

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

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 purpose for conducting a biennial exercise is to ensure that emergency response organization personnel are familiar with their duties and to test the adequacy of emergency plans. In order to accommodate the scheduling of full participation exercises, the NRC staff has allowed licensees to schedule the exercises at any time during the calendar biennium. Conducting the full participation exercise at Surry in calendar year 2006 places the exercise past the previously scheduled biennial calendar year of 2005.

Since the last full participation exercise conducted at Surry on July 15, 2003, the licensee conducted Full Scale Plume exercises on April 13, 2004, and December 6, 2005, and also performed an unannounced plume phase exercise on August 25, 2004. In addition, four training exercises were conducted. The NRC staff considers the intent of this requirement met by having conducted these series of exercises and drills. The NRC staff considers these measures to be adequate to maintain an acceptable level of emergency preparedness during this period, satisfying the underlying purpose of the rule. Therefore, the special circumstances of 10 CFR 50.12(a)(2)(ii) are satisfied.

Only temporary relief from the regulation is provided by the requested exemption since Surry will resume its 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 Virginia DEM to postpone the exercise. The Virginia DEM requested this delay to allow for the completion of the new EOC, which is not scheduled for completion until January 2, 2006. In its letter dated May 20, 2005, FEMA stated that it supports the schedule change from December 6, 2005, to the first week of February 2006.

The NRC staff, having considered the schedule and resource issues with those agencies that participate in and evaluate the offsite portion of the full participation exercises, concludes that the licensee made a good faith effort to meet the requirements of the regulation. Therefore, the NRC staff 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. Also, special circumstances are present. Therefore, the Commission hereby grants the licensee an exemption from the requirements of 10 CFR Part 50, Appendix E, Section IV.F.2.b and c for Surry, Units 1 and 2.

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 72666).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 9th day of December 2005.

For the Nuclear Regulatory Commission.

**Edwin M. Hackett,**

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

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-443]

### FPL Energy Seabrook, LLC, Seabrook Station Unit No. 1; Environmental Assessment and Finding of No Significant Impact

The Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment pursuant to Title 10 of the Code of Federal Regulations (10 CFR) part 50, for Facility Operating License No. NPF-86 issued to FPL Energy Seabrook, LLC (the licensee), for operation of Seabrook Station, Unit No. 1 (Seabrook), located in Rockingham County, New Hampshire. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

#### Environmental Assessment

##### Identification of the Proposed Action

The proposed action would extend the expiration date of the operating license for Seabrook from October 17, 2026, to March 15, 2030.

The proposed action is in accordance with the licensee's application for

amendment dated March 28, 2005, as supplemented September 23, 2005.

##### The Need for the Proposed Action

The current operating licensed term for Seabrook ends on October 17, 2026. This is 40 years from the date of the zero-power operating license, which was issued on October 17, 1986. The amendment would extend the expiration date of the operating license from October 17, 2026, to March 15, 2030. The extended date for termination of the operating license would be 40 years after issuance of the full-power operating license which was issued on March 15, 1990. This would allow the licensee to recapture approximately 41 months of additional plant operation for the unit. This proposed amendment is not a request for license renewal pursuant to 10 CFR Part 54.

##### Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that there are no significant environmental considerations involved with the proposed action. The extension of the operating licenses does not affect the design or operation of the plant, does not involve any modifications to the plant or any increase in the licensed power for the plant, and will not create any new or unreviewed environmental impacts that were not considered in the Final Environmental Statement (FES) related to the operation of Seabrook, NUREG-0895, dated December 1982. The evaluations presented in the FES were of the environmental impacts of generating power at Seabrook and the basis for granting a 40-year operating license for Seabrook. The environmental impacts of the proposed action are based on the evaluations in the FES. It should be noted that the Seabrook license was amended on February 28, 2005, to allow an increase in maximum core power by 5.2% (from 3411 megawatts thermal (MWt) to 3587 MWt). The environmental assessment of the power uprate was published in the **Federal Register** on February 14, 2005 (70 FR 7525).

The FES which, in general, assesses various impacts associated with operation of the facility in terms of annual impacts, and balances these against the anticipated annual energy production benefits.

The offsite exposure from releases during postulated accidents has been previously evaluated in the Updated Final Safety Analysis Report (UFSAR) for Seabrook. The results are acceptable when compared with the criteria defined in 10 CFR Part 100, as