



NUCLEAR REGULATORY COMMISSION

[Docket No. 52-037; NRC-2008-0556]

Ameren Missouri; Combined License Application for Callaway Plant, Unit 2

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in a response to an August 7, 2014, letter from Ameren Missouri, which requested an exemption from Final Safety Analysis Report (FSAR) updates included in their Combined License (COL) application. The NRC staff reviewed this request and determined that it is appropriate to grant the exemption, but stipulated that the updates to the FSAR must be submitted prior to, or coincident with, the resumption of the COL application review or by December 31, 2015, whichever comes first.

DATES: The exemption is effective on **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Please refer to Docket ID **NRC-2008-0556** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this action by the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2008-0556**. Address questions about NRC dockets to Carol Gallagher; telephone:

301-287-3422; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection 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 staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

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

FOR FURTHER INFORMATION CONTACT: Prosanta Chowdhury, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1647; e-mail: Prosanta.Chowdhury@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background.

On July 24, 2008, Union Electric Company, doing business as Ameren UE, submitted to the NRC a COL Application for a single unit of AREVA NP's U.S. Evolutionary Power Reactor (U.S. EPR) (ADAMS Accession No. ML082140630) in accordance with the requirements in part 52, Section C of Title 10 of the *Code of Federal Regulations* (10 CFR), "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) (ADAMS Accession No. ML090710444). 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 (ADAMS Accession No. ML091210159). Subsequently, by letter dated June 23, 2009, Ameren requested the NRC to suspend all review activities relating to the Callaway, Unit 2, COL application (ADAMS Accession No. ML091750988). 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 15, 2012, Ameren requested a one-time exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit the scheduled 2012 and 2013 COL application FSAR updates, and proposed for approval of a new submittal deadline of December 31, 2014, for the next FSAR update. The NRC granted the exemption as described in *Federal Register* Notice (FRN) 77 FR 76539 (December 28, 2012). 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.

II. Request/Action.

The regulations specified in 10 CFR 50.71(e)(3)(iii), require that an applicant for a COL 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 on or before December 31, 2014. By letter to the NRC dated August 7, 2014, Ameren requested a one-time exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit the scheduled 2014 COL application FSAR update, and proposed for approval of a new submittal deadline of December 31, 2016, for the next FSAR update (ADAMS Accession Number ML14234A253).

Ameren's requested exemption is a one-time schedule change from the requirements of 10 CFR 50.71(e)(3)(iii). The exemption, as requested, 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, 2016. The current FSAR update schedule could not be changed, absent the exemption. Ameren requested the exemption by letter dated August 7, 2014.

III. 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 Section 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), LBP-09-23 (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, 2016. 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, as requested, would allow Ameren to submit the next Callaway Unit 2 COL application FSAR update on or before December 31, 2016, in lieu of the required scheduled submittal on or before December 31, 2014. As stated above, 10 CFR 50.12 allows the NRC to grant exemptions. The NRC staff has determined that granting Ameren a one-time exemption from the requirements of 10 CFR 50.71(e)(3)(iii) with updates to the FSAR to be submitted on or before December 31, 2015, 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 NRC

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 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, 2015. 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 would 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. 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). Under 10 CFR 51.22(c)(25), granting of an exemption from the requirements of any regulation of 10 CFR Chapter 1 (which includes 10 CFR 50.71(e)(3)(iii)) is an action that is a categorical exclusion, provided that:

- (i) There is no significant hazards consideration;
- (ii) There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite;
- (iii) There is no significant increase in individual or cumulative public or occupational radiation exposure;
- (iv) There is no significant construction impact;
- (v) There is no significant increase in the potential for or consequences from radiological accidents; and
- (vi) The requirements from which an exemption is sought involve:
 - (A) Recordkeeping requirements;
 - (B) Reporting requirements;
 - (C) Inspection or surveillance requirements;
 - (D) Equipment servicing or maintenance scheduling requirements;
 - (E) Education, training, experience, qualification, requalification or other employment suitability requirements;
 - (F) Safeguard plans, and materials control and accounting inventory scheduling requirements;
 - (G) Scheduling requirements;
 - (H) Surety, insurance or indemnity requirements; or
 - (I) Other requirements of an administrative, managerial, or organizational nature.

The requirements from which this exemption is sought involve only “(B) Reporting requirements” or “(G) Scheduling requirements” of those required by 10 CFR 51.22(c)(25)(vi).

The NRC staff’s determination that each of the applicable criteria for this categorical exclusion is met as follows:

- I. 10 CFR 51.22(c)(25)(i): There is no significant hazards consideration.

Staff Analysis: The criteria for determining if an exemption involves a 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 hazard consideration 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. 10 CFR 51.22(c)(25)(ii): There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite.

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

III. 10 CFR 51.22(c)(25)(iii): There is no significant increase in individual or cumulative public or occupational radiation exposure.

Staff Analysis: 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. 10 CFR 51.22(c)(25)(iv): There is no significant construction impact.

Staff Analysis: 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; therefore, the proposed action does not involve any construction impact.

V. 10 CFR 51.22(c)(25)(v): There is no significant increase in the potential for or consequences from radiological accidents.

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

VI. 10 CFR 51.22(c)(25)(vi): The requirements from which this exemption is sought involve only "(B) Reporting requirements" or "(G) Scheduling requirements."

Staff Analysis: The exemption request involves requirements in both of these categories because it involves submitting an updated FSAR by Ameren, and also relates to the schedule for submitting FSAR updates to the NRC.

IV. Conclusion.

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 as described in 10 CFR 50.12(a)(2)(ii) and (v) 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, 2015.

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 31st day of October 2014.

FOR THE NUCLEAR REGULATORY COMMISSION.

Mark Delligatti, Deputy Director
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Office of New Reactors

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