NUCLEAR REGULATORY COMMISSION

[Docket No. 50–440]

FirstEnergy Nuclear Operating Company (Perry Nuclear Power Plant, Unit 1); Exemption

I

The FirstEnergy Nuclear Operating Company (FENOC, the licensee) is the holder of Facility Operating License No. NPF–58, which authorizes operation of the Perry Nuclear Power Plant, Unit 1. The operating license states, among other things, that the licensee is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The Perry Nuclear Power Plant is a boiling-water reactor facility located at the licensee's site in Lake County, Ohio.

II

By letter dated December 3, 1998, FENOC submitted an exemption request to the control room dose acceptance criteria of 10 CFR part 50, Appendix A, General Design Criterion (GDC) 19. The exemption request would permit use of a total effective dose equivalent (TEDE) acceptance criterion of 5-rem in place of the ''5 rem whole body, or its equivalent to any part of the body'' dose acceptance criterion that is currently specified in GDC 19.

The NRC has established control room dose acceptance criteria in 10 CFR part 50, Appendix A, GDC 19, for all light-water power reactors. GDC 19 requires, in part, that ''Adequate radiation protection shall be provided to permit access and occupancy of the control room under accident conditions without personnel receiving radiation exposures in excess of 5 rem whole body, or its equivalent to any part of the body, for the duration of the accident.'' As described in SECY–96–242, ''Use of the NUREG–1465 Source Term at Operating Reactors,'' the staff informed the Commission of its approach to allow the use of the revised accident source term described in NUREG–1465, ''Accident Source Terms for Light-Water Nuclear Power Plants,'' at operating plants. In the SECY paper, the staff described its plans to review plant applications implementing this source term and indicated that the TEDE methodology would be incorporated in these reviews. The Commission approved these plans and directed the staff to commence rulemaking and requested the use of the TEDE methodology in the implementation of the revised accident source term. The TEDE guidelines, which are needed to support revised accident source term applications, are not currently provided in regulations governing operating reactors.

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 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. Special circumstances are present whenever, according to 10 CFR 50.12(a)(2)(ii), ''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.'' The NRC staff examined the licensee's rationale to support the exemption request and concluded that the use of the TEDE acceptance criteria for the control room would meet the underlying intent of the regulations. The licensee's request for the exemption under the special circumstances of 10 CFR 50.12(a)(2)(ii) was found to be appropriate. Application of the control room dose acceptance criteria of GDC 19 is not necessary to achieve the underlying purpose of the rule because, as stated in the staff safety evaluation, dated March 26, 1999, the staff considers the TEDE methodology as an acceptable means of meeting the current regulatory requirement. Therefore, the staff has concluded that an exemption to the requirements of 10 CFR part 50, Appendix A, GDC 19, should be granted to allow FENOC to adopt the TEDE methodology for the purpose of implementing the revised accident source term of NUREG–1465.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), an exemption is authorized by law, will not endanger life or property or common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants an exemption from the requirements of 10 CFR part 50, Appendix A, GDC 19 to allow FENOC to adopt the TEDE methodology for the purpose of implementing the revised accident source term of NUREG–1465.

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 (64 FR 4906).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 26th day of March 1999.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 70–3073; License No. SNM–1999]

Kerr-McGee Corporation—Environmental Assessment, Finding of No Significant Impact, and Notice of Opportunity for Hearing—Release of Portion of Cushing Refinery Site for Unrestricted Use

The U.S. Nuclear Regulatory Commission (NRC) is considering the Kerr-McGee Corporation's (Kerr-McGee or the licensee) request to have property released, for unrestricted use, from the Cushing Refinery Site (Cushing) License SNM–1999. This action is taken in response to Kerr-McGee's license amendment requests, dated August 30, 1996, and October 24, 1996, to release the four unaffected areas and the haul road corridor area for unrestricted use and to remove the areas from the license. These earlier requests were revised by the licensee's letter dated November 6, 1998. In that letter, the licensee requested that only Unaffected Area 1, the portion of Unaffected Area 2 south of Skull Creek, Unaffected Area 3, Unaffected area 4, and the portion of the haul road corridor area south of Skull Creek and partially surrounded by Unaffected Areas 2, 3, and 4 (hereafter referred to as requested released areas (RRA)) be released for unrestricted use. The boundaries of the licensed areas excluding the RRA are shown in Figure 1, ''Cushing Site Map Showing Licensed Site Area,'' of the November 6, 1998, letter.

Introduction

On April 6, 1993, NRC issued Materials License SNM–1999 authorizing possession of contaminated soil, sludge, sediment, trash, building rubble, and any other contaminated material, at the licensee's Cushing site. The site contains four large areas, designated as the four unaffected areas, that were used for oil refining and storage during the years that nuclear processing and disposal took place. The haul road corridor area is located on portions of the site that were used for petroleum refining during the years that nuclear material processing was