

implementation deadline. The environmental impacts of the proposed exemption and the “no action” alternative are similar.

#### *Alternative Use of Resources*

The action does not involve the use of any different resources than those considered in the Final Environmental Statement for the Fermi 2, NUREG-0769, dated August 1981, Addendum No. 1, dated March 1982.

#### *Agencies and Persons Consulted*

In accordance with its stated policy, on January 12, 2010, the NRC staff consulted with the Michigan State official, Mr. Ken Yale, regarding the environmental impact of the proposed action. The State official had no comments.

#### **Finding of No Significant Impact**

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee’s letter dated November 19, 2009, as supplemented by letter dated December 23, 2009. Portions of November 19, 2009, and December 23, 2009, submittals contain security related information and, accordingly, are not available to the public. Other parts of these documents may be examined, and/or copied for a fee, at the NRC’s Public Document Room (PDR), located at One White Flint North, Public File Area O-1F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site: <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209 or 301-415-4737, or send an e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

Dated at Rockville, Maryland, this 8th day of March, 2010.

For the Nuclear Regulatory Commission.

#### **Mahesh Chawla,**

*Project Manager, Plant Licensing Branch LPL III-1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

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## **NUCLEAR REGULATORY COMMISSION**

[Docket Nos. 50-498 and 50-499; NRC-2010-0060]

### **STP Nuclear Operating Company, South Texas Project, Units 1 and 2; Exemption**

#### **1.0 Background**

STP Nuclear Operating Company (STPNOC, the licensee) is the holder of Facility Operating Licenses numbered NPF-76 and NPF-80, which authorize operation of the South Texas Project (STP), Units 1 and 2, respectively. The licenses provide, among other things, that the facility is subject to the rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of two pressurized-water reactors located in Matagorda County, Texas.

#### **2.0 Request/Action**

Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, “Physical protection of plants and materials,” Section 73.55, “Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage,” published March 27, 2009, effective May 26, 2009, with a full implementation date of March 31, 2010, requires licensees to protect, with high assurance, against radiological sabotage by designing and implementing comprehensive site security programs. The amendments to 10 CFR 73.55 published on March 27, 2009, establish and update generically applicable security requirements similar to those previously imposed by Commission Orders issued after the terrorist attacks of September 11, 2001, and implemented by the licensees. In addition, the amendments to 10 CFR 73.55 include new requirements to further enhance site security based upon insights gained from implementation of the post September 11, 2001, security orders. STPNOC seeks an exemption from the March 31, 2010, implementation date. All other physical security requirements established by this recent rulemaking have already been or will be implemented by the licensee by March 31, 2010.

By letter dated November 18, 2009, the licensee requested an exemption in accordance with 10 CFR 73.5, “Specific exemptions.” The licensee’s letter contains security-related information and, accordingly, those portions are not available to public. The licensee has requested an exemption from March 31,

2010, compliance date, stating that it must complete certain modifications to address the new 10 CFR Part 73 requirements. Specifically, the request is to extend the compliance date for one specific requirement from the current March 31, 2010, deadline to June 30, 2010. Granting this exemption for the one item would allow the licensee to complete design, procurement, and installation of plant upgrades to meet the regulatory requirements.

#### **3.0 Discussion of Part 73 Schedule Exemptions from the March 31, 2010, Full Implementation Date**

Pursuant to 10 CFR 73.55(a)(1), “By March 31, 2010, each nuclear power reactor licensee, licensed under 10 CFR Part 50, shall implement the requirements of this section through its Commission-approved Physical Security Plan, Training and Qualification Plan, Safeguards Contingency Plan, and Cyber Security Plan referred to collectively hereafter as ‘security plans.’” Pursuant to 10 CFR 73.5, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 73 when the exemptions are authorized by law, and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

NRC approval of this exemption, as noted above, would allow an extension from March 31, 2010, to June 30, 2010, of the implementation date for one specific requirement of the new rule. The NRC staff has determined that granting the licensee’s proposed exemption request would not result in a violation of the Atomic Energy Act of 1954, as amended, or Commission’s regulations. Therefore, the exemption is authorized by law.

In the draft final power reactor security rule provided to the Commission, the NRC staff proposed that the requirements of the new regulation be met within 180 days. The Commission directed a change from 180 days to approximately 1 year to allow licensees to fully implement the new requirements. This change was incorporated into the final rule. From this, it is clear that the Commission wanted to provide a reasonable timeframe for licensees to achieve full compliance.

As noted in the final rule, the Commission also anticipated that licensees would have to conduct site-specific analyses to determine what changes were necessary to implement the rule’s requirements, and that changes could be accomplished through a variety of licensing mechanisms,

including exemptions. Since issuance of the final rule, the Commission has rejected a generic industry request to extend the rule's compliance date for all operating nuclear power plants, but noted that the Commission's regulations provide mechanisms for individual licensees, with good cause, to apply for relief from the compliance date (Reference: June 4, 2009, letter from R. W. Borchardt, NRC, to M. S. Fertel, Nuclear Energy Institute). The licensee's request for an exemption is therefore consistent with the approach set forth by the Commission and discussed in the June 4, 2009, letter.

*South Texas Project, Units 1 and 2, Schedule Exemption Request*

The licensee provided detailed information in Enclosure 1 of its submittal dated November 18, 2009, requesting the exemption.

Enclosure 2 provides the licensee's basis for exemption, and states that the duration of the modification project is expected to extend from 12 to 18 months. The licensee describes a plan to install equipment related to certain requirements in the new Part 73 rule and provides a timeline for achieving full compliance with the new regulation. The submittal contains security-related information regarding the site security plan, details of the specific portions of the regulation for which the site cannot be in compliance by March 31, 2010, deadline, and the required changes and a timeline, with critical path activities, that would enable the licensee to achieve full compliance by June 30, 2010. The timeline provides dates indicating (1) when various phases of the project begin and end (*i.e.*, design, field construction), (2) outages scheduled for each unit, and (3) when critical equipment will be ordered, installed, tested, and will become operational. A redacted version of the licensee's exemption request is publicly available in the Agencywide Documents Access and Management System (ADAMS) Accession No. ML093280174.

Notwithstanding the scheduled exemptions for these limited requirements, the licensee will continue to be in compliance with all other applicable physical security requirements as described in 10 CFR 73.55 and reflected in its current NRC-approved physical security program. By June 30, 2010, STP Units 1 and 2 will be in full compliance with all the regulatory requirements of 10 CFR 73.55, as issued on March 27, 2009.

#### 4.0 Conclusion for Part 73 Schedule Exemption Review

The NRC staff has reviewed the licensee's submittals and concludes that the licensee has provided adequate justification for its request for an extension of the compliance date to June 30, 2010, with regard to the specified requirement of 10 CFR 73.55.

Accordingly, the Commission has determined that pursuant to 10 CFR 73.5, "Specific exemptions," an exemption from the March 31, 2010, compliance date is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants the requested exemption.

The NRC staff has determined that the long-term benefits, that will be realized when the STP Units 1 and 2 equipment installation is complete, justifies extending the compliance date with regard to the specified requirement of 10 CFR 73.55. The significant security enhancements that STP Units 1 and 2 need to complete are new requirements imposed by March 27, 2009, amendments to 10 CFR 73.55, and are in addition to those required by security orders issued in response to the events of September 11, 2001. Therefore, the NRC staff concludes that the licensee's proposed actions are in the best interest of the protection of public health and safety, through the security changes that would result from granting the exemption.

As per licensee's request and the NRC staff's regulatory authority to grant an extension from the March 31, 2010, implementation deadline for requirements specified in the licensee's letter dated November 18, 2009, the licensee is required to be in full compliance by June 30, 2010. In achieving compliance, the licensee is reminded that it is responsible for determining the appropriate licensing mechanism (*i.e.* 10 CFR Part 50.54(P) or 10 CFR Part 50.90) for incorporation of all necessary changes to its security plans.

Pursuant to 10 CFR 51.32, "Finding of no significant impact," the Commission has previously determined that the granting of this exemption will not have a significant effect on the quality of the human environment (75 FR 8150; February 23, 2010).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 17th day of March 2010.

For The Nuclear Regulatory Commission.

**Robert A. Nelson,**

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

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#### POSTAL SERVICE

##### Board of Governors; Sunshine Act Meeting

**DATES AND TIMES:** Tuesday, March 23, 2010, at 10 a.m.; Wednesday, March 24, at 8:30 a.m. and 11 a.m.

**PLACE:** Washington, DC at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., in the Benjamin Franklin Room.

**STATUS:** March 23 at 10 a.m.—Closed; Wednesday, March 24 at 8:30 a.m.—Open; and 11 a.m.—Closed.

##### Matters To Be Considered

*Tuesday, March 23 at 10 a.m. (Closed)*

1. Strategic Issues.
2. Pricing.
3. Financial Matters.
4. Personnel Matters and Compensation Issues.
5. Governors' Executive Session—Discussion of prior agenda items and Board Governance.

*Wednesday, March 24 at 8:30 a.m. (Open)*

1. Approval of Minutes of Previous Meetings.
2. Remarks of the Chairman of the Board.
3. Remarks of the Postmaster General and CEO.
4. Amendments to Board Bylaws.
5. Appointment of Committee Members and Committee Reports.
6. Financial Update.
7. Inspector General Report on USPS Share of CSRS Pension Responsibility.
8. Quarterly Report on Service Performance.
9. Five-Day Delivery Plan.
10. Tentative Agenda for the May 4–6, 2010, meeting in Washington, DC.

*Wednesday, March 24 at 11 a.m. (Closed—if Needed)*

1. Continuation of Tuesday's closed session agenda.

##### CONTACT PERSON FOR MORE INFORMATION:

Julie S. Moore, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza,