

### Agencies and Persons Consulted

In accordance with its stated policy, on February 24, 2009, the staff consulted with the Ohio State official, Ms. Carol O'Claire of the Ohio Emergency Management Agency, regarding the environmental impact of the proposed action. The State official had no comments.

### Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated November 30, 2009, as supplemented on December 23, 2009. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Room O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209 or 301-415-4737, or send an e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

Dated at Rockville, Maryland, this 18th 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. 50-003, 50-247, and 50-286; NRC-2010-0137]

### Entergy Nuclear Operations, Inc.; Indian Point Nuclear Generating Unit Nos. 1, 2, and 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption, pursuant to Title 10 of the Code of Federal

Regulations (10 CFR) Section 73.5, "Specific exemptions," from the implementation date for certain new requirements of 10 CFR part 73, "PHYSICAL PROTECTION OF PLANTS AND MATERIALS," for Facility Operating License Nos. DPR-5, DPR-26, and DPR-64, issued to Entergy Nuclear Operations, Inc. (the licensee), for operation of Indian Point Nuclear Generating Unit Nos. 1, 2, and 3 (IP1, IP2, and IP3), located in Westchester County, NY. In accordance with 10 CFR 51.21, the NRC prepared an environmental assessment documenting its finding. The NRC concluded that the proposed actions will have no significant environmental impact.

### Environmental Assessment

#### Identification of the Proposed Action

The proposed action would exempt IP1, IP2, and IP3 from the required implementation date of March 31, 2010, for several new requirements of 10 CFR part 73. Specifically, IP1, IP2, and IP3 would be granted an exemption from being in full compliance with certain new requirements contained in 10 CFR 73.55 by the March 31, 2010, deadline. The licensee has proposed an alternate full compliance implementation date of February 17, 2011, approximately 11 months beyond the date required by 10 CFR part 73. The proposed action, an extension of the schedule for completion of certain actions required by the revised 10 CFR part 73, does not involve any physical changes to the reactor, fuel, plant structures, support structures, water, or land at the IP1, IP2, and IP3 site.

The proposed action is in accordance with the licensee's application dated January 28, 2010, as supplemented by letter dated March 8, 2010.

#### The Need for the Proposed Action

The proposed action is needed to provide the licensee with additional time for design, procurement, and installation activities and in consideration of impediments to construction such as winter weather conditions and equipment delivery schedules.

#### Environmental Impacts of the Proposed Action

The NRC has completed its environmental assessment of the proposed exemption. The staff has concluded that the proposed action to extend the implementation deadline would not significantly affect plant safety and would not have a significant adverse effect on the probability of an accident occurring.

The proposed action would not result in an increased radiological hazard beyond those previously analyzed in the environmental assessment and finding of no significant impact made by the Commission in promulgating its revisions to 10 CFR part 73 as discussed in a **Federal Register** notice dated March 27, 2009 (74 FR 13926). There will be no change to radioactive effluents that affect radiation exposures to plant workers and members of the public. Therefore, no changes or different types of radiological impacts are expected as a result of the proposed exemption.

The proposed action does not result in changes to land use or water use, or result in changes to the quality or quantity of non-radiological effluents. No changes to the National Pollution Discharge Elimination System permit are needed. No effects on the aquatic or terrestrial habitat in the vicinity of the plant, or to threatened, endangered, or protected species under the Endangered Species Act, or impacts to essential fish habitat covered by the Magnuson-Steven's Act are expected. There are no impacts to the air or ambient air quality.

There are no impacts to historical and cultural resources. There would be no impact to socioeconomic resources. Therefore, no changes to or different types of non-radiological environmental impacts are expected as a result of the proposed exemption.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action. In addition, in promulgating its revisions to 10 CFR part 73, the Commission prepared an environmental assessment and published a finding of no significant impact (see Part 73, Power Reactor Security Requirements, 74 FR 13926 (March 27, 2009)).

IP1, IP2, and IP3's current security program and the new requirements that will be implemented by March 31, 2010, will provide continued assurance of public health and safety and common defense and security in lieu of the full compliance with all the requirements specified in 10 CFR part 73. Therefore, the extension of the implementation date of some of the new requirements of 10 CFR part 73 to February 17, 2011, would not have any significant environmental impacts.

The NRC staff's safety evaluation will be provided in the exemption that will be issued as part of the letter to the licensee approving the exemption to the regulation, if granted.

### *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 exemption request would result in no change in current environmental impacts. If the proposed action was denied, the licensee would have to comply with the March 31, 2010, implementation deadline. The environmental impacts of the proposed exemption and the “no action” alternative are similar.

### *Alternative Use of Resources*

The action does not involve the use of any different resources than those considered in (1) The “Indian Point Unit No. 1, Environmental Report and Benefit Cost Analysis,” June 1973; (2) The “Final Environmental Statement Related to Operation of Indian Point Generating Plant Unit No. 2,” dated September 1972, and (3) the “Final Environmental Statement Related to Operation of Indian Point Generating Plant Unit No. 3,” dated February 1975.

### *Agencies and Persons Consulted*

In accordance with its stated policy, on March 4, 2010, the NRC staff consulted with the New York State official, Alyse Peterson, of the New York State Energy Research and Development Authority, regarding the environmental impact of the proposed action. The State official had no comments.

### **Finding of No Significant Impact**

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee’s letter dated January 28, 2010. Portions of the submittal dated January 28, 2010, contain security-related information and, accordingly, are withheld from public disclosure in accordance with 10 CFR 2.390(d)(1). The licensee’s supplemental letter dated March 8, 2010, is withheld in its entirety as security-related information in accordance with 10 CFR 2.390(d)(1). A publicly available version of the letter dated January 28, 2010, is accessible electronically from the Agencywide Documents Access and Management System (ADAMS) with Accession No. ML100340142. The publicly available version of the document may be examined, and/or copied for a fee, at the

NRC’s Public Document Room (PDR), located at One White Flint North, Public File Area O–1F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible electronically from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site: <http://www.nrc.gov/reading-rm/adams.html>.

Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or send an e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

Dated at Rockville, Maryland, this 19th day of March 2010.

For the Nuclear Regulatory Commission.

**John P. Boska,**

*Senior Project Manager, Plant Licensing Branch I-1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

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## **NUCLEAR REGULATORY COMMISSION**

**[Docket No. 50–397; NRC–2010–0084]**

### **Energy Northwest Columbia Generating Station; Exemption**

#### **1.0 Background**

Energy Northwest (the licensee) is the holder of Facility Operating License No. NPF–21 which authorizes operation of the Columbia Generating Station (CGS). The license provides, among other things, that the facility is subject to the rules, regulations, and orders of the Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a boiling-water reactor located in Benton County, Washington.

#### **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 in the **Federal Register** on March 27, 2009, 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 programs. The amendments to 10 CFR 73.55 published on March 27, 2009 (74 FR

13926), 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 one of these additional requirements that the licensee 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.

By application dated January 27, 2010, the licensee requested an exemption in accordance with 10 CFR 73.5, “Specific exemptions.” Attachment 1 to the licensee’s letter contains security-related information and, accordingly, those portions of the letters are being withheld from public disclosure. A redacted version of the licensee’s exemption request dated January 27, 2010, is publicly available in the Agencywide Documents Access and Management System (ADAMS) Accession No. ML100481052. The licensee has requested an exemption from the March 31, 2010, compliance date stating that it must accommodate a potential manufacturing delay that would result in a non-compliance of the new security requirements. Specifically, the request is to extend the implementation date from the current March 31, 2010, deadline to May 15, 2010. Granting this exemption for the one item would afford the licensee additional time to perform necessary upgrades to meet or exceed the regulatory requirements.

#### **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