

NUCLEAR REGULATORY COMMISSION**[Docket No. 50-416]****Entergy Operations, Inc., (Grand Gulf Nuclear Power Station, Unit 1); Exemption****I**

Entergy Operations, Inc. (EOI or the licensee) is the holder of Facility Operating License No. NPF-29, which authorizes operation of the Grand Gulf Nuclear Station, Unit 1 (GGNS) at power levels not to exceed 3833 megawatts thermal.

The facility consists of one boiling-water reactor located at the licensee's site in Claiborne County, Mississippi. The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

II

Section IV.F.2.b of Appendix E to Title 10 of the Code of Federal Regulations (10 CFR) part 50, requires that each licensee at each site conduct an exercise of its onsite emergency plan every 2 years, and indicates the exercise may be included in the full-participation biennial exercise required by paragraph 2.c.

In summary, licensees are to take actions necessary to ensure that adequate emergency response capabilities are maintained during the interval between biennial exercises by conducting drills. Appendix E, section IV.F.2.c. to 10 CFR part 50 requires offsite plans for each site to be exercised biennially with full participation by each offsite authority having a role under the plan. During such biennial full-participation exercises, the NRC evaluates onsite emergency preparedness activities, and the Federal Emergency Management Agency evaluates offsite emergency preparedness activities. The licensee successfully conducted a full-participation exercise for GGNS on June 23, 1999. By letter dated September 18, 2001, as supplemented by letter dated December 3, 2001, the licensee requested an exemption from 10 CFR part 50, Appendix E, section IV.F.2.c., regarding the conduct of a full-participation exercise originally scheduled for the week of September 17, 2001. Specifically, the licensee proposed rescheduling the exercise originally scheduled for the week of September 17, 2001, to the week of March 4, 2002. While the licensee

requested an exemption from the requirements of 10 CFR part 50, Appendix E, section IV.F.2.c., to exercise their offsite emergency plan, the NRC staff has determined that an exemption from the requirements in 10 CFR part 50, Appendix E, section IV.F.2.b., to exercise their onsite emergency plan simultaneously with the offsite emergency plan exercise, was also necessary.

The Commission, pursuant to 10 CFR 50.12(a)(1), may grant exemptions from the requirements of 10 CFR part 50 that are authorized by law, will not present an undue risk to public health and safety, and are consistent with the common defense and security. The Commission, however, pursuant to 10 CFR 50.12(a)(2), will not consider granting an exemption unless special circumstances are present. 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.

III

The licensee requests a one-time change in the schedule for the next full-participation exercise for GGNS. Subsequent full-participation exercises for GGNS would be scheduled at no greater than 2-year intervals in accordance with 10 CFR part 50, Appendix E, section IV.F.2.c. Accordingly, the exemption would provide only temporary relief from that regulation, in that the licensee has committed to conduct the exercise during the next calendar year (2002), and has not requested any permanent changes in future exercise scheduling. As a result, subsequent to the rescheduled full-participation exercise to be conducted in 2002, the licensee is expected to conduct another full-participation exercise of onsite and offsite emergency plans in 2003.

As indicated in the licensee's request for an exemption, as supplemented, the licensee had originally scheduled a full-participation exercise for the week of September 17, 2001. As further set forth in the request, however, due to the national emergency of September 11, 2001, heightened security at GGNS resulted in increased monitoring of people and equipment, and additional controls on maintenance activities. Conducting an emergency preparedness exercise during that period of heightened security would have increased the security risk, because exercise activities may have presented an unwarranted distraction of nuclear

security officers as well as local law enforcement officials. Conducting the full participation exercise at that time could also have created undue public alarm with the potential to create a public safety concern. These circumstances resulting in the licensee's request for exemption were beyond the licensee's control. Accordingly, the licensee made a good faith effort to comply with the schedule requirements of 10 CFR part 50, Appendix E, for full-participation emergency plan exercises.

The staff examined the licensee's rationale to support the exemption request, and concluded that granting the exemption would meet the underlying purpose of 10 CFR part 50, because the exemption would provide only temporary relief from the applicable regulation and the licensee made a good faith effort to comply with the regulation. Furthermore, the exemption would result in benefit to the public health and safety. The national emergency of September 11, 2001, and the subsequent recovery and security responses required that licensee, State, and local resources, expected to be available for the previously scheduled biennial exercise, be applied to agency missions. Offsite agencies were not able to dedicate the appropriate level of resources, as it would have detracted from their response to the security needs at that time. Postponement of the exercise resulted in a benefit to public health and safety that compensated for any decrease in public health and safety that may have resulted from delaying the exercise. Additionally, since the June 23, 1999, full-participation exercise, the licensee has maintained emergency preparedness by conducting ten emergency preparedness drills, each requiring the full activation of all GGNS emergency facilities, which is a compensating measure contributing to justification of the exemption. The exemption only provides temporary relief from the applicable regulation, in that the licensee has committed to conduct the exercise during the next calendar year (2002), and has not requested any permanent changes in future exercise scheduling.

Based upon consideration of the public health and safety, schedule, and resource issues resulting from the national emergency of September 11, 2001, the staff concludes that the request for exemption is acceptable. However, in this period of continued heightened security concerns regarding nuclear plant vulnerability it is prudent to conduct the exercise as soon as practical to demonstrate and maintain readiness.

The safety evaluation may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publically available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, <http://www.nrc.gov> (the Public Electronic Reading Room).

IV

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 pursuant to 10 CFR 50.12(a)(2)(v), in that the exemption would provide only temporary relief from the applicable regulations, and the licensee has made good faith efforts to comply with the regulations. Therefore, the Commission hereby grants EOI, specifically for GGNS, a one-time scheduler exemption from the requirements to conduct an exercise of its onsite and offsite emergency plans every 2 years with full-participation by each offsite authority having a role under the plan as required by 10 CFR part 50, Appendix E, sections IV.F.2.b. and c. To allow flexibility, should it be necessary, the exemption is granted to permit conduct of the full-participation exercise before the end of the third quarter of 2002, with the understanding that it should be conducted as close as practical to the licensee's proposed date of the week of March 4, 2002.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (66 FR 64480).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 20th day of December, 2001.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

Docket No. 71-0122, Approval No. 0122,EA-01-164]

In the Matter of J.L. Shepherd & Associates San Fernando, CA; Confirmatory Order Relaxing Order (Effective Immediately)

I

J. L. Shepherd & Associates (JLS&A or Approval Holder) was the holder of Quality Assurance (QA) Program Approval for Radioactive Material Packages No. 0122 (Approval No. 0122), issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 71, subpart H. The approval was previously issued pursuant to the QA requirements of 10 CFR section 71.101. QA activities authorized by Approval No. 0122 include: design, procurement, fabrication, assembly, testing, modification, maintenance, repair, and use of transportation packages subject to the provisions of 10 CFR part 71. Approval No. 0122 was originally issued January 17, 1980. Revision No. 6 was issued December 6, 2001, with an expiration date on November 30, 2006. In addition to having a QA program approved by the NRC to satisfy the provisions of 10 CFR part 71, subpart H, to transport or deliver for transport licensed material in a package, JLS&A is required by 10 CFR part 71, subpart C, to have and comply with the package's Certificate of Compliance (CoC) issued by the NRC. Based on the JLS&A failure to comply with 10 CFR part 71, QA Program Approval No. 0122 was withdrawn by an immediately effective NRC Order, dated July 3, 2001.

II

By letter dated August 17, 2001, JLS&A responded to the U. S. Nuclear Regulatory Commission's July 2001 Order. In a August 16, 2001, response, appended to the August 17, 2001, letter, JLS&A requested that provisions of the Order be relaxed based on a showing of good cause. Specifically, JLS&A requested interim relief from the July 2001 Order based on JLS&A's proposed Near-Term Corrective Action Plan (NTCAP), to allow 68 shipments to 16 customers, in Department of Transportation specification packaging designated as 20WC. The NRC staff reviewed JLS&A's relief request to determine, among other things, whether the requested relief would be consistent with assurances that public health and safety are maintained. As a result the NRC issued a Confirmatory Order

Relaxing Order dated September 19, 2001, which relaxed the July 3, 2001, Order to grant interim relief to allow 68 shipments to 16 customers in 20WC packages in accordance with JLS&A's NTCAP, through March 2002, provided certain commitments were completed.

A condition of the September 19, 2001, Order was that JLS&A hold all shipments until NRC has completed an inspection which confirms JLS&A's satisfactory completion of the identified commitments. Subsequent to certifications under oath and affirmation from both J. L. Shepherd and the independent auditor that the conditions of the Confirmatory Order have been completed, the NRC conducted an inspection at the JLS&A facility on November 13-15, 2001. As a result of the inspection findings, the inspection team authorized JLS&A to commence the shipments in accordance with the Confirmatory Order. By letter dated November 20, 2001, NRC staff provided a written confirmation of the inspection teams authorization.

III

By letters dated December 7 and 11, 2001, JLS&A again requested that provisions of the July 3, 2001, Order be relaxed based on a showing of good cause. Specifically, JLS&A requested interim relief to ship an irradiator to Surry Nuclear Power Station and return the replaced unit to JLS&A's facility in California. JLS&A's proposed to use the NTCAP specified in the September 19, 2001, Confirmatory Order to allow these two shipments in the Department of Transportation specification packaging designated as 20WC. These shipments are necessary for Surry Power Station to continue to provide adequate quality control on instrumentation used for all required radiation surveys in support of plant operations. Therefore, the two shipments are in the best interest of public health and safety.

With respect to the substantive concerns identified by the staff in the July 2001 Order, on December 7 and 11, 2001, JLS&A agreed to take the following corrective actions listed below, before it makes any of the proposed shipments to or from Surry Power Station in accordance with the NTCAP:

1. a. JLS&A will use the implementing procedures for the 1995 QA program plan, as revised, and the NTCAP to complete an inspection of the 20WC packages involved in the Surry shipment. The inspection will confirm that the packages are in conformance with 49 CFR 178.362, "Specification 20WC Wooden Protective Jacket." Each inspection will include, at a minimum,