



## **NUCLEAR REGULATORY COMMISSION**

**[Docket No. 52-007; NRC-2025-0072]**

**Constellation Energy Generation, LLC; Clinton Early Site Permit**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Exemption; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has issued an exemption in response to a December 20, 2024, request from Constellation Energy Generation, LLC, to allow the submittal of a renewal application for ESP-001 no later than 45 days prior to the expiration of the existing permit and still place the permit in timely renewal under NRC regulations.

**DATES:** The exemption was issued on April 16, 2025.

**ADDRESSES:** Please refer to Docket ID **NRC-2025-0072** when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2025-0072**. Address questions about Docket IDs in Regulations.gov to Bridget Curran; telephone: 301-415-1003; email: [Bridget.Curran@nrc.gov](mailto:Bridget.Curran@nrc.gov). For technical questions, contact the individual listed in the “For Further Information Contact” section of this document.

- **NRC’s Agencywide Documents Access and Management System**

**(ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, 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, at 301-415-4737, or by email to [PDR.Resource@nrc.gov](mailto: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:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov) or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Jordan Glisan, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-3478, email: [Jordan.Glisan@nrc.gov](mailto:Jordan.Glisan@nrc.gov).

**SUPPLEMENTARY INFORMATION:** The text of the exemption is attached.

**Dated:** April 23, 2025.

For the Nuclear Regulatory Commission.

**Jordan Glisan,**  
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Branch,  
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**NUCLEAR REGULATORY COMMISSION**

**Docket No. 52-007**

**Constellation Energy Generation, LLC**

**Clinton Early Site Permit**

**Exemption**

**I. Background.**

Exelon Generation Company, LLC, renamed Constellation Energy Generation, LLC (CEG or the permit holder), is the holder of early site permit (ESP) ESP-001. The ESP was issued for a site located approximately 6 miles east of the city of Clinton in central Illinois and adjacent to the existing Clinton nuclear power station. The ESP approves the site for one or more nuclear power plants, which may be modular and designed to operate collectively at no more than 6800 megawatts thermal, independent of a specific nuclear plant design or an application for a construction permit or combined license. The permit also provides, among other things, that the site is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, Commission) now or hereafter in effect. The Clinton ESP became effective on March 15, 2007, and expires on March 15, 2027.

**II. Request/Action.**

By letter dated December 20, 2024 (Agencywide Documents Access and Management System Accession No. ML24355A121), CEG requested an exemption from 10 CFR 2.109, “Effect of timely renewal application,” section (c), and 10 CFR 52.29, “Application for renewal,” to allow the renewal application for ESP-001 to be submitted no later than 45 days prior to the expiration of the existing permit and still receive timely renewal protection under 10 CFR 2.109(c) and 10 CFR 52.29.

The regulation at 10 CFR 2.109(c) requires that the permit holder file a sufficient

application for renewal no less than 12 months before the expiration of the existing ESP. The regulation at 10 CFR 52.29 requires that the permit holder file a sufficient application for renewal no more than 36 months prior to the expiration of the permit in order to be in timely renewal. Specifically, 10 CFR 2.109(c) states “If the holder of an early site permit licensed under subpart A of Part 52 of this chapter files a sufficient application for renewal under § 52.29 of this chapter at least 12 months before the expiration of the existing early site permit, the existing permit will not be deemed to have expired until the application has been finally determined.” Additionally, 10 CFR 52.29(a) states, “Not less than 12, nor more than 36 months before the expiration date stated in the early site permit, or any later renewal period, the permit holder may apply for a renewal of the permit.” Lastly, 10 CFR 52.29(c) states, “An early site permit, either original or renewed, for which a timely application for renewal has been filed, remains in effect until the Commission has determined whether to renew the permit.”

### **III. Discussion.**

Exemptions from the requirements of Part 52 are governed by 10 CFR 52.7, which states that an exemption under that Part must meet the exemption requirements in 10 CFR 50.12. 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 52 when (1) 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; and (2) special circumstances are present, as defined in 10 CFR 50.12(a)(2). In its application, the permit holder stated that two special circumstances apply to its request. The two special circumstances that the permit holder included in its request are:

- 1) Application of the regulation would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.
- 2) There is present any other material circumstance not considered when the regulation was adopted for which it would be in the public interest to grant an exemption.

**A. The Exemption is Authorized by Law**

This exemption would allow the permit holder to submit a sufficient renewal application for ESP-001 no later than 45 days prior to the expiration of its existing permit and the permit would still be in timely renewal under 10 CFR 2.109(c) and 10 CFR 52.29. The Administrative Procedure Act (APA), 5 U.S.C. § 558(c), states:

When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency.

The APA does not require a specific time period within which an application for a renewal must be filed; the 12-month time period specified in 10 CFR 2.109(c) and 10 CFR 52.29 is specific to NRC regulations, pursuant to the Atomic Energy Act of 1954 (AEA). Because the regulation at 10 CFR 52.7 allows the NRC to grant exemptions from its regulations and because the APA does not require a specific time period for timely renewal of the ESP, the NRC has determined that granting this exemption will not result in a violation of the AEA or the APA. Therefore, the exemption is authorized by law.

**B. The Exemption Presents no Undue Risk to Public Health and Safety**

The requested exemption to allow a 45-day time period, rather than the 12 months specified in 10 CFR 2.109(c) and 10 CFR 52.29(a), for the permit holder to submit a sufficient renewal application and place the permit in timely renewal is a scheduling change. The action does not change the manner in which the permit maintains public health and safety because no additional changes are made as a result of the action. The NRC finds that a period of 45 days provides sufficient time for the NRC to begin to perform an acceptance review, and that review time beyond the expiration date of the permit does not pose an undue risk to public health and safety due to a lack of activity at the site. Based on the above, the NRC finds that the action does not cause undue risk to public health and safety.

**C. The Exemption is Consistent with the Common Defense and Security**

The requested exemption to allow a 45-day time period, rather than the 12 months specified in 10 CFR 2.109(c) and 10 CFR 52.29, for the permit holder to submit

a sufficient renewal application and place the permit in timely renewal is a scheduling change. This exemption would not change the permit and therefore would not impact the security of the site. Therefore, the NRC finds that the action is consistent with the common defense and security because the scheduling change would have no impact on site security.

#### **D. Special Circumstances**

The purpose of 10 CFR 2.109(c), as it is applied to nuclear power reactors licensed by the NRC, is to implement the “timely renewal” provision of Section 9(b) of the APA, 5 U.S.C. § 558(c), which states:

When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency.

The underlying purpose of this “timely renewal” provision in the APA is to protect a licensee who is engaged in an ongoing licensed activity and who has complied with agency rules in applying for a renewed or new license from facing license expiration as the result of delays in the administrative process.<sup>1</sup>

Application of the 12-month period in 10 CFR 2.109(c) and 10 CFR 52.29 is not necessary to achieve the underlying purpose of the timely renewal provision in the regulation if the permit holder files a sufficient renewal application no later than 45 days prior to expiration of the permit. The NRC acknowledges that receipt of a renewal application for ESP-001 would result in an NRC review that would take place beyond the expiration date of the ESP. The NRC staff has determined this will not pose any issues to public health and safety or common defense and security or cause an undue hardship in the regulatory processes surrounding the ESP as a result of the additional time that the ESP is active because no construction or operation activities are taking place on site. Therefore, the NRC finds that the special circumstance requirement in 10 CFR 50.12(a)(2)(ii) has been met here.

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<sup>1</sup> *Kay v. FCC*, 525 F.3d 1277 (D.C. Cir. 2008) (citing *Miami MDS Co. v. FCC*, 14 F.3d 658, 659-60 (D.C. Cir. 1994)).

## **E. Environmental Considerations**

The NRC has determined that the issuance of the requested exemption meets the provisions of categorical exclusion specified in 10 CFR 51.22(c)(25). Under 10 CFR 51.22(c)(25), the granting of an exemption from the requirements of any regulation in Chapter 10 of the Code of Federal Regulations qualifies as a categorical exclusion if (i) there is no significant hazards consideration; (ii) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (iii) there is no significant increase in individual or cumulative public or occupational radiation exposure; (iv) there is no significant construction impact; (v) there is no significant increase in the potential for or consequences from radiological accidents; and (vi) the requirements from which an exemption is sought involves one of several matters, which includes scheduling requirements under 10 CFR 51.22(c)(25)(vi)(G). The basis for NRC's determination is provided below.

### Requirements in 10 CFR 51.22(c)(25)(i)

The regulation at 10 CFR 51.22(c)(25)(i) requires an exemption to involve a no significant hazards consideration if it is to qualify for a categorical exclusion. The criteria for making a no significant hazards consideration determination are found in 10 CFR 50.92(c). Because there is no existing operating nuclear facility associated with ESP-001, and the exemption only effects the timeframe for submitting the ESP-001 renewal application, the exemption would not involve changes to accident analyses source term parameters, the possibility for new or different kinds of accidents, or associated margins of safety. Therefore, the NRC has determined that the granting of this exemption request involves a no significant hazards consideration because allowing the submittal of the ESP renewal application less than 12 months before expiration of the existing permit while maintaining the protection of the timely renewal provision in 10 CFR 2.109(c) does 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. Therefore, the requirements of 10 CFR 51.22(c)(25)(i) are met.

Requirements in 10 CFR 51.22(c)(25)(ii) and (iii)

The regulation at 10 CFR 51.22(c)(25)(ii) requires the exemption to involve no significant change in the types or significant increase in the amounts of any effluents that may be released offsite. In addition, the regulation at 10 CFR 51.22(c)(25)(iii) requires the exemption to involve no significant increase in individual or cumulative public or occupational radiation exposure. The requested exemption constitutes a change to the schedule by which the permit holder must submit its ESP renewal application while still maintaining timely renewal, which is administrative in nature. Therefore, the exemption does not involve any change in the types or significant increase in the amounts of effluents that may be released offsite and also does not contribute to any significant increase in individual or cumulative public or occupational radiation exposure. Therefore, the requirements of 10 CFR 51.22(c)(25)(ii) and (iii) are met.

Requirements in 10 CFR 51.22(c)(25)(iv)

The regulation at 10 CFR 51.22(c)(25)(iv) requires the exemption to involve no significant construction impact. The requested exemption is not associated with construction, and the exemption does not propose any changes or alterations to the site. Therefore, the requirements of 10 CFR 51.22(c)(25)(iv) are met because there is no significant construction impact.

Requirements in 10 CFR 51.22(c)(25)(v)

The regulation at 10 CFR 51.22(c)(25)(v) requires the exemption to involve no significant increase in the potential for or consequences from radiological accidents. The requested exemption constitutes a change to the schedule by which the permit holder must submit its ESP renewal application while still maintaining timely renewal. This exemption is administrative in nature and does not impact the probability or consequences of accidents. Thus, there is no significant increase in the potential for, or consequences of, a radiological accident. Therefore, the requirements of 10 CFR 51.22(c)(25)(v) are met.

Requirements in 10 CFR 51.22(c)(25)(vi)

The regulations at 10 CFR 51.22(c)(25)(vi)(A-I) list the specific types of requirements from which an exemption may be sought. These include 10 CFR 51.22(c)(25)(vi) (G) which involves scheduling requirements. This exemption, which allows the permit holder to submit the ESP renewal application no later than 45 days prior to expiration of the permit, involves scheduling requirements. Therefore, the requirement in 10 CFR 51.22(c)(25)(vi)(G) is met.

Based on the above, the NRC concludes that the proposed exemption meets the eligibility criteria for a categorical exclusion set forth in 10 CFR 51.22(c)(25). Therefore, pursuant to 10 CFR 51.22(b), no environmental assessment or environmental impact statement need be prepared in connection with the approval of this exemption request.

**IV. Conclusions.**

Accordingly, the NRC has determined that, pursuant to 10 CFR 52.7 and 10 CFR 50.12, the requested 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. Additionally, special circumstances, as defined in 10 CFR 50.12(a)(2), are present. Therefore, the NRC hereby grants the permit holder a one-time exemption from 10 CFR 2.109(c) and 10 CFR 52.29 for the Clinton Early Site Permit ESP-001 to allow the submittal of the Clinton Early Site Permit ESP-001 renewal application no later than 45 days prior to expiration of the permit while still receiving the protections of timely renewal.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 16th day of April 2025.

For the Nuclear Regulatory Commission.

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Michele Sampson, Director,  
Division of New and Renewed Licenses,  
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