



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-271; NRC-2015-0157]

Entergy Nuclear Operations, Inc.

Vermont Yankee Nuclear Power Station

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft environmental assessment and finding of no significant impact; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft environmental assessment (EA) and finding of no significant impact (FONSI) regarding the issuance of two exemptions in response to a January 6, 2015 request from Entergy Nuclear Operations, Inc. (Entergy or the licensee), representing itself and the other owners of the Vermont Yankee Nuclear Power Station (VY). The exemptions allow the licensee to use funds from the VY decommissioning funds trust (the Trust) for irradiated fuel management activities without prior notice to the NRC.

DATES: Submit comments by **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

ADDRESSES: You may submit comments by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2015-0157**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.
- **Mail comments to:** Cindy Bladey, Office of Administration, Mail Stop: OWFN-12-H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Jack D. Parrott, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-6634; e-mail: Jack.Parrott@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID **NRC-2015-0157** when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for

Docket ID **NRC-2015-0157**.

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

You may obtain publicly-available documents online in the ADAMS Public Documents collection 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 (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- **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.

B. Submitting Comments

Please include Docket ID **NRC-2015-0157** in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at <http://www.regulations.gov> as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Introduction

On June 23, 2015 (80 FR 35992), the NRC issued exemptions from §§ 50.82(a)(8)(i)(A) and 50.75(h)(2) of title 10 of the *Code of Federal Regulations* (10 CFR) to Entergy, for VY's Facility Operating License No. DPR-28. The VY facility is located in Windham County, Vermont. The licensee requested the exemptions by letter dated January 6, 2015 (ADAMS Accession No. ML15013A171). The exemptions allow the licensee to use funds from the Trust for irradiated fuel management activities without prior notice to the NRC, in the same manner that funds from the Trust are used under § 50.82(a)(8) for decommissioning activities.

At the time of issuance, the NRC's approval of the exemptions referenced the categorical exclusion criteria under § 51.22(c)(25). However, on November 4, 2015, the State of Vermont, the Vermont Yankee Nuclear Power Corporation, and Green Mountain Power Corporation (together, Petitioners) filed a petition (ADAMS Accession No. ML16137A554) with the Commission that, in part, challenged that the NRC staff had not conducted a NEPA-compliant analysis in conjunction with the exemption request. The Commission directed, in their October 27, 2016 decision on the petition (ADAMS Accession No. ML16301A083) that the staff conduct an EA to examine the environmental impacts, if any, associated with the exemptions. Therefore, consistent with Commission direction and with § 51.21, the NRC has prepared this

draft EA to document its environmental review for the exemption requests. Based on the results of the EA, the NRC has determined it is not necessary to prepare an environmental impact statement and is therefore issuing this draft FONSI.

III. Draft Environmental Assessment

Description of the Action:

The exemption request by Entergy on January 6, 2015, and granted by the NRC on June 23, 2015, exempts Entergy from the requirements set forth in §§ 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(2). Specifically, the exemptions allow Entergy to use funds from the Trust for irradiated fuel management activities, not associated with radiological decontamination, and exempt Entergy from meeting the requirement for prior notification to the NRC for these disbursements.

Need for the Action:

By letter dated January 12, 2015 (ADAMS Accession No. ML15013A426), Entergy informed the NRC that it had permanently ceased power operations at VY and that the VY reactor vessel had been permanently defueled.

Entergy stated that it needed access to the funds in the Trust, in excess of those needed for radiological decontamination, to support irradiated fuel management activities not associated with radiological decontamination. As required by § 50.82(a)(8)(i)(A), decommissioning trust funds may be used by the licensee if the withdrawals are for legitimate decommissioning activity expenses, consistent with the definition of decommissioning in § 50.2. This definition addresses radiological decontamination and does not include activities associated with irradiated fuel management. Similarly, the requirements of § 50.75(h)(2) restrict the use of decommissioning

trust fund disbursements (other than for ordinary and incidental expenses) to decommissioning expenses until final decommissioning has been completed. Therefore, Entergy needed exemptions from §§ 50.82(a)(8)(i)(A) and 50.75(h)(2) to allow the use of funds from the Trust for irradiated fuel management activities without prior notice of disbursement.

Entergy stated that the Trust contains funds for decommissioning that are commingled with funds intended for irradiated fuel management activities not associated with radiological decontamination. The VY Annual Decommissioning Financial Status Report (ADAMS Accession No. ML15092A141) submitted by Entergy on March 30, 2015, to the NRC supports the adequacy of funds in the Trust to cover the costs of activities associated with irradiated fuel management and radiological decontamination through license termination.

The requirements of § 50.75(h)(2) further provide that, except for decommissioning withdrawals being made under § 50.82(a)(8), or for payments of ordinary administrative costs and other incidental expenses of the Trust, no disbursement may be made from the Trust until written notice of the intention to make a disbursement has been given to the NRC at least 30 working days in advance of the intended disbursement. Therefore, an exemption from § 50.75(h)(2) was needed to allow Entergy to use funds from the Trust for irradiated fuel management activities without prior NRC notification.

Environmental Impacts of the Action:

The exemptions from requirements related to use and notification of Trust funds are of a financial nature and allow Entergy to pay for irradiated fuel management activities with Trust funds. The exemptions do not authorize any additional regulatory or land-disturbing activities, but do allow Entergy to finance irradiated fuel management activities, which support decommissioning.

In granting the exemptions, the NRC completed its safety evaluation and concluded that there was reasonable assurance that adequate funds are available in the Trust to complete all activities associated with decommissioning and irradiated fuel management activities. There is no decrease in safety associated with the use of the Trust to fund activities associated with irradiated fuel management.

The licensee has a comprehensive, regulation-based decommissioning funding oversight program to provide reasonable assurance that sufficient funding will be available for radiological decommissioning. After submitting its site-specific Decommissioning Cost Estimate and until the licensee has completed its final radiation survey and demonstrated that residual radioactivity has been reduced to a level that permits termination of its license, § 50.82(a)(8)(v) requires a licensee to annually submit a financial assurance status report. The report must include, among other things, amounts spent on decommissioning, remaining Trust balance, and estimated costs to complete radiological decommissioning. If the remaining balance, plus expected rate of return, plus any other financial surety mechanism does not cover the estimated costs to complete the decommissioning, the § 50.82(a)(8)(vi) specifies that additional financial assurance must be provided. These annual reports provide a means for the NRC to monitor the adequacy of available funding.

Additionally, in accordance with the VY Renewed Facility Operating License (ADAMS Accession No. ML15117A551), Condition 3.J.a.(iii), the decommissioning trust agreement must provide that no disbursements or payments from the Trust, other than for ordinary administrative expenses, shall be made by the trustee until the trustee has first given thirty days prior written notice to the NRC. Article IV, Section 4.05 of the Master Decommissioning Trust Agreement (ADAMS Accession No. ML15111A086), by and between Entergy Nuclear Vermont Yankee, LLC, and The Bank of New York Mellon as Trustee, provides that no disbursements or

payments shall be made by the Trustee, other than administrative expenses, in accordance with Section 4.02 of the Master Trust Agreement, until the Trustee has first given the NRC 30 days prior written notice of payment; provided, however, that no disbursement or payment from the Trust shall be made if the Trustee receives prior written notice of objection from the Director of the Office of Nuclear Reactor Regulation.

The second exemption, which was also granted, exempted Entergy from § 50.75(h)(2). This exemption did not apply to VY at the time of the request because license condition 3.J.a(iii) was still in effect. Section 50.75(h)(2) would have applied if Entergy's the September 2014 license amendment request to remove the license condition had been approved (ADAMS Accession No. ML14254A405). Entergy withdrew that license amendment request on September 22, 2015 (ADAMS Accession Nos. ML15267A074 and ML15265A583, respectively), therefore the second exemption request has not been implemented. License condition 3.J.a(iii) is still in effect and VY remains subject to the disbursement notification condition in the license.

The environmental impacts of decommissioning have been generically evaluated by the NRC and documented in NUREG-0586, Supplement 1 (Decommissioning Generic Environmental Impact Statement [GEIS]). Entergy's Post-Shutdown Decommissioning Activity Report (ADAMS Accession No. ML14357A110) stated that impacts from planned decommissioning activities at VY are less than and bounded by the impacts considered in the Decommissioning GEIS and NUREG-1496, *Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities*. The NRC agreed with Entergy's conclusion that VY decommissioning activities were bounded by previous analyses (ADAMS Accession No. ML15343A210).

The exemptions do not authorize Entergy to perform new land-disturbing activities that could affect land use, soils and geology, water resources, ecological resources, or historic and

cultural resources. The exemptions do not authorize Entergy to conduct additional regulatory activities, outside those already licensed by the NRC, therefore there are no incremental effects to air quality, traffic and transportation, socioeconomics, environmental justice, or accidents. The exemptions will not increase the probability or consequences of accidents. As a result of the exemptions, there are no changes in the types or amounts of effluents that are, or may be, released offsite. Entergy must continue to comply with all appropriate NRC regulations related to occupational and public radiation exposure and thus the exemptions will not result in an increase to occupational or public doses. Accordingly, the NRC concludes that there are no potential environmental impacts as a result of the granted exemptions.

Environmental Impacts of the Alternatives to the Action:

As an alternative to the action, the NRC staff could have denied Entergy's exemption request. Denial of the exemption request would have resulted in Entergy operating the facility as licensed, thus the environmental impacts would be the same as those already considered by the previous environmental review in NUREG-1437, Supplement 30 regarding renewal of VY's operating license.

Agencies or Persons Consulted:

On December 15, 2016, the NRC notified the State of Vermont of the draft EA and FONSI. The NRC staff has determined that the exemptions would have no impact on historic and cultural resources or ecological resources and therefore no consultations are necessary under Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act, respectively.

On November 4, 2015, the Petitioners filed a petition with the Commission that challenged the NRC staff's approval of Entergy's exemption requests. The Petitioners raised concerns about the use of Trust fund for costs associated with irradiated fuel management, citing that a potential shortfall in the Fund would result in radiological and environmental consequences as well as economic risk to the Vermont taxpayers. As discussed earlier, the NRC has determined that there is reasonable assurance that adequate funds are available in the Trust to complete all activities associated with decommissioning and irradiated fuel management activities. Further, the NRC has concluded in this EA that there are no environmental impacts as a result of the exemptions.

IV. Finding of No Significant Impact

Entergy proposed exemptions from §§ 50.82(a)(8)(i)(A) and 50.75(h)(2) to allow the licensee to use funds from the Trust for irradiated fuel management activities, without prior written notification to the NRC. The NRC granted the exemptions on June 23, 2015.

Consistent with § 51.21, the NRC conducted the environmental assessment for the exemptions included in Section II of this document and incorporated by reference in this finding. On the basis of this environmental assessment, the NRC concludes that the exemptions did not, and will not, have significant effects on the quality of the human environment. Accordingly, the NRC has decided not to prepare an environmental impact statement for the action.

Dated at Rockville, Maryland, this 1st day of March, 2017.

For the Nuclear Regulatory Commission.

Bruce Watson, Chief,
Reactor Decommissioning Branch
Division of Decommissioning, Uranium Recovery
and Waste Programs
Office of Nuclear Material Safety and Safeguards