Katrina. This includes activation of the Waterford 3, parish and state emergency response organizations, evacuation and re-entry of the population, environmental sampling, and assisting Waterford 3 in the plans for restart of the unit.

The NRC staff considers the intent of the regulatory requirement is met by having conducted these series of drills and the emergency response to Hurricane Katrina. The NRC staff considers that these measures are adequate to maintain an acceptable level of emergency preparedness during this period, satisfying the underlying purposes of the rule. Therefore, the special circumstances of 10 CFR 50.12(a)(2)(ii) are satisfied. In addition, the staff has concluded that the above drills and exercises provide adequate protection of the public health and safety and are consistent with the common defense and security.

Only temporary relief from the regulation is provided by the requested exemption, since Waterford 3 will resume their normal biennial exercise schedule in 2007. The licensee has made a good faith effort to comply with the regulation. The exemption is being sought by the licensee in response to a request by the State of Louisiana to postpone the exercise. Louisiana was unable to support the original schedule for the exercise due to a series of severe weather events. FEMA, in its letter dated October 14, 2005, to the State of Louisiana, stated, “\* \* \* we concur that the Waterford-3 Radiological Emergency Preparedness (REP) Exercise currently scheduled for December 7, 2005, \* \* \* should be postponed due to the effects of Hurricanes Katrina and Rita on the local infrastructure \* \* \*.”

The NRC staff, having considered the schedule and resource issues with those agencies that participate in and evaluate the offsite portion of the exercises, concludes that the licensee made a good faith effort to meet the requirements of the regulation. The NRC staff, therefore, concludes that the exemption request meets the special circumstances of 10 CFR 50.12(a)(2)(v) and should be granted.

#### 4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), 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. Additionally, special circumstances are present, which make conducting the exercise impracticable in 2005, and which allow the underlying purposes of the regulation to be served with a postponement. 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 c for Waterford 3.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (70 FR 73311).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 13th day of December, 2005.

For the Nuclear Regulatory Commission.

**Catherine Haney,**

*Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-280 and 50-281]

### Virginia Electric and Power Company, Surry Power Station, Unit Nos. 1 and 2; Exemption

#### 1.0 Background

The Virginia Electric and Power Company (the licensee) is the holder of Renewed Facility Operating License Nos. DPR-32 and DPR-37 that authorizes operation of the Surry Power Station, Unit Nos. 1 and 2 (Surry). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a two pressurized-water reactors located in Surry County, Virginia.

#### 2.0 Request/Action

Section IV.F.2.b of Appendix E, to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, requires the licensee at each site to conduct an exercise of its onsite emergency plan biennially. Section IV.F.2.c of Appendix E, to 10 CFR Part 50, states that the offsite plans for each site shall be exercised biennially with full participation by each offsite authority having a role under the plan. During such biennial full participation exercises, the NRC staff evaluates the onsite emergency preparedness

activities, and the Federal Emergency Management Agency (FEMA) evaluates the offsite emergency preparedness activities, including interaction with its various State and local emergency management agencies. The licensee successfully conducted a full participation exercise at Surry on July 15, 2003.

The licensee had scheduled a full participation Radiological Emergency Preparedness Exercise for December 6, 2005. Because the Virginia Department of Emergency Management (DEM) is currently constructing a new Emergency Operations Center (EOC) and this EOC is not scheduled to be fully operational until January 2, 2006, the Virginia DEM requested approval from FEMA to delay the emergency exercise until February 7, 2006, in order to allow the Virginia DEM to test its new EOC during the exercise at Surry. By letter dated May 20, 2005, FEMA approved Virginia DEM's request to delay this exercise until the first week of February 2006. Under the current regulations, the licensee would have until December 31, 2005, to complete its next full participation exercise. The licensee plans to conduct a Federally observed full participation emergency exercise on February 7, 2006. Future full participation exercises will be scheduled biennially from the year 2005.

By letter dated September 15, 2005, the licensee requested an exemption from the requirements of 10 CFR Part 50, Appendix E, Section IV.F.2.b and c regarding the biennial exercise and participation of the offsite response organizations during a biennial emergency exercise at Surry. Subsequently, the NRC staff has determined that the requirements of 10 CFR Part 50, Appendix E, Section IV.F.2.b and c are applicable to the circumstances of the licensee's request and that an exemption from those requirements is appropriate.

#### 3.0 Discussion

Pursuant to 10 CFR 50.12(a)(1), 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 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. However, pursuant to 10 CFR 50.12(a)(2), the Commission will not consider granting an exemption unless special circumstances are present. Under 10 CFR 50.12(a)(2)(ii), special circumstances are present when application of the regulation in the