NUCLEAR REGULATORY COMMISSION

[Docket No. 50–440]

FirstEnergy Nuclear Operating Company (Perry Nuclear Power Plant, Unit 1); Exemption

I

The FirstEnergy Nuclear Operating Company (FENOC, the licensee) is the holder of Facility Operating License No. NPF–58, which authorizes operation of the Perry Nuclear Power Plant, Unit 1. The operating license states, among other things, that the licensee is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The Perry Nuclear Power Plant is a boiling-water reactor facility located at the licensee's site in Lake County, Ohio.

II

By letter dated December 3, 1998, FENOC submitted an exemption request to the control room dose acceptance criteria of 10 CFR part 50, Appendix A, General Design Criterion (GDC) 19. The exemption request would permit use of a total effective dose equivalent (TEDE) acceptance criterion of 5-rem in place of the ''5 rem whole body, or its equivalent to any part of the body'' dose acceptance criterion that is currently specified in GDC 19.

The NRC has established control room dose acceptance criteria in 10 CFR part 50, Appendix A, GDC 19, for all light-water power reactors. GDC 19 requires, in part, that ''Adequate radiation protection shall be provided to permit access and occupancy of the control room under accident conditions without personnel receiving radiation exposures in excess of 5 rem whole body, or its equivalent to any part of the body, for the duration of the accident.'' As described in SECY–96–242, ''Use of the NUREG–1465 Source Term at Operating Reactors,'' the staff informed the Commission of its approach to allow the use of the revised accident source term described in NUREG–1465, ''Accident Source Terms for Light-Water Nuclear Power Plants,'' at operating plants. In the SECY paper, the staff described its plans to review plant applications implementing this source term and indicated that the TEDE methodology would be incorporated in these reviews. The Commission approved these plans and directed the staff to commence rulemaking and requested the use of the TEDE methodology in the implementation of the revised accident source term. The TEDE guidelines, which are needed to support revised accident source term applications, are not currently provided in regulations governing operating reactors.

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 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) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR 50.12(a)(2)(ii), ''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.'' The NRC staff examined the licensee's rationale to support the exemption request and concluded that the use of the TEDE acceptance criteria for the control room would meet the underlying intent of the regulations. The licensee's request for the exemption under the special circumstances of 10 CFR 50.12(a)(2)(ii) was found to be appropriate. Application of the control room dose acceptance criteria of GDC 19 is not necessary to achieve the underlying purpose of the rule because, as stated in the staff safety evaluation, dated March 26, 1999, the staff considers the TEDE methodology as an acceptable means of meeting the current regulatory requirement. Therefore, the staff has concluded that an exemption to the requirements of 10 CFR part 50, Appendix A, GDC 19, should be granted to allow FENOC to adopt the TEDE methodology for the purpose of implementing the revised accident source term of NUREG–1465.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), an exemption is authorized by law, will not endanger life or property or common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants an exemption from the requirements of 10 CFR part 50, Appendix A, GDC 19 to allow FENOC to adopt the TEDE methodology for the purpose of implementing the revised accident source term of NUREG–1465.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (64 FR 4906).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 26th day of March 1999.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 99–8027 Filed 3–31–99; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 70–3073; License No. SNM–1999]

Kerr-McGee Corporation—Environmental Assessment, Finding of No Significant Impact, and Notice of Opportunity for Hearing—Release of Portion of Cushing Refinery Site for Unrestricted Use

The U.S. Nuclear Regulatory Commission (NRC) is considering the Kerr-McGee Corporation's (Kerr-McGee or the licensee) request to have property released, for unrestricted use, from the Cushing Refinery Site (Cushing) License SNM–1999. This action is taken in response to Kerr-McGee's license amendment requests, dated August 30, 1996, and October 24, 1996, to release the four unaffected areas and the haul road corridor area for unrestricted use and to remove the areas from the license. These earlier requests were revised by the licensee's letter dated November 6, 1998. In that letter, the licensee requested that only Unaffected Area 1, the portion of Unaffected Area 2 south of Skull Creek, Unaffected Area 3, Unaffected area 4, and the portion of the haul road corridor area south of Skull Creek and partially surrounded by Unaffected Areas 2, 3, and 4 (hereafter referred to as requested released areas (RRA)) be released for unrestricted use. The boundaries of the licensed areas excluding the RRA are shown in Figure 1, ''Cushing Site Map Showing Licensed Site Area,'' of the November 6, 1998, letter.

Introduction

On April 6, 1993, NRC issued Materials License SNM–1999 authorizing possession of contaminated soil, sludge, sediment, trash, building rubble, and any other contaminated material, at the licensee's Cushing site. The site contains four large areas, designated as the four unaffected areas, that were used for oil refining and storage during the years that nuclear processing and disposal took place. The haul road corridor area is located on portions of the site that were used for petroleum refining during the years that nuclear material processing was

performed. The haul roads located within the haul road corridor area are intended for transporting waste material during site remediation.

The licensee initially requested that the four unaffected areas and the haul road corridor be removed from the license and released for unrestricted use. The licensee revised its earlier requests to limit the areas to be removed from the license and released for unrestricted use to the RRA.

Proposed Action

The proposed action is the release for unrestricted use, and the removal from License SNM–1999, the RRA. The proposed boundary of the licensed areas excluding the RRA is shown in the licensee's letter dated November 6, 1998, Figure 1, ''Cushing Site Map Showing Licensed Site Area.''

The Need for Proposed Action

The licensee seeks to release property that is currently under license for unrestricted use. This action is requested to remove the current limitations on the future use of the property.

Alternatives to Proposed Action

The only alternative to the proposed action is to not release this area for unrestricted use and keep the area under license until all site radiological remediation is completed and the Cushing license is terminated. The environmental benefit of maintaining an NRC license for this portion of the Cushing Refinery Site is negligible, but would reduce options for future use of the property.

Environmental Justice

There are no environmental justice issues associated with this proposed action.

Environmental Impact of Proposed Action

An unaffected area, as defined in NUREG/CR–5849, ''Manual for Conducting Radiological Surveys in Support of License Termination,'' is an area not expected to contain residual radioactivity from licensed operations. The unrestricted use guidelines for enriched uranium and natural thorium are the Option 1 values in the 1981 Branch Technical Position on ''Disposal or Onsite Storage of Thorium or Uranium Wastes From Past Operations'' (46 *FR* 52061). The Option 1 guidelines are 30 picoCuries per gram (pCi/g) for enriched uranium and 10 pCi/g for natural thorium.

The licensee performed final status surveys in the four unaffected areas and submitted the results to NRC in the ''Final Radiation Survey of Four Unaffected Areas of the Cushing Refinery Site,'' dated April 17, 1995. Gamma radiation scans, gamma exposure rate measurements, soil radioactivity concentration measurements, and surface radioactivity survey were performed in each of the four unaffected areas. As a result of the surveys and analysis, one area of about one meter in diameter on the surface of the ground was found to be contaminated with Th-232. This spot was designated as a radioactive materials area and was removed from the areas that the licensee considered part of the four unaffected areas. The licensee's survey report provided data that indicated that the four unaffected areas meet NRC's guidelines for unrestricted use.

The licensee performed final status surveys in the haul road corridor area and submitted the results to NRC in the ''Final Radiation Survey of Haul Road Corridor,'' dated May 30, 1996. The results of the exposure rate surveys of the haul road corridor area indicated that no location was more than 10 micoRoentgen per hour (μR/hr) above background. Gamma scans located areas of elevated activity. Biased soil samples were collected from these areas and analyzed using gamma spectroscopy. As a result of the analysis, two areas were designated as radioactive materials areas and were removed from the areas that the licensee considered part of the haul road corridor area. This licensee survey report provided data that indicated that the haul road corridor area meets NRC's guidelines for unrestricted use.

At the request of NRC, its contractor, the Oak Ridge Institute for Science and Education (ORISE), performed a confirmatory survey of the four unaffected areas during the period of September 11 through 13, 1995, and a confirmatory survey of the haul road corridor area during the period of August 26 through 29, 1996. The results of the ORISE confirmatory surveys were provided to NRC in ''Confirmatory Survey for the Four Unaffected Areas of the Cushing Refinery Site,'' dated May 1996, and ''Confirmatory Survey for the Haul Road Corridor at the Oklahoma Refinery Site,'' dated December 1996.

For both the four unaffected areas and the haul road corridor area, ORISE performed scan surveys of 50 to 100 percent of the surface area of each selected survey unit. ORISE also performed exposure rate measurements for at least five systematic locations within each survey unit. In addition, ORISE collected 20 soil samples from the four unaffected areas, and collected more than 60 surface soil samples and three subsurface soil samples from the haul road corridor area.

Concentrations of radionuclides in the soil samples from the four unaffected areas survey units are as follows: less than 0.1 to 0.5 pCi/g for U-235; 0.3 to 3.0 pCi/g for U-238; 0.6 to 9.0 pCi/g for Th-228; and less than 0.8 to 10.0 pCi/g for Th-232. One small area of thorium, in excess of the guidelines (9.0 pCi/g of Th-228 and 10.0 pCi/g of Th-232), is in unaffected area number 2. This area of elevated thorium levels, surveyed by ORISE, is the same area that the licensee designated as a radioactive materials area (about 400 m^2) after it performed its final radiation survey. Thus, this small radioactive materials area is not part of the licensee's request for unrestricted release. Of the areas that ORISE surveyed that were part of the licensee's request for unrestricted release, the concentrations of radionuclides in the soil samples are as follows: 0.6 to 3.8 pCi/g for Th-228; and less than 0.8 to 3.0 pCi/g for Th-232. The soil samples are within the Option 1 soil guideline for enriched uranium and natural thorium. Further, the portion of the haul road corridor that is being considered for release from the license would service only equipment transportation, at most, Option 1 material.

Concentrations of radionuclides in the soil samples from the haul road corridor area survey units are as follows: less than 0.8 pCi/g for U-235; less than 2.9 pCi/g for U-238; 0.5 to 2.9 pCi/g for Th-228; and less than 0.4 to 2.8 pCi/g for Th-232. For comparison purposes, radionuclide concentrations in background soil samples are as follows: less than 0.1 pCi/g for U-235; 1.0 to 1.6 pCi/g for U-238; 0.5 to 1.0 pCi/g for Th-228; and 0.6 to 0.9 pCi/g for Th-232. The soil samples yielded results indicating only background or slightly above background concentrations of uranium and thorium. The soil samples are within the Option 1 soil guideline for enriched uranium and natural thorium.

NRC considered the potential for contamination of areas within the haul road corridor once NRC authorized the licensee to conduct activities within the haul road corridor without implementation of the Cushing Radiation Safety procedures related to training.[1] The staff agreed with the licensee that the Cushing Radiation Safety Program which requires all material and equipment be surveyed before leaving a ''radioactive materials area'' would provide reasonable assurance that the haul road corridor

[1] Letter to Stuart [sic] Brown, NRC, from Jeff Lux, Kerr McGee Corporation, dated August 30, 1996.

area would not become contaminated as a result of decommissioning activity.[2]

Groundwater under the Cushing site can be found in one of three water-bearing zones. The water-bearing zones are the shallow water-bearing zone (unconsolidated soil and the upper portion of the Vanoss Group), the lower portion of the Vanoss Group, and Vamoosa-Ada aquifer. The Vamoosa-Ada aquifer is the regional groundwater aquifer. The licensee notes that it appears that there is not a significant groundwater flow between the shallow water-bearing zone and the lower portion of the Vanoss Group. Further, the licensee notes that the Vamoosa-Ada aquifer is isolated from the uppermost water-bearing zone by low-permeability strata within the Vanoss. Thus, the Vamoosa-Ada aquifer is unaffected by surface activities. The licensee based this finding on an evaluation of environmental tritium.

The State of Oklahoma, Department of Environmental Quality (DEQ)[3] found the following: (1) The shallow groundwater unit yields low quantities of poor quality water; (2) it is highly unlikely that future residential or commercial drinking water wells will be established from the shallow groundwater at this site; and (3) no known drinking water wells are screened in the Vanoss within a one-mile radius of the site. Further, DEQ stated that the Vanoss should not be considered a viable drinking water source for the area and that DEQ would consider water quality standards other than maximum contamination levels as set by the U.S. Environmental Protection Agency (EPA) as appropriate for the shallow groundwater at this site. Further, based on EPA's guidance[4] the Vanoss groundwater would be classified as a Class III—Groundwater Not a Potential Source of Drinking Water and of Limited Beneficial Use.

The staff has reviewed the site potentiometeric surface map of the upper zone[5] and found that all portions of the RRA are up-gradient of any known significant sources of contamination. Accordingly, it is very unlikely that the groundwater in these areas could have been contaminated. The assumption is supported by the results of the licensee's groundwater monitoring of several wells located either in the four unaffected areas or just down-gradient of these areas. The licensee provided these sampling results in its letter dated November 6, 1998. Based on its review of that data, the staff found no indication of groundwater contamination.

The Other Industrial Waste (OIW) disposal cell is located within the RRA. Material from the remediation of Waste Acid Sludge Pit 4 (Pit 4) that meets NRC's Option 1 criteria for unrestricted release will be disposed of in the OIW. NRC reviewed this disposal activity as part of its review of the Pit 4 remediation plan. On September 3, 1998, NRC approved the Pit 4 remediation plan, License Amendment No. 8.

Finally, a ditch in site grid blocks 132, 133, and 140 was filled with rubble from refinery demolition. Also, placed into this ditch were concrete blocks from the thorium processing building slab. The licensee in its letter dated November 13, 1998, provided the final survey data of these concrete slab blocks. Based on its review of these data NRC found that the concrete slab blocks met NRC's criteria for unrestricted release.[6]

ORISE's confirmatory survey results support the licensee's position that the four unaffected areas and the haul road corridor area meet NRC's unrestricted use criteria. Further, the licensee's groundwater monitoring sampling program results demonstrate that the groundwater under the RRA is not contaminated. Therefore, NRC finds that because the NRC's unrestricted release criteria have been met for these areas, there is no significant impact on the environment, and this portion of the property can be released for unrestricted use.

Other Agencies or Persons Consulted

This environmental assessment was prepared entirely by NRC. No other sources were used beyond those referenced in this environmental assessment. NRC provided a draft of this environmental assessment to DEQ for review. DEQ had no comments or suggestions on this environmental assessment.[7]

Conclusions

NRC finds that because the Commission's unrestricted release criteria have been met, there is no significant impact on the environment, and the property can be released for unrestricted use.

Finding of No Significant Impact

The Commission has prepared an Environmental Assessment related to the proposed unrestricted release, and removal from License SNM–1999, of the RRA on the Cushing Refinery Site, in Cushing Oklahoma. On the basis of the Environmental Assessment, the Commission has concluded that this licensing action would not significantly effect the quality of human environment and has determined not to prepare an environmental impact statement for this proposed action.

The above documents related to this proposed action are available for public inspection and copying, at the Commission's Public Document Room in the Gelman Building, 2120 L Street NW, Washington, DC.

Opportunity for a Hearing

NRC hereby provides notice that this is a proceeding on an application for a license amendment within the scope of Subpart L, Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings, of NRC's rules and practice for licensing proceedings, of NRC's rules and practice for domestic licensing proceedings in 10 Code of Federal Regulations (CFR) part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738; or

2. By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing by a person other than an applicant must describe in detail:

The interest of the requestor in the proceeding:

1. How that interest may be affected by the results of the proceeding,

[2] Letter to Jeff Lux, Kerr McGee Corporation, from Stewart Brown, NRC, dated October 22, 1996.

[3] Letter to Jeff Lux, Kerr McGee Corporation, from Darrell Shults, DEQ, dated September 19, 1997.

[4] ''Guidelines for Ground-Water Classification Under the EPA Ground-Water Protection Strategy,'' Final Draft, dated November 1986, Office of Water, EPA.

[5] Figure 2.5, ''Potentiometeric Surface Map of the Upper Zone,'' Kerr-McGee Corporation's Site Decommissioning Plan Cushing, Oklahoma, dated August 1998.

[6] U.S. Nuclear Regulatory Commission, ''Guidelines for Decontamination of Facilities and Equipment Prior to Release for Unrestricted Use or Termination of License for Byproduct, Source, or Special Nuclear Material,'' dated August 1987.

[7] Letter to Stewart Brown, NRC, from H. A. Caves, DEQ, dated March 2, 1999.

including the reasons why the requestor should be permitted a hearing with particular reference to factors set out in § 2.1205(h);

2. The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

3. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

In accordance with 10 CFR 1205(f), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, Kerr-McGee Corporation, Kerr-McGee Center, P.O. Box 25861, Oklahoma City, OK 73125, Attention: Mr. Jeff Lux, and

2. The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Rockville, Maryland, this 26th day of March 1999.

For the U.S. Nuclear Regulatory Commission.

John W.N. Hickey,

Chief, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–8028 Filed 3–31–99; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on April 7–10, 1999, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Wednesday, November 18, 1998 (63 FR 64105).

Wednesday, April 7, 1999

1:00 p.m.–1:15 p.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

1:15 p.m.–2:45 p.m.: Draft Commission Paper on Proposed Improvements to the Generic Communications Process (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the draft Commission Paper on proposed improvements to the Generic Communications Process.

3:00 p.m.–4:30 p.m.: Steam Generator Tube and Reactor Pressure Vessel Integrity Issues (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the status of ongoing regulatory activities associated with steam generator tube integrity; the staff's draft safety evaluation of Boiling Water Reactor Vessel and Internals Project-14 (BWRVIP–14), ''Evaluation of Crack Growth in BWR Stainless Steel Reactor Pressure Vessel Internals;'' suggested changes to 10 CFR 50.61, pressurized thermal shock rule; and related matters.

4:45 p.m.–7:15 p.m.: Preparation of ACRS Reports and the ACRS Bylaws (Open)—The Committee will discuss proposed ACRS reports, including a proposed report on the NRC Safety Research Program. Also, the Committee will discuss proposed revisions to the ACRS Bylaws.

Thursday, April 8, 1999

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:00 a.m.: Insights Gained from the Risk-Informed Pilot Applications (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the Nuclear Energy Institute (NEI) regarding the insights gained from the risk-informed pilot applications, including those from the pilots for inservice inspection, extension of allowed outage times, and online maintenance.

10:15 a.m.–11:45 a.m.: Proposed Final Revision to 10 CFR 50.65(a) of the Maintenance Rule and an Associated Draft Regulatory Guide (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and NEI regarding the proposed final revision to 10 CFR 50.65(a) of the Maintenance Rule that would require licensees to perform safety assessments prior to performing maintenance activities, and an associated draft Regulatory Guide.

12:45 p.m.–2:15 p.m.: Proposed Approach for Revising the Commission's Safety Goal Policy Statement (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the staff's proposed approach for revising the Commission's Safety Goal Policy Statement.

2:30 p.m.–6:15 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

Friday, April 9, 1999

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:00 a.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

10:00 a.m.–10:30 a.m.: Subcommittee Report (Open)—The Committee will hear a report by the Chairman of the Thermal-Hydraulic Phenomena Subcommittee regarding matters discussed during the March 23, 1999 meeting.

10:45 a.m.–11:45 a.m.: Impact of the Use of High Burnup or Mixed Oxide Fuel on the Revised Source Term (Open)—The Committee will discuss the proposed ACRS response to a Commission request, included in the March 5, 1999 Staff Requirements Memorandum (SRM), that the ACRS consider the impact of the use of high burnup or mixed oxide fuel on the revised source term.

1:00 p.m.—2:00 p.m.: Relationship and Balance Between PRA Results and Defense-In-Depth (Open)—The Committee will discuss the proposed response to a Commission request, included in the March 5, 1999 SRM, that the ACRS consider the appropriate relationship and balance between PRA results and defense-in-depth in the context of risk-informed regulation.

2:00 p.m.—2:15 p.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports and letters. The EDO responses are expected to be provided to the ACRS prior to the meeting.

2:15 p.m.—3:00 p.m.: Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, and organizational and personnel matters relating to the ACRS. [Note: A portion of this session may be closed to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices