

NUCLEAR REGULATORY COMMISSION

[Docket No. 52-039; NRC-2008-0603]

**PPL Bell Bend, LLC; Bell Bend Nuclear Power Plant; Exemption
from the Requirement to Submit an Annual Update to the
Final Safety Analysis Report Included in a Combined License Application**

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to an October 18, 2013 request from PPL Bell Bend, LLC (PPL). PPL requested an exemption from certain regulatory requirements that require them to submit updates to the Final Safety Analysis Report (FSAR) included in their 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 by December 31, 2014.

ADDRESSES: Please refer to Docket ID **NRC-2008-0603** when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2008-0603**. Address questions about NRC dockets to Carol Gallagher;

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

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may access publicly available documents online in the NRC Library 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. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

- **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: Michael Takacs, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC, 20555-0001; telephone: 301-415-7871; e-mail: Michael.Takacs@nrc.gov.

SUPPLEMENTARY INFORMATION: The following sections include the text of the exemption in its entirety as issued to PPL.

1.0 Background

On October 10, 2008, PPL Bell Bend, LLC (PPL) submitted to the U.S. Nuclear Regulatory Commission (NRC) a Combined License (COL) application for a single unit of AREVA NP's U.S. EPR to be constructed and operated as Bell Bend Nuclear Power

Plant (BBNPP), in Luzerne County, Pennsylvania (Agencywide Documents Access and Management System (ADAMS) Accession No. ML082890663). The NRC docketed the BBNPP COL application on December 19, 2008 (Docket Number 52-039). Additionally, the BBNPP COL application is based upon the U.S. EPR reference COL (RCOL) application for UniStar's Calvert Cliffs Nuclear Power Plant, Unit 3 (CCNPP3). The NRC is currently performing the detailed reviews of the CCNPP3 RCOL application, and AREVA NP's application for design certification of the U.S. EPR. On April 12, 2013, PPL submitted Revision 4 to the COL application (ADAMS Accession No. ML13120A374), including updates to the Final Safety Analysis Report (FSAR), per Title 10 of the *Code of Federal Regulations* (10 CFR) Subsection 50.71(e)(3)(iii), consistent with the NRC approved exemption for late filing of the calendar year 2012 FSAR update. On October 18, 2013, PPL requested an exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit the BBNPP COL application FSAR update in calendar year 2013 (ADAMS Accession No. ML13304A574).

2.0 Request/Action

10 CFR 50.71(e)(3)(iii) requires that an applicant for a COL, under Subpart C of 10 CFR Part 52, must update their FSAR annually during the period from docketing the application to the Commission making its 52.103(g) finding.

Pursuant to 10 CFR 50.71(e)(3)(iii), the next annual update of the FSAR included in the BBNPP COL application would be due by December 31, 2013. On November 2, 2012, PPL previously requested an exemption, pursuant to 10 CFR 50.71(e)(3)(iii) to allow for late filing of their required application revision for calendar year 2012 (ADAMS Accession No. ML12321A037). The NRC granted the exemption as described in 78 FR 4465 (January 22, 2013). On April 12, 2013, PPL submitted Revision 4 to the COL application, including updates to the FSAR. Since this submittal was provided to satisfy their approved exemption for late

filing of calendar year 2012, the next annual update is due by the end of calendar year 2013. PPL has again requested a one-time exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit its scheduled 2013 update while work is being completed on the generic aspects of the safety review for the U.S. EPR Design Certification and the CCNPP3 RCOL application. In addition, since Revision 5 of the U.S. EPR FSAR was submitted to the NRC on July 19, 2013 (ADAMS Accession No. ML13220B020), the corresponding 2013 update of the CCNPP3 RCOL application, which will have incorporated applicable changes from the U.S. EPR FSAR Revision 5, has not yet been submitted to the NRC. Therefore, the exemption would allow PPL to submit the FSAR update in an orderly and efficient manner, without undue burden on their resources, after the CCNPP3 RCOL application has been updated to reflect the current version to the U.S. EPR FSAR.

PPL's requested exemption is interpreted as a one-time schedule change from the requirements of 10 CFR 50.71(e)(3)(iii). In its request, PPL asked the NRC to grant the exemption from 10 CFR 50.71(e)(3)(iii) for calendar year 2013 for reasons cited above. The exemption would allow PPL to submit the next FSAR update at a later date but no later than December 31, 2014. The current requirement to submit an FSAR update could not be changed, absent the exemption.

3.0 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 Section 50.71(e)(3)(iii) 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)), and if “[t]he 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 purpose of 10 CFR 50.71(e)(3)(iii) is to ensure that the NRC has the most up-to-date information regarding the COL application, in order to perform an efficient and effective review. The rule targeted those applications that are being actively reviewed by the NRC. Since the CCNPP3 RCOL application has not yet been updated to the most recent revision of the U.S. EPR FSAR, nor has CCNPP3 incorporated all FSAR changes resulting from its responses to NRC Requests for Additional Information, updating the BBNPP FSAR cannot be accomplished prior to the end of 2013. Requiring the update would only cause undue hardship on PPL, and the purpose of 50.71(e)(3)(iii) would still be achieved so long as the next update is submitted by December 31, 2014.

The requested exemption to defer submittal of the next update to the FSAR included in the BBNPP COL application would provide only temporary relief from the regulations of 10 CFR 50.71(e)(3)(iii). As evidenced by the April 12, 2013, submittal of Revision 4 to the COL application (ADAMS Accession No. ML13120A374), PPL has made good faith efforts to comply with 10 CFR 50.71(e)(3)(iii).

For the reasons stated above, the application of 10 CFR 50.71(e)(3)(iii) in this particular circumstance can be deemed unnecessary and the granting of the exemption would allow only temporary relief from a rule that the applicant had made good faith efforts to comply with, therefore, special circumstances are present.

Authorized by Law

The exemption is a one-time schedule exemption from the requirements of 10 CFR 50.71(e)(3)(iii). The exemption would allow PPL to submit the next BBNPP COL application FSAR update on or before December 31, 2014. 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 PPL the requested one-time exemption from the requirements of 10 CFR 50.71(e)(3)(iii) 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 the NRC's regulations. Therefore, the exemption is authorized by law.

No Undue Risk to Public Health and Safety

The underlying purposes 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, the revisions to an application under 10 CFR Part 52, for which a license has not been granted. 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 probability of postulated accidents is not increased. 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 requested exemption would allow PPL to submit the next FSAR update on or before December 31, 2014. 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 in that the "[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 underlying purpose of 10 CFR 50.71(e)(3)(iii) is to ensure that the NRC has the most up-to-date information in order to perform its review of a COL application efficiently and effectively. Because the CCNPP3 RCOL application has not yet been updated to the most recent revision of the U.S. EPR FSAR, nor has it incorporated all RCOL application responses to NRC Requests for Additional Information, the application of this regulation in this particular circumstance is unnecessary in order to achieve its underlying purpose. If the NRC were to grant this exemption, and PPL were then required to update its FSAR by December 31, 2014, the purpose of the rule would still be achieved.

Special circumstances in accordance with 10 CFR 50.12(a)(2)(v) are present whenever the exemption would provide only temporary relief from the regulation and the applicant has made good faith efforts to comply with this regulation. Because of the assumed and imposed new deadline of December 31, 2014, PPL’s exemption request seeks only temporary relief from the requirement that it file an update to the FSAR included in the BBNPP COL application.

Therefore, since the relief from the requirements of 10 CFR 50.71(e)(3)(iii) would be temporary and the applicant has made good faith efforts to comply with the rule, and the underlying purpose of the rule is not served by application of the rule in this circumstance, the special circumstances required by 10 CFR 50.12(a)(2)(ii) and 10 50.12(a)(2)(v) 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) and justified by the NRC staff as follows:

(c) The following categories of actions are categorical exclusions:

(25) Granting of an exemption from the requirements of any regulation of this chapter, provided that—

(i) There is no significant hazards consideration;

The criteria for determining whether there is no 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. Therefore, there is no significant hazards 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) There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite;

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

(iii) There is no significant increase in individual or cumulative public or occupational radiation exposure;

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) There is no significant construction impact;

The proposed action involves only a schedule change which is administrative in nature. There is no consideration of any construction at this time, and hence the proposed action does not involve any construction impact.

(v) There is no significant increase in the potential for or consequences from radiological accidents; and

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

(vi) The requirements from which an exemption is sought involve:

(B) Reporting requirements;

The exemption request involves submitting an updated FSAR by PPL and

(G) Scheduling requirements;

The proposed exemption relates to the schedule for submitting FSAR updates to the NRC.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a)(1) and (2), 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 PPL a one-time exemption from the requirements of 10 CFR 50.71(e)(3)(iii) pertaining to the Bell Bend Nuclear Power Plant COL application to allow submittal of the next FSAR update on or before December 31, 2014.

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 18th day of December 2013.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

John Segala, Chief,
Licensing Branch 1,
Division of New Reactor Licensing,
Office of New Reactors.