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[7590-01-P]

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 the implementation of enhancements to Emergency Preparedness (EP) rules 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 COL application addressing the implementation of enhancements to EP rules 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's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Prosanta Chowdhury, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1647 or 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, Subpart 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 (ADAMS Accession No. ML091750665). 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 COL application FSAR update, 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 the *Federal Register* notice published on January 21, 2011 (76 FR 3927). Prior to expiration of the exemption, while the COL application remained suspended, Ameren, on October 15, 2012, requested a second one-time exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit the COL application FSAR update, 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 the *Federal Register* notice published on December 28, 2012 (77 FR 76539). 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. On October 3, 2013 (ADAMS Accession No. ML13282A311), Ameren requested an exemption from the requirements of 10 CFR

Part 50, Appendix E, Section I.5, as referenced by 10 CFR 52.79(a)(21), to submit an update by December 31, 2013, to the COL application, addressing the enhancements to Emergency Preparedness (EP) rules. The NRC granted the exemption as described in the *Federal Register* notice published on November 27, 2013 (78 FR 70967). On August 7, 2014 (ADAMS Accession No. ML14234A253), Ameren requested a second exemption from the requirements of 10 CFR Part 50, Appendix E, Section I.5, as referenced by 10 CFR 52.79(a)(21), to submit an update by December 31, 2016, to the COL application, addressing the enhancements to EP rules.

II. Request/Action.

In Part 50, Appendix E, Section I.5 requires that an applicant for a COL under Subpart C of 10 CFR Part 52 whose application was docketed prior to December 23, 2011, must revise their COL application to comply with the EP rules published in the *Federal Register* on November 23, 2011 (76 FR 72560). An applicant that does not receive a COL before December 31, 2013, shall revise its COL application to comply with these changes no later than December 31, 2013.

Since Ameren will not hold a COL prior to December 31, 2013, it is therefore, required to revise its application to be compliant with the new EP rules by December 31, 2013. Similar to an earlier exemption request it submitted, as described above, by letter dated August 7, 2014, Ameren requested another exemption from the requirements of 10 CFR Part 50, Appendix E, Section I.5, to submit the required COL application revision to comply with the new EP rules (ADAMS Accession No. ML14234A253). The requested exemption would allow Ameren to revise its COL application, and comply with the new EP rules on or before December 31, 2016, rather than the December, 31, 2013, date required by 10 CFR Part 50, Appendix E, Section I.5. The current requirement to comply with the new EP rules could not be changed, absent the exemption.

II. Discussion.

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, including 10 CFR Part 50, Appendix E, Section I.5, when: 1) the exemption(s) 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: “[a]pplication 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)).

Authorized by Law

The exemption is a one-time schedule exemption from the requirements of 10 CFR Part 50, Appendix E, Section I.5. The exemption, as requested, would allow Ameren to revise its COL application, and comply with the new EP rules on or before December 31, 2016, in lieu of December 31, 2014, the date granted by the NRC in response to Ameren’s request of October 3, 2013, for an exemption from the initial December 31, 2013, requirement per 10 CFR Part 50, Appendix E, Section I.5. As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR Part 50. The NRC staff has determined that granting Ameren the requested one-time exemption from the requirements of 10 CFR Part 50, Appendix E, Section I.5 will provide only temporary relief from this regulation under the above cited special circumstances, and will not result in a violation of the Atomic Energy Act of 1954, as amended, or NRC’s regulations. Therefore, the exemption is authorized by law.

No Undue Risk to Public Health and Safety

The underlying purposes of the enhancements to EP found in 10 CFR Part 50, Appendix E, Section I.5, is to amend certain EP requirements, which are aimed at enhancing protective measures in the event of a radiological emergency; address, in part,

enhancements identified after the terrorist events of September 11, 2001; clarify regulations to effect consistent Emergency Plan implementation among licensees; and modify certain requirements to be more effective and efficient. Since plant construction cannot proceed until the NRC review of the application is completed, a mandatory hearing is completed, and a license is issued, the exemption does not increase the probability of postulated accidents. Additionally, 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 revised COL application 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.

Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(ii) are present whenever “[a]pplication 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)). The purpose of 10 CFR Part 50, Appendix E, Section I.5 was to ensure that applicants and new COL holders updated their COL application or Combined License to allow the NRC to review them efficiently and effectively, and to bring the applicants or licensees into compliance prior to their potential approval and receipt of license, or for licensees, prior to operating the facility. The targets of Section I.5 of the rule were those applications that were in the process of being actively reviewed by the NRC staff when the rule came into effect on November 23, 2011. Since Ameren requested the NRC to suspend its review of the

Callaway, Unit 2, COL application, compelling Ameren to revise its COL application in order to meet the December 31, 2014, compliance deadline per the exemption granted on November 27, 2013 (78 FR 70965), would only bring on unnecessary burden and hardship for the applicant to meet the compliance date. Because Ameren must update its application to comply with the enhancements to the EP rules prior to the NRC approving its COL application, the underlying purpose of the rule is still achieved if the applicant is required to comply by updating the relevant EP information in its application on or before the earlier date of either a request to restart review or December 31, 2015. For this reason, the application of 10 CFR Part 50, Appendix E, Section I.5, for the suspended Callaway, Unit 2, COL application is deemed unnecessary, and therefore, special circumstances are present.

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 Part 50, Appendix E, Section I.5) 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 are no significant hazard 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. 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 COL application, and also relates to the schedule for submitting COL application updates to the NRC.

III. Conclusion.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), 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) are present. Therefore, the Commission hereby grants Ameren a one-time exemption from the requirements of 10 CFR Part 50, Appendix E, Section I.5 pertaining to the Callaway, Unit 2, COL application to allow submittal of the revised COL application that complies with the new EP rules 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 Commission 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.

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