

For the Nuclear Regulatory Commission.
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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-440; NRC-2010-0124]

FirstEnergy Nuclear Operating Company; Environmental Assessment and Finding of No Significant Impact

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental Assessment and Finding of No Significant Impact; Correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on March 26, 2010 (75 FR 14638), which incorrectly stated a wrong county for Perry Nuclear Plant. This action is necessary to correct the county for Perry.

FOR FURTHER INFORMATION CONTACT: Michael Mahoney, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone (301) 415-3867, e-mail michael.mahoney@nrc.gov.

SUPPLEMENTARY INFORMATION: On page 14638, in the 1st column under Nuclear Regulatory Commission, 20th line, it is corrected to read from "Ottawa County, Ohio" to "Lake County, Ohio."

Dated in Rockville, Maryland, this 26th day of March 2010.

For the Nuclear Regulatory Commission.
Michael Mahoney,

*Project Manager, Plant Licensing Branch III-2,
 Division of Operating Reactor Licensing,
 Office of Nuclear Reactor Regulation.*

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-245, 50-336, and 50-423; NRC-2010-0128]

Dominion Nuclear Connecticut, Inc.; Millstone Power Station, Unit Nos 1, 2, and 3; Exemption

1.0 Background

Dominion Nuclear Connecticut, Inc. (DNC or the licensee) is the holder of Facility Operating License Nos. DPR-21, DPR-65, and NPF-49, which authorize operation of the Millstone Power Station, Unit Nos. 1, 2, and 3

(Millstone). The licenses provide, 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 boiling water reactor and two pressurized water reactors located in New London County, Connecticut. The boiling water reactor is permanently shut down.

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 (74 FR 13926), requires licensees to protect, with high assurance, against radiological sabotage by designing and implementing comprehensive site security plans. The final rule became effective on May 26, 2009, and compliance with the final rule is required by March 31, 2010.

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 licensees. In addition, the amendments to 10 CFR 73.55 include additional requirements to further enhance site security based upon insights gained from implementation of the post-September 11, 2001, security orders. It is from two of these new requirements that DNC now 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. Specifically, by letter dated January 12, 2010 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML100131116), as supplemented by letter dated January 12, 2010 (ADAMS Accession No. ML100131115), DNC requested an exemption in accordance with 10 CFR 73.5, "Specific exemptions." Due to procurement needs and installation activities associated with the required security system upgrades, the licensee has requested exemption from the March 31, 2010, implementation date specified in the new rule for two specific requirements. The two items subject to the request for exemption are proposed to be implemented by August 31, 2010, and September 30, 2010, respectively. The January 12, 2010,

letter, contains four attachments that were designated by the licensee as containing safeguards information and, accordingly, the attachments are not available to the public. The supplemental January 12, 2010, letter contains, as an attachment, an environmental assessment.

Being granted this exemption for the two items would allow the licensee sufficient time to complete the upgrades to the Millstone security system as required by the recent revisions to 10 CFR 73.55.

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 request would, as noted above, allow an extension from March 31, 2010, until August 31, 2010, for certain uninterruptible power requirements and September 30, 2010, for certain alarm station requirements. As stated above, 10 CFR 73.5 allows the NRC to grant exemptions from the requirements of 10 CFR part 73. The NRC staff has determined that granting of the licensee's proposed exemption would not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, NRC approval of the licensee's exemption request is authorized by law.

In the draft final rule sent to the Commission on July 9, 2008 (ADAMS Accession No. ML081780209), 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 for 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 reach 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 request to generically 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, ADAMS Accession No. ML091410309). 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.

Millstone Schedule Exemption Request

The licensee provided detailed information regarding the proposed exemption in the attachments to its letter dated January 12, 2010. The attachments describe a comprehensive plan to upgrade the Millstone security system to meet the new requirements in 10 CFR Part 73. Due to the procurement needs and installation activities associated with the required security system upgrades, the licensee has requested an exemption from the March 31, 2010, implementation date specified in the new rule for two specific requirements. DNC proposes to implement certain alarm station requirements by September 30, 2010, and certain uninterruptible power supply requirements by August 31, 2010.

The attachments to the licensee's letter dated January 12, 2010, details the specific portions of the regulations for which the site cannot be in compliance by the March 31, 2010, implementation date, along with justifications for each of the proposals. The attachments also provide a milestone schedule with the activities necessary to bring the licensee into full compliance by September 30, 2010.

Notwithstanding the schedule exemptions for these limited requirements, the licensee would 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 September 30, 2010, Millstone would 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 Request

The staff has reviewed the licensee's submittals and concludes that the licensee has justified its request for an extension of the compliance date to August 31, 2010, and September 30, 2010, with regard to the two specified requirements of 10 CFR 73.55.

Accordingly, the Commission has determined that pursuant to 10 CFR 73.5, "Specific exemptions," 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 has determined that the long-term benefits that will be realized when the security upgrades are completed justifies extending the March 31, 2010, full compliance date for the two items in the licensee's exemption request. The security measures that DNC needs additional time to implement at Millstone are new requirements imposed by March 27, 2009, amendments to 10 CFR 73.55, and are in addition to those required by the security orders issued in response to the events of September 11, 2001. Therefore, the NRC staff concludes that the licensee's actions are in the best interest of protecting the public health and safety through the security changes that will result from granting this exemption.

As per the licensee's request and the NRC's regulatory authority to grant an exemption to the March 31, 2010, deadline for the two items specified in the attachments to DNC's letter dated January 12, 2010, the licensee is required to be in full compliance with 10 CFR 73.55 by September 30, 2010. In achieving compliance, the licensee is reminded that it is responsible for determining the appropriate licensing mechanism (i.e., 10 CFR 50.54(p) or 10 CFR 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 14634; dated March 26, 2010).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 26th day of March 2010.

For the Nuclear Regulatory Commission.

Joseph G. Giitter,

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

[FR Doc. 2010-7386 Filed 3-31-10; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-302, NRC-2010-0105]

Florida Power Corporation, et al.; Crystal River Unit 3 Nuclear Generating Plant; Exemption

1.0 Background

Florida Power Corporation (FPC, the licensee) is the holder of Facility Operating License No. DPR-72 that authorizes operation of the Crystal River Unit 3 Nuclear Generating Plant (CR-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 Citrus County, Florida.

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 as a final rule in the **Federal Register** on March 27, 2009 (74 FR 13926-13993), 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 plans. 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 licensees. In addition, the amendments to 10 CFR 73.55 include additional requirements to further enhance site security based upon insights gained from implementation of the post-September 11, 2001, security orders. It is from four of these new requirements that CR-3 now 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