

## NUCLEAR REGULATORY COMMISSION

[Docket No. 52–037; NRC–2008–0556]

### Ameren Missouri; Combined License Application For Callaway Plant, Unit 2; Exemption

#### 1.0 Background

Union Electric Company, doing business as Ameren UE, submitted to the U.S. Nuclear Regulatory Commission (NRC) a Combined License (COL) Application for a single unit of AREVA NP's U.S. EPR in accordance with the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR), Subpart C of Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants." This reactor is to be identified as Callaway Plant (Callaway), Unit 2, and located at the current Callaway County, Missouri site of the Callaway Power Plant. The Callaway, Unit 2, COL application is based upon and linked to the U.S. EPR reference COL (RCOL) application for UniStar's Calvert Cliffs Nuclear Power Plant, Unit 3 (CCNPP3). The NRC docketed the Callaway, Unit 2, COL application on December 12, 2008. On February 25, 2009, Ameren submitted Revision 1 to the COL application, including updates to the Final Safety Analysis Report (FSAR). In its letter to the NRC dated April 28, 2009, Ameren informed the NRC that it was suspending its efforts to build a nuclear power plant in Missouri. Subsequently, by letter dated June 23, 2009, Ameren requested the NRC to suspend all review activities relating to the Callaway, Unit 2, COL application. The NRC informed Ameren by letter dated June 29, 2009, that it had suspended all review activities relating to the Callaway, Unit 2, COL application. By letter to the NRC dated October 26, 2010, Ameren requested a one-time exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit the scheduled 2010 and 2011 COL application FSAR updates, and proposed for approval of a new submittal deadline of December 31, 2012, for the next FSAR update. The NRC granted the exemption as described in *Federal Register* Notice (FRN) 76 FR 3927 (January 21, 2011). The NRC is currently performing a detailed review of the CCNPP3 RCOL application, as well as AREVA NP's application for design certification of the U.S. EPR.

#### 2.0 Request/Action

The regulations specified in 10 CFR 50.71(e)(3)(iii), require that an applicant for a combined license under 10 CFR Part 52 shall, during the period from

docketing of a COL application until the Commission makes a finding under 10 CFR 52.103(g) pertaining to facility operation, submit an annual update to the application's FSAR, which is a part of the application.

Pursuant to 10 CFR 50.71(e)(3)(iii), the next annual update of the Callaway, Unit 2, COL application FSAR would be due in December 2012. By letter to the NRC dated October 15, 2012, Ameren requested a one-time exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit the scheduled 2012 as well as the 2013 COL application FSAR updates, and proposed for approval of a new submittal deadline of December 31, 2014, for the next FSAR update.

Ameren's requested exemption is a one-time schedule change from the requirements of 10 CFR 50.71(e)(3)(iii). The exemption would allow Ameren to submit the next FSAR update at a later date, but still in advance of NRC's reinstating its review of the application and in any event, by December 31, 2014. The current FSAR update schedule could not be changed, absent the exemption. Ameren requested the exemption by letter dated October 15, 2012 (Agencywide Documents Access and Management System (ADAMS) Accession Number ML12311A370).

#### 3.0 Discussion

Pursuant to 10 CFR 50.12, the NRC may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, including § 50.71(e)(3)(iii) 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) special circumstances are present. As relevant to the requested exemption, special circumstances exist if: (1) "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" (10 CFR 50.12(a)(2)(ii)); or (2) "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" (10 CFR 50.12(a)(2)(v)).

The review of the Callaway, Unit 2, COL application FSAR has been suspended since June 29, 2009. Since the COL application FSAR is directly linked to the CCNPP3 RCOL application, many changes in the RCOL application require an associated change to the COL application FSAR and, because the NRC review of the COL application is suspended, the updates to

the FSAR will not be reviewed by the NRC staff until the Callaway, Unit 2, COL application review is resumed. Thus, the optimum time to prepare a revision to the COL application FSAR is sometime prior to Ameren requesting the NRC to resume its review. To prepare and submit a COL application FSAR update when the review remains suspended and in the absence of any decision by Ameren to request the NRC to resume the review would require Ameren to spend significant time and effort and would be of no value, particularly due to the fact that the RCOL application and the U.S. EPR FSAR are still undergoing periodic revisions and updates. Furthermore, the adjudicatory proceedings related to the Callaway, Unit 2, COL application were terminated by the Atomic Safety and Licensing Board (ASLB) after agreements were made between Ameren, the NRC, and the petitioners for intervention, as documented in "AMERENUE (Callaway Plant Unit 2) MEMORANDUM AND ORDER (Approving Settlement Agreement and Terminating Contested Adjudicatory Proceeding) LBP-09-23 (August 28, 2009)" (ADAMS Accession No. ML092400189). Ameren commits to submit the next FSAR update prior to any request to the NRC to resume review of the COL application and, in any event, by December 31, 2014. Ameren would need to identify all committed changes to the RCOL application since the last revisions to the RCOL application and the U.S. EPR FSAR in order to prepare a COL application FSAR revision that accurately and completely reflects the committed changes to the RCOL application as well as the U.S. EPR FSAR.

The requested one-time exemption to defer submittal of the next update to the Callaway, Unit 2, COL application FSAR would provide only temporary relief from the regulations of 10 CFR 50.71(e)(3)(iii). Ameren has made good faith efforts to comply with 10 CFR 50.71(e)(3)(iii) by submitting Revision 1 to the COL application dated February 25, 2009, prior to requesting the review suspension. Revision 1 incorporated information provided in prior supplements and standardized language with the RCOL application.

#### Authorized by Law

The exemption is a one-time schedule exemption from the requirements of 10 CFR 50.71(e)(3)(iii). The exemption would allow Ameren to submit the next Callaway Unit 2 COL application FSAR update on or before December 31, 2014, in lieu of the required scheduled

submittals in December 2012, and December 2013. As stated above, 10 CFR 50.12 allows the NRC to grant exemptions. The NRC staff has determined that granting Ameren the requested one-time exemption from the requirements of 10 CFR 50.71(e)(3)(iii) will provide only temporary relief from this regulation and will not result in a violation of the Atomic Energy Act of 1954, as amended, or the NRC's regulations. Therefore, the exemption is authorized by law.

#### *No Undue Risk to Public Health and Safety*

The underlying purpose of 10 CFR 50.71(e)(3)(iii) is to provide for a timely and comprehensive update of the FSAR associated with a COL application in order to support an effective and efficient review by the NRC staff and issuance of the NRC staff's safety evaluation report. The requested exemption is solely administrative in nature, in that it pertains to the schedule for submittal to the NRC of revisions to an application under 10 CFR Part 52, for which a license has not been granted. In addition, since the review of the application has been suspended, any update to the application submitted by Ameren will not be reviewed by the NRC at this time. Based on the nature of the requested exemption as described above, no new accident precursors are created by the exemption; thus, neither the probability, nor the consequences of postulated accidents are increased. Therefore, there is no undue risk to public health and safety.

#### *Consistent With Common Defense and Security*

The requested exemption would allow Ameren to submit the next FSAR update prior to requesting the NRC to resume the review and, in any event, on or before December 31, 2014. This schedule change has no relation to security issues. Therefore, the common defense and security is not impacted by this exemption.

#### *Special Circumstances*

Special circumstances, in accordance with 10 CFR 50.12(a)(2), are present whenever: (1) "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" (10 CFR 50.12(a)(2)(ii)); or (2) "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" (10 CFR 50.12(a)(2)(v)).

The underlying purpose of 10 CFR 50.71(e)(3)(iii) is to provide for a timely and comprehensive update of the FSAR associated with a COL application in order to support an effective and efficient review by the NRC staff and issuance of the NRC staff's safety evaluation report. As discussed above, the requested one-time exemption is solely administrative in nature, in that it pertains to a one-time schedule change for submittal of revisions to an application under 10 CFR Part 52, for which a license has not been granted. The requested one-time exemption will permit Ameren time to carefully review the most recent revisions of the RCOL application and the U.S. EPR FSAR, and fully incorporate these revisions into a comprehensive update of the FSAR associated with the Callaway, Unit 2, COL application. This one-time exemption will support the NRC staff's effective and efficient review of the COL application when resumed, as well as issuance of the safety evaluation report, and therefore does not affect the underlying purpose of 10 CFR 50.71(e)(3)(iii). Under the circumstances that Ameren has suspended its pursuit of the COL, the NRC has suspended its review of the application, and the adjudicatory proceedings have been terminated by ASLB, application of 10 CFR 50.71(e)(3)(iii) would result in Ameren spending significant time and effort in incorporating changes made to the RCOL application as well as the U.S. EPR FSAR into the Callaway, Unit 2, COL application, but not achieve the underlying purpose of that rule; granting a one-time exemption from 10 CFR 50.71(e)(3)(iii) would provide only temporary relief; and Ameren has made good faith efforts to comply with the regulation; therefore, the special circumstances required by 10 CFR 50.12(a)(2) for the granting of an exemption from 10 CFR 50.71(e)(3)(iii) exist.

#### *Eligibility for Categorical Exclusion From Environmental Review*

With respect to the exemption's impact on the quality of the human environment, the NRC has determined that this specific exemption request is eligible for categorical exclusion as identified in 10 CFR 51.22(c)(25), and justified by the NRC staff as follows:

(c) The following categories of actions are categorical exclusions:

(25) Granting of an exemption from the requirements of any regulation of this chapter, provided that—

(i) There is no significant hazards consideration;

The criteria for determining whether there is no significant hazards consideration are found in 10 CFR 50.92. The proposed action involves only a schedule change regarding the submission of an update to the application for which the licensing review has been suspended. Therefore, there is no significant hazards considerations because granting the proposed exemption would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

(ii) There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite;

The proposed action involves only a schedule change which is administrative in nature, and does not involve any changes to be made in the types or significant increase in the amounts of effluents that may be released offsite.

(iii) There is no significant increase in individual or cumulative public or occupational radiation exposure;

Since the proposed action involves only a schedule change which is administrative in nature, it does not contribute to any significant increase in occupational or public radiation exposure.

(iv) There is no significant construction impact;

The proposed action involves only a schedule change which is administrative in nature; the application review is suspended until further notice, and there is no consideration of any construction at this time, and hence the proposed action does not involve any construction impact.

(v) There is no significant increase in the potential for or consequences from radiological accidents; and

The proposed action involves only a schedule change which is administrative in nature, and does not impact the probability or consequences of accidents.

(vi) The requirements from which an exemption is sought involve:

(B) Reporting requirements;

The exemption request involves submitting an updated FSAR by Ameren and

(G) Scheduling requirements;

The proposed exemption relates to the schedule for submitting FSAR updates to the NRC.

#### 4.0 Conclusion

Accordingly, the NRC has determined that, pursuant to 10 CFR 50.12, 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 NRC hereby grants Ameren a one-time exemption from the requirements of 10 CFR 50.71(e)(3)(iii) pertaining to the Callaway, Unit 2, COL application to allow submittal of the next FSAR update prior to any request to the NRC to resume the review, and in any event, no later than December 31, 2014.

Pursuant to 10 CFR 51.22, the NRC has determined that the exemption request meets the applicable categorical exclusion criteria set forth in 10 CFR 51.22(c)(25), and the granting of this exemption will not have a significant effect on the quality of the human environment.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 17th day of December 2012.

For the Nuclear Regulatory Commission.

**John Segala,**

*Chief, Licensing Branch 1, Division of New Reactor Licensing, Office of New Reactors.*

[FR Doc. 2012-31199 Filed 12-27-12; 8:45 am]

BILLING CODE 7590-01-P

#### NUCLEAR REGULATORY COMMISSION

[Docket No. 50-293; NRC-2012-0311]

#### Entergy Nuclear Operations, Inc.; Pilgrim Nuclear Power Station

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Environmental assessment and finding of no significant impact.

**ADDRESSES:** Please refer to Docket ID NRC-2012-0311 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, using any of the following methods:

- *Federal rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2012-0311. Address questions about NRC dockets to Carol Gallagher; telephone: 301-492-3668; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

- *NRC's Agencywide Documents Access and Management System (ADAMS):*

You may access publicly available documents online in the NRC Library at

<http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference at 1-800-397-4209, or 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The application for exemption dated November 29, 2012, contains select security-related information and, accordingly, those portions are being withheld from public disclosure. A redacted version of the application for exemption, dated November 29, 2012, is available electronically under ADAMS Accession No. ML12335A343.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, Appendix E, Section IV.F.2.c, "Training," for Renewed Facility Operating License No. DPR-35, to delay the requirement to perform the offsite functions of the biennial Emergency Preparedness (EP) exercise from November 7, 2012 to March 2013, as requested by Entergy Nuclear Operations, Inc. (the licensee), for operation of the Pilgrim Nuclear Power Station (Pilgrim), located in Plymouth, Massachusetts. As required by 10 CFR 51.21, "Criteria for and identification of licensing and regulatory actions requiring environmental assessments," the NRC performed an environmental assessment (EA). Based on the results of the EA, the NRC is issuing a finding of no significant impact.

##### II. Environmental Assessment Summary

###### *Identification of the Proposed Action*

The proposed action would grant an exemption from 10 CFR Part 50, Appendix E, Section IV.F.2.c to delay the requirement to perform the offsite elements of the Pilgrim biennial EP exercise to March 2013. Currently, the licensee is required to complete the exercise by the end of calendar year 2012. The proposed action is in accordance with the licensee's application dated November 29, 2012 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML12335A343).

###### *The Need for the Proposed Action*

The proposed exemption from 10 CFR Part 50, Appendix E, was submitted due to the impact of Hurricane Sandy on the availability of Federal, State, and local government agencies and their capability to support the full-participation biennial exercise conducted on November 7, 2012. Due to widespread damage and flooding throughout the area, immediate response efforts and long term resource commitments were needed from the Federal Emergency Management Agency (FEMA), the Massachusetts Emergency Management Agency (MEMA), and local town officials in the Pilgrim Emergency Planning Zone (EPZ). As a result, the necessary participants from Federal, State, and local agencies did not participate in the previously planned and scheduled Pilgrim biennial exercise that was conducted on November 7, 2012. By electronic correspondence dated November 26, 2012,<sup>1</sup> FEMA and the State of Massachusetts agreed to postpone its evaluation of the exercise until March 2013.

###### *Environmental Impacts of the Proposed Action*

If the requested exemption were to be approved by the NRC, the full-participation, FEMA-evaluated biennial emergency exercise would not be conducted until March 2013. Changing the date of the exercise does not alter the way the drill will be performed (e.g., use of roads or highways). Delaying performance of the exercise does not change any facility equipment or operations. Thus, the proposed action would not significantly increase the probability or consequences of an accident, create a new accident, change the types or quantities of radiological effluents that may be released offsite, or result in a significant increase in public or occupational radiation exposure.

###### *Environmental Impacts of the Alternatives to the Proposed Action*

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (i.e., the no-action alternative). Denial of the application would result in no change in current environmental impacts.

###### *Alternative Use of Resources*

The action does not involve the use of any different resources than those previously considered in NUREG-1437, Supplement 29, Volume 2, "Generic Environmental Impact Statement for

<sup>1</sup> This letter was not submitted directly to the NRC, but is included as Attachment 3 to the licensee's exemption request.