

December 9, 2005

Mr. David A. Christian
Sr. Vice President and Chief Nuclear Officer
Virginia Electric and Power Company
Innsbrook Technical Center
5000 Dominion Blvd.
Glen Allen, Virginia 23060-6711

SUBJECT: SURRY POWER STATION, UNIT NOS. 1 AND 2, EXEMPTION FROM THE
REQUIREMENTS OF 10 CFR PART 50, APPENDIX E, SECTION IV.F.2.b
AND c (TAC NOS. MC8333 AND MC8334)

Dear Mr. Christian:

The Nuclear Regulatory Commission (NRC) has approved the enclosed exemption from specific requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, Appendix E, Section IV.F.2.b and c for the Surry Power Station, Unit Nos. 1 and 2. This action is in response to your letter dated September 15, 2005, which requested an exemption to postpone the full participation biennial exercise from December 6, 2005, to February 7, 2006. Accordingly, a one-time exemption from 10 CFR Part 50, Appendix E, Section IV.F.2.b and c has been granted for the rescheduling of the exercise to February 7, 2006. The NRC staff understands that the future full participation exercise will be scheduled biennially from the year 2005.

A copy of the exemption has been forwarded to the Office of the *Federal Register* for publication.

Sincerely,

/RA/

Stephen R. Monarque, Project Manager
Plant Licensing Branch II-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-280 and 50-281

Enclosure: Exemption

cc w/encl: See next page

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
VIRGINIA ELECTRIC AND POWER COMPANY
SURRY POWER STATION, UNIT NOS. 1 AND 2
DOCKET NOS. 50-280 AND 50-281
EXEMPTION

1.0 BACKGROUND

The Virginia Electric and Power Company (the licensee) is the holder of Renewed Facility Operating License Nos. DPR-32 and DPR-37 that authorizes operation of the Surry Power Station, Unit Nos. 1 and 2 (Surry). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a two pressurized-water reactors located in Surry County, Virginia.

2.0 REQUEST/ACTION

Section IV.F.2.b of Appendix E, to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, requires the licensee at each site to conduct an exercise of its onsite emergency plan biennially. Section IV.F.2.c of Appendix E, to 10 CFR Part 50, states that the offsite plans for each site shall be exercised biennially with full participation by each offsite authority having a role under the plan. During such biennial full participation exercises, the NRC staff evaluates the onsite emergency preparedness activities, and the Federal Emergency Management Agency (FEMA) evaluates the offsite emergency preparedness activities, including interaction with its various State and local emergency management agencies. The licensee successfully conducted a full participation exercise at Surry on July 15, 2003.

The licensee had scheduled a full participation Radiological Emergency Preparedness Exercise for December 6, 2005. Because the Virginia Department of Emergency Management (DEM) is currently constructing a new Emergency Operations Center (EOC) and this EOC is not scheduled to be fully operational until January 2, 2006, the Virginia DEM requested approval from FEMA to delay the emergency exercise until February 7, 2006, in order to allow the Virginia DEM to test its new EOC during the exercise at Surry. By letter dated May 20, 2005, FEMA approved Virginia DEM's request to delay this exercise until the first week of February 2006. Under the current regulations, the licensee would have until December 31, 2005, to complete its next full participation exercise. The licensee plans to conduct a Federally observed full participation emergency exercise on February 7, 2006. Future full participation exercises will be scheduled biennially from the year 2005.

By letter dated September 15, 2005, the licensee requested an exemption from the requirements of 10 CFR Part 50, Appendix E, Section IV.F.2.b and c regarding the biennial exercise and participation of the offsite response organizations during a biennial emergency exercise at Surry. Subsequently, the NRC staff has determined that the requirements of 10 CFR Part 50, Appendix E, Section IV.F.2.b and c are applicable to the circumstances of the licensee's request and that an exemption from those requirements is appropriate.

3.0 DISCUSSION

Pursuant to 10 CFR 50.12(a)(1), 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 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. However, pursuant to 10 CFR 50.12(a)(2), the Commission will not consider granting an exemption unless special circumstances are present. Under 10 CFR 50.12(a)(2)(ii), special circumstances are present when 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. Under 10 CFR 50.12(a)(2)(v), special circumstances are present whenever 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.

The underlying purpose for conducting a biennial exercise is to ensure that emergency response organization personnel are familiar with their duties and to test the adequacy of emergency plans. In order to accommodate the scheduling of full participation exercises, the NRC staff has allowed licensees to schedule the exercises at any time during the calendar biennium. Conducting the full participation exercise at Surry in calendar year 2006 places the exercise past the previously scheduled biennial calendar year of 2005.

Since the last full participation exercise conducted at Surry on July 15, 2003, the licensee conducted Full Scale Plume exercises on April 13, 2004, and December 6, 2005, and also performed an unannounced plume phase exercise on August 25, 2004. In addition, four training exercises were conducted. The NRC staff considers the intent of this requirement met by having conducted these series of exercises and drills. The NRC staff considers these measures to be adequate to maintain an acceptable level of emergency preparedness during this period, satisfying the underlying purpose of the rule. Therefore, the special circumstances of 10 CFR 50.12(a)(2)(ii) are satisfied.

Only temporary relief from the regulation is provided by the requested exemption since Surry will resume its normal biennial exercise schedule in 2007. The licensee has made a good faith effort to comply with the regulation. The exemption is being sought by the licensee in response to a request by the Virginia DEM to postpone the exercise. The Virginia DEM requested this delay to allow for the completion of the new EOC, which is not scheduled for completion until January 2, 2006. In its letter dated May 20, 2005, FEMA stated that it supports the schedule change from December 6, 2005, to the first week of February 2006.

The NRC staff, having considered the schedule and resource issues with those agencies that participate in and evaluate the offsite portion of the full participation exercises, concludes that the licensee made a good faith effort to meet the requirements of the regulation. Therefore, the NRC staff concludes that the exemption request meets the special circumstances of 10 CFR 50.12(a)(2)(v) and should be granted.

4.0 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 are present. Therefore, the Commission hereby grants the licensee an exemption from the requirements of 10 CFR Part 50, Appendix E, Section IV.F.2.b and c for Surry, Units 1 and 2.

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 (70 FR 72666).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 9th day of December 2005.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Edwin M. Hackett, Acting Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Surry Power Station, Units 1 & 2

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