NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE: (23–127)]

National Environmental Policy Act; Agency Master Plan

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of availability of the Agency Master Plan Final Programmatic Environmental Assessment (PEA) and the resulting Finding of No Significant Impact (FONSI).

SUMMARY: NASA announces its decision to implement the Agency Master Plan. NASA's decision is supported by the detailed analysis found in the Final PEA, as summarized in the agency's FONSI, the availability of which is located under **ADDRESSES**.

ADDRESSES: The complete text of the PEA and the FONSI for the Agency Master Plan are at *https://www.nasa.gov/emd/nepa-public-reviews/.*

FOR FURTHER INFORMATION CONTACT: Ms. Tina Norwood, NASA NEPA Manager, Environmental Management Division, NASA Headquarters Office of Strategic Infrastructure 300 E. Street SW, Washington DC 20546, 202–358–7324 or Email: *tinanorwood@nasa.gov.*

SUPPLEMENTARY INFORMATION: As early as 2011, NASA began integrating and optimizing operations across centers and mission support facilities (*i.e.,* technical capability facilities) to reduce costs and revitalize the capabilities required to enable NASA's portfolio of missions (NASA 2011, 26). In 2015, the Executive Office of the President distributed Management Procedures Memorandum No. 2015–01, tasking federal agencies to ''move aggressively to dispose of surplus properties held by the federal government, make more efficient use of the government's real property assets, and reduce the total square footage of their domestic office and warehouse inventory relative to an established baseline.'' This directive set agency planning goals that were disseminated to centers.

To better achieve its infrastructure reduction targets, NASA proposes to implement a centralized and standardized Agency Master Plan administrative process. This Proposed Action will help ensure program management and planning efforts are aligned across all mission areas and geographically separate centers and facilities, as well as implement a consistent and cost-effective set of processes, systems, and tools for enterprise-wide master planning. The Proposed Action is supported by NASA's 2018 Strategic Plan, which recommended NASA develop an Agency Master Plan that identifies agency facility priorities over a 20-year timeframe (NASA 2018a). The implementation of an Agency Master Plan provides a framework upon which each NASA center is to develop its own Center Master Plan (CMP) tied to Agency-wide requirements, thereby allowing the agency to meet its overall infrastructure management targets and more efficiently (*i.e.,* cost-effectively) achieve its mission as well as sustainment and infrastructure reduction goals.

Joel Carney,

Assistant Administrator, Office of Strategic Infrastructure.

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–003, 50–247, and 50–286; NRC–2023–0180]

Holtec Decommissioning International, LLC, Holtec Indian Point 2, LLC, and Holtec Indian Point 3, LLC; Indian Point Energy Center; Exemption

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued an exemption in response to a request from Holtec Decommissioning International, LLC that would permit it, Holtec Indian Point 2, LLC, and Holtec Indian Point 3, LLC, to reduce the required level of primary offsite liability insurance from $450 million to $100 million and to eliminate the requirement to carry secondary financial protection for the Indian Point Nuclear Generating Unit Nos. 1, 2, and 3, collectively referred to as the Indian Point Energy Center (IPEC).

DATES: The exemption was issued on November 16, 2023.

ADDRESSES: Please refer to Docket ID NRC–2023–0180 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–2023–0180. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@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.* 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* 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: Karl Sturzebecher, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–8534, email: *Karl.Sturzebecher@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated: December 26, 2023.

For the Nuclear Regulatory Commission.

Marlayna V. Doell,

Project Manager, Reactor Decommissioning Branch, Division of Decommissioning, Uranium Recovery and Waste Programs, Office of Nuclear Material Safety and Safeguards.

Attachment—Exemption

Nuclear Regulatory Commission

Docket Nos. 50–003, 50–247, and 50–286

Holtec Decommissioning International, LLC, Holtec Indian Point 2, LLC, and Holtec Indian Point 3, LLC Indian Point Nuclear Generating Unit Nos. 1, 2, and 3; Exemption

I. Background

Indian Point Nuclear Generating Unit No. 1 (IP1) permanently ceased generation on October 31, 1974, and all fuel was removed from the IP1 reactor vessel by January 1976. In 1996, the U.S. Nuclear Regulatory Commission (NRC, the Commission) issued an order approving the safe-storage condition of

IP1. In 2003, the NRC issued Amendment No. 52 to IP1's provisional operating license, which changed the expiration date of the provisional license to be consistent with that of the Indian Point Nuclear Generating Unit No. 2 (IP2) facility license at that time. Pursuant to title 10 of the *Code of Federal Regulations* (10 CFR) section 50.82(a)(2), the IP1 license no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel. There is no IP1 spent fuel in wet storage at the Indian Point Energy Center (IPEC) site; IP1 spent fuel is stored onsite in dry cask storage at the independent spent fuel storage installation (ISFSI).

By letter dated February 8, 2017 (Agencywide Documents Access and Management System Accession No. ML17044A004), Entergy Nuclear Indian Point 2, LLC, and Entergy Nuclear Indian Point 3, LLC (the IPEC licensees at that time, collectively, Entergy) certified to the NRC that they planned to permanently cease power operations at IP2 and Indian Point Nuclear Generating Unit No. 3 (IP3) by April 30, 2020, and April 30, 2021, respectively. By letters dated May 12, 2020, and May 11, 2021 (ML20113J902 and ML21131A157), Entergy certified to the NRC that power operations permanently ceased at IP2 and IP3 on April 30, 2020, and April 30, 2021, respectively. In the same letters, Entergy certified to the NRC that the fuel was permanently removed from the IP2 and IP3 reactor vessels and placed in the IP2 and IP3 spent fuel pools (SFPs) as of May 12, 2020, and May 11, 2021, respectively.

Based on the docketing of these certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessels, as specified in 10 CFR 50.82(a)(2), the 10 CFR part 50 renewed facility licenses for IP2 and IP3 (Nos. DPR–26 and DPR–64, respectively) no longer authorize operation of the reactors or emplacement or retention of fuel in the reactor vessels. The facility is still authorized to possess, and store irradiated (*i.e.,* spent) nuclear fuel. At the time of the exemption request described below, spent fuel was stored onsite at the IP2 and IP3 facilities in the SFPs and in a dry cask ISFSI.

II. Request/Action

By letter dated March 25, 2022 (ML22084A103), Holtec Decommissioning International, LLC (HDI), one of the licensees of IPEC and an indirect wholly owned subsidiary of Holtec International (Holtec), requested an exemption on behalf of Holtec Indian Point 2, LLC (a licensee of IP1 and IP2, referred to as Holtec IP2) and Holtec Indian Point 3, LLC (a licensee of IP3, referred to as Holtec IP3), from the requirements of 10 CFR 140.11(a)(4) concerning offsite primary and secondary liability insurance.

HDI, Holtec IP2, and Holtec IP3 are hereafter collectively referred to as the licensee. The exemption from 10 CFR 140.11(a)(4) would permit the licensee to reduce the required level of primary offsite liability insurance from $450 million to $100 million and to eliminate the requirement to carry secondary financial protection for IPEC.

The regulation at 10 CFR 140.11(a)(4) requires licensees to have and maintain primary financial protection in an amount of $450 million. In addition, licensees are required to participate in an industry retrospective rating plan (secondary financial protection) that commits licensees to pay into an insurance pool to be used for damages that may exceed primary insurance coverage. Participation in the industry retrospective rating plan will subject the licensee to deferred premium charges up to a maximum total deferred premium of $131,056,000 with respect to any nuclear incident at any operating nuclear power plant and up to a maximum annual deferred premium of $20,496,000 per incident.

Many of the accident scenarios postulated in the updated safety analysis reports for operating power reactors involve failures or malfunctions of systems, which could affect the fuel in the reactor core and, in the most severe postulated accidents, would involve the release of large quantities of fission products. With the permanent cessation of power operations at IPEC and the permanent removal of the fuel from the reactor vessel, many accidents are no longer possible. Similarly, the associated risk of offsite liability damages that would require insurance or indemnification is commensurately lower for such plants. Therefore, the licensee requested an exemption from 10 CFR 140.11(a)(4) to permit a reduction in primary offsite liability insurance and to withdraw from participation in the industry retrospective rating plan.

III. Discussion

Pursuant to 10 CFR 140.8, ''Specific exemptions,'' the Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in 10 CFR part 140 when the exemptions are authorized by law and are otherwise in the public interest. The NRC staff has reviewed the licensee's request for an exemption from 10 CFR 140.11(a)(4) and has concluded that the requested exemption is authorized by law and is otherwise in the public interest.

The Price Anderson Act of 1957 (PAA) requires that nuclear power reactor licensees have insurance to compensate the public for damages arising from a nuclear incident. Specifically, the PAA requires licensees of facilities with a ''rated capacity of 100,000 electrical kilowatts or more'' to maintain the maximum amount of primary offsite liability insurance commercially available (currently $450 million) and a specified amount of secondary insurance coverage (currently up to $131,056,000 per reactor). In the event of an accident causing offsite damages in excess of $450 million, each licensee would be assessed a prorated share of the excess damages, up to $131,056,000 per reactor, for a total of approximately $13 billion per nuclear incident. The NRC's regulations at 10 CFR 140.11(a)(4) implement these PAA insurance requirements and set forth the amount of primary and secondary insurance each power reactor licensee must have.

As noted above, the PAA requirements with respect to primary and secondary insurance and the implementing regulations at 10 CFR 140.11(a)(4) apply to licensees of facilities with a ''rated capacity of 100,000 electrical kilowatts or more.'' In accordance with 10 CFR 50.82(a)(2), the license for a power reactor no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel upon the docketing of the certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel. Therefore, the reactor cannot be used to generate power.

Accordingly, a reactor that is undergoing decommissioning has no ''rated capacity.'' Thus, the NRC may take the reactor licensee out of the category of reactor licensees that are required to maintain the maximum available insurance and to participate in the secondary retrospective insurance pool.

The financial protection limits of 10 CFR 140.11(a)(4) were established to require licensees to maintain sufficient insurance, as specified under the PAA, to satisfy liability claims by members of the public for personal injury, property damage, and the legal cost associated with lawsuits as the result of a nuclear accident at an operating reactor with a rated capacity of 100,000 kilowatts electric or greater. Thus, the insurance levels established by this regulation, as required by the PAA, were associated

with the risks and potential consequences of an accident at an operating reactor with a rated capacity of 100,000 kilowatts electric or greater.

The legal and associated technical basis for granting exemptions from 10 CFR part 140 is set forth in SECY–93–127, ''Financial Protection Required of Licensees of Large Nuclear Power Plants During Decommissioning,'' dated May 10, 1993 (ML12257A628). The legal analysis underlying SECY–93–127 concluded that, upon a technical finding that lesser potential hazards exist after permanent cessation of power operations (and the reactor having no ''rated capacity''), the Commission has the discretion under the PAA to reduce the amount of insurance required of a licensee undergoing decommissioning.

As a technical matter, the fact that a reactor has permanently ceased power operations is not itself determinative as to whether a licensee may cease providing the offsite liability coverage required by the PAA and 10 CFR 140.11(a)(4). In light of the presence of freshly discharged irradiated fuel in the SFP at a recently shutdown reactor, the potential for an offsite radiological release from a zirconium fire with consequences comparable in some respects to an operating reactor accident remains. That risk is very low at the time of reactor shutdown because of design provisions that prevent a significant reduction in coolant inventory in the SFP under normal and accident conditions and becomes no longer credible once the continual reduction in decay heat provides ample time to restore coolant inventory and permits air cooling in a drained SFP. After that time, the probability of a large offsite radiological release from a zirconium fire is negligible for permanently shutdown reactors, but the SFP is still operational, and an inventory of radioactive materials still exists onsite. Therefore, an evaluation of the potential for offsite damage is necessary to determine the appropriate level of offsite insurance post shutdown, in accordance with the Commission's discretionary authority under the PAA to establish an appropriate level of required financial protection for such permanently shutdown facilities.

The NRC staff has conducted an evaluation and concluded that, aside from the handling, storage, and transportation of spent fuel and radioactive materials for a permanently shutdown and defueled reactor, no reasonably conceivable potential accident exists that could cause significant offsite damage. During normal power reactor operations, the forced flow of water through the reactor coolant system (RCS) removes heat generated by the reactor. The RCS transfers this heat away from the reactor core by converting reactor feedwater to steam, which then flows to the main turbine generator to produce electricity. Most of the accident scenarios postulated for operating power reactors involve failures or malfunctions of systems that could affect the fuel in the reactor core, which in the most severe postulated accidents would involve the release of large quantities of fission products. With the permanent cessation of reactor operations at IPEC and the permanent removal of the fuel from the reactor core, such accidents are no longer possible. The reactor, RCS, and supporting systems no longer operate and have no function related to the storage of the irradiated fuel. Therefore, postulated accidents involving failure or malfunction of the reactor, RCS, or supporting systems are no longer applicable.

During reactor decommissioning, the principal radiological risks are associated with the storage of spent fuel onsite. On a case-by-case basis, licensees undergoing decommissioning have been granted permission to reduce the required amount of primary offsite liability insurance coverage from $450 million to $100 million and to withdraw from the secondary insurance pool. One of the technical criteria for granting the exemption is that the possibility of a design-basis event that could cause significant offsite damage has been significantly reduced.

The NRC staff performed an evaluation of the design-basis accidents for IPEC when permanently defueled as part of SECY–22–0102, ''Request by Holtec Decommissioning International, LLC For Exemptions from Certain Emergency Planning Requirements for Indian Point Nuclear Generating Unit Nos. 1, 2, and 3,'' dated November 18, 2022 (ML22231A155). Based on its configuration and licensing basis, with no spent fuel stored in the IP1 SFP and a prohibition against storing any fuel in the pool in the future, there are no postulated Design Basis Accidents (DBAs) that remain applicable to IP1. The IP1 SFP is no longer in use because all spent fuel and other material has been removed, and the IP1 SFP has been drained. At the time of the exemption request, spent fuel was stored onsite in the IP2 and IP3 SFPs, with plans to move all spent fuel to dry cask storage at the onsite ISFSI in accordance with the licensee's Post-Shutdown Decommissioning Activities Report dated December 19, 2019 (ML19354A698).

HDI has stated, and the NRC staff agrees, that while spent fuel remains in the SFPs, the only postulated design-basis accidents that would remain applicable to IPEC in the permanently defueled condition that could contribute a significant dose would be: (1) a fuel handling accident (FHA) in the fuel storage buildings; (2) an accidental release of waste gas; and (3) an accidental release-recycle of waste liquid. For completeness, the NRC staff also evaluated the applicability of other design-basis accidents documented in the IPEC Updated Final Safety Analysis Report (UFSAR) for IP2 and IP3 (ML20259A199 and ML19282B159), respectively to ensure that these accidents would not have consequences that could potentially exceed the 10 CFR 50.67 dose limits and Regulatory Guide 1.183, ''Alternative Radiological Source Terms for Evaluating Design Basis Accidents at Nuclear Power Reactors'' (ML003716792), dose acceptance criteria or approach the U.S. Environmental Protection Agency (EPA) early phase protective action guides (PAGs) (ML17044A073).

In the IPEC UFSAR, the licensee determined that after a decay time of at least 720 hours (30 days) following permanent cessation of power operations of each unit, the FHA doses would decrease to a level that would not warrant protective actions under the EPA early phase PAG framework, notwithstanding meeting the dose limit requirements under 10 CFR 50.67 and dose acceptance criteria under Regulatory Guide 1.183. The NRC staff notes that the doses from an FHA are dominated by relatively short-lived isotopes such as Iodine-131. Based on the permanent shutdown of IP3 on April 30, 2021, after over two years of decay, the thyroid dose from an FHA would be negligible. The only isotope remaining in significant amounts, among those postulated to be released in a DBA FHA, would be Krypton-85. Because Krypton-85 primarily decays by beta emission, the calculated skin dose from an FHA release would make an insignificant contribution to the total effective dose equivalent, which is the parameter of interest in the determination of the EPA early phase PAGs for sheltering or evacuation. Therefore, the NRC staff concludes that the dose consequence from an FHA for the permanently shutdown IPEC facility would not approach the EPA early phase PAGs.

As part of the supporting documentation for an application for exemptions from various emergency planning requirements, HDI performed an analysis that includes the determination of the dose consequences

for a waste gas decay tank rupture accident. In that analysis, HDI reevaluated the dose from an accidental release of waste gas to reflect the removal of the waste gas decay tank(s) from operation and to reevaluate the dose at 15 months after the shutdown of IP3. Based on the revised analysis, the radiological consequences of a postulated waste gas decay tank rupture were determined to be negligible because the tanks are removed from operation, and depressurized and vented to atmosphere.

Section 6.4, ''Accidental Release-Recycle of Waste Liquid,'' of the IP2 and IP3 Defueled Safety Analysis Reports (DSARs) (ML20259A199 and ML21270A059, respectively) addresses the accidental release of waste liquid and states that the hazard from these releases is derived only from any volatized components. The volatilized components are what comprise the waste gas accident. Thus, the accidental release of liquid waste is evaluated in the analysis for an accidental release of waste gas.

The NRC staff reviewed the consequences of an FHA, waste gas release accident, and liquid tank failure accident in detail during the review of previously approved license amendment requests and exemptions for IPEC and found them to be acceptable. Since this technical information has not changed in relation to this exemption request, the NRC staff relied on these previous conclusions to conduct portions of the review for this exemption request. The NRC staff notes that while HDI continues to rely on the information from previously approved licensing actions, the calculated doses would be expected to be lower when this exemption is implemented due to additional decay time beyond the time assumed in the previously approved actions. Any offsite consequence from a design-basis radiological release is highly unlikely and, thus, a significant amount of offsite liability insurance coverage is not required.

The licensee also analyzed the bounding radiological consequences of a postulated complete loss of SFP water from either the IP2 and IP3 SFPs (*i.e.,* a pool draindown event), which NUREG–0586, ''Final Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities,'' Supplement 1 (ML023470327 and ML023500228), section 4.3.9, identifies is a beyond design-basis event. The HDI analysis considered the distances from both SFPs to both control rooms and the site boundary, as well as a combination of IP3 fuel in the IP2 SFP, to bound the analysis for both units. The analysis considered that the SFP water and the concrete SFP structures serve as radiation shielding. Therefore, a loss of water shielding above the fuel could increase the offsite radiation levels because of the gamma rays streaming out of the SFP and being scattered back to a receptor at the site boundary. The analysis determined that the limiting dose rate in the IP2 and IP3 control rooms at one year after permanent shutdown are less than 0.0259 millirem per hour (mrem/hr) and the dose rate to a receptor at the site boundary is less than 11.55 mrem/hr. Therefore, the NRC staff concludes that the dose consequence from a SFP draindown for the permanently shutdown IPEC facility would not approach the EPA early phase PAGs.

The only beyond design-basis event that has the potential to lead to a significant radiological release at a permanently shutdown and defueled reactor is a zirconium fire in the SFP. The zirconium fire scenario is a postulated, but highly unlikely, accident scenario that involves the loss of water inventory from the SFP resulting in a significant heatup of the spent fuel and culminating in substantial zirconium cladding oxidation and fuel damage. The probability of a zirconium fire scenario is related to the decay heat of the irradiated fuel stored in the SFP. Therefore, the risks from a zirconium fire scenario continue to decrease as a function of the time that IPEC has been permanently shut down.

In SECY–93–127 the NRC staff concluded that there was a low likelihood and reduced short-term public health consequences of a zirconium fire once a decommissioning plant's spent fuel has sufficiently decayed. In its Staff Requirements Memorandum, ''Financial Protection Required of Licensees of Large Nuclear Power Plants during Decommissioning,'' dated July 13, 1993 (ML003760936), the Commission approved a policy that authorized, through the exemption process, withdrawal from participation in the secondary insurance layer and a reduction in commercial liability insurance coverage to $100 million when a licensee is able to demonstrate that the spent fuel could be air-cooled if the SFP was drained of water.

The NRC staff has used this technical criterion to grant similar exemptions to other decommissioning reactors (*e.g.,* Duane Arnold Energy Center, published in the **Federal Register** on May 18, 2021 (86 FR 26961)). Additional discussions of other decommissioning reactor licensees that have received exemptions to reduce their primary insurance level to $100 million are provided in SECY–96–256, ''Changes to the Financial Protection Requirements for Permanently Shutdown Nuclear Power Reactors, 10 CFR 50.54(w) and 10 CFR 140.11,'' dated December 17, 1996 (ML15062A483). These prior exemptions were based on the licensee demonstrating that the SFP could be air-cooled consistent with the technical criterion discussed above.

In SECY–00–0145, ''Integrated Rulemaking Plan for Nuclear Power Plant Decommissioning,'' dated June 28, 2000, and SECY–01–0100, ''Policy Issues Related to Safeguards, Insurance, and Emergency Preparedness Regulations at Decommissioning Nuclear Power Plants Storing Fuel in Spent Fuel Pools,'' dated June 4, 2001 (ML003721626 and ML011450420, respectively), the NRC staff discussed additional information concerning SFP zirconium fire risks at decommissioning reactors and associated implications for offsite insurance. Analyzing when the spent fuel stored in the SFP is capable of adequate air-cooling is one measure that demonstrates when the probability of a zirconium fire would be exceedingly low.

The NRC staff evaluated the issue of zirconium fires and presented independent evaluations of SFP accident risk in NUREG–1738, ''Technical Study of Spent Fuel Pool Accident Risk at Decommissioning Nuclear Power Plants'' (ML010430066); NUREG/CR- 6451, ''A Safety and Regulatory Assessment of Generic BWR [Boiling Water Reactor] and PWR [Pressurized Water Reactor] Permanently Shutdown Nuclear Power Plants'' (ML082260098); and NUREG/CR–6441, ''Analysis of Spent Fuel Heatup Following Loss of Water in a Spent Fuel Pool'' (ML021050336). These documents describe the considerations surrounding a seismic event with the potential to result in a loss of SFP coolant that uncovers fuel and discuss the parameters under which the fuel is able to be air cooled in such a scenario.

The NRC staff compared the IPEC facility with the reference plant in NUREG- 6451 and confirmed that the fuel assembly and spent fuel rack parameters for IP2 and IP3 are consistent with those assumed in NUREG–6451, or are conservative when compared to the generic values. Therefore, the NRC staff has high confidence that the stored fuel in the IPEC SFPs will remain in a coolable configuration following a beyond design basis seismic event. Additionally, the NRC staff compared the site-specific conditions at IPEC with the generic risk assumptions in NUREG–1738 and determined that the risk values in

NUREG–1738 bound the risks presented by IPEC. Based on IPEC's conformance with the analysis in NUREG–6451 and NUREG–1738, the NRC finds there is reasonable assurance that the fuel stored in IPEC SFPs is air coolable 15 months after permanent shutdown of the reactor.

In addition, the licensee performed a bounding analysis for the IP2 and IP3 SFPs demonstrating that after the spent fuel has decayed for 15 months, with a complete loss of SFP water inventory with no heat loss or credit for air-cooling (*i.e.,* adiabatic heat-up), a minimum of 10 hours would be available before any fuel cladding temperature reaches 900 degrees Celsius (°C) from the time all cooling is lost. The 10-hour criterion, conservatively, does not consider the time to uncover the fuel and assumes instantaneous loss of cooling to the fuel. The 10-hour time period is also not intended to represent the time that it would take to repair all key safety systems or to repair a large SFP breach. The 10-hour criterion is a conservative period of time in which pre-planned mitigation measures to provide makeup water or spray to the SFP can be reliably implemented before the onset of a zirconium cladding ignition. In addition, in the unlikely event that a release is projected to occur, 10 hours would provide sufficient time for offsite agencies, if deemed warranted, to take appropriate action to protect the health and safety of the public.

Given the permanent shutdown date of IP3 of April 30, 2021, the period in which the spent fuel could heat up to clad ignition temperature within 10 hours under adiabatic conditions ended on August 1, 2022, after 15 months of fuel decay time. This analysis, ''Holtec Spent Fuel Pool Heat Up Calculation Methodology Topical Report, Revision 2,'' dated December 22, 2021 (ML21357A005 [non-public]), was submitted by HDI in support of a request for exemptions from certain emergency planning requirements, dated December 22, 2021 (ML21356B693). HDI provided further information in Enclosure 1, ''Indian Point Unit Nos. 2 and 3 Spent Fuel Pool Heat Up Calculations,'' to HDI's supplemental letter dated February 1, 2022 (ML22032A117).

In the NRC staff's evaluation contained in SECY–22–0102, the NRC staff assessed the HDI accident analyses associated with the radiological risks from a zirconium fire at a permanently shutdown and defueled IPEC after 15 months of fuel decay. For the highly unlikely beyond design-basis accident scenario where the SFP coolant inventory is lost in such a manner that all methods of heat removal from the spent fuel are no longer available, the NRC staff found that there will be a minimum of 10 hours from the initiation of the accident until the cladding reaches a temperature where offsite radiological release might occur. The NRC staff finds that 10 hours is sufficient time to support deployment of mitigation equipment, consistent with plant conditions, to prevent the zirconium cladding from reaching a point of rapid oxidation. As a result, the likelihood that such a scenario would progress to a zirconium fire is deemed not credible.

Based on the above considerations, the NRC staff has determined that the licensee's proposed reduction in primary offsite liability coverage to a level of $100 million and the licensee's proposed withdrawal from participation in the secondary insurance pool for offsite financial protection are consistent with the policy established in SECY–93–127 and subsequent insurance considerations resulting from zirconium fire risks, as discussed in SECY–00–0145 and SECY–01–0100. The NRC has previously determined in SECY–00–0145 that the minimum offsite financial protection requirement may be reduced to $100 million and that secondary insurance is not required once it is determined that the spent fuel in the SFP is no longer thermal-hydraulically capable of sustaining a zirconium fire based on a plant-specific analysis. In addition, the NRC staff notes that similar exemptions from these insurance requirements have been granted to other permanently shutdown and defueled power reactors upon satisfactory demonstration that the zirconium fire risk from the irradiated fuel stored in the SFP is of negligible concern.

A. The Exemption is Authorized by Law

The PAA and its implementing regulations in 10 CFR 140.11(a)(4) require licensees of nuclear reactors that have a rated capacity of 100,000 kilowatts electric or more to have and maintain $450 million in primary financial protection and to participate in a secondary retrospective insurance pool. In accordance with 10 CFR 140.8, the Commission may grant exemptions from the regulations in 10 CFR part 140 as the Commission determines are authorized by law. The legal and associated technical basis for granting exemptions from 10 CFR part 140 are set forth in SECY–93–127. The legal analysis underlying SECY–93–127 concluded that, upon a technical finding that lesser potential hazards exist after permanent cessation of operations, the Commission has the discretion under the PAA to reduce the amount of insurance required of a licensee undergoing decommissioning.

Based on its review of the exemption request, the NRC staff concludes that the technical criteria for relieving the licensee from its existing primary and secondary insurance obligations have been met. As explained above, the NRC staff found that no reasonably conceivable design-basis accident exists that could cause an offsite release greater than the EPA PAGs and, therefore, that any offsite consequence from a design- basis radiological release is highly unlikely and the need for a significant amount of offsite liability insurance coverage is unwarranted. Additionally, the NRC staff determined that, after 15 months decay, the fuel stored in the IPEC SFPs will be capable of being adequately cooled by air in the highly unlikely event of pool drainage. Moreover, in the highly unlikely beyond design-basis accident scenario where the SFP coolant inventory is lost in such a manner that all methods of heat removal from the spent fuel are no longer available, the NRC staff has determined that at least 10 hours would be available and is sufficient time to support deployment of mitigation equipment, consistent with plant conditions, to prevent the zirconium cladding from reaching a point of rapid oxidation. Thus, the NRC staff concludes that the fuel stored in the IPEC SFP will have decayed sufficiently by the requested effective date for the exemption of 15 months after permanent cessation of power operations to support a reduction in the required offsite insurance consistent with SECY–00–0145.

The NRC staff has determined that granting the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, section 170, or other laws, as amended, which require licensees to maintain adequate financial protection.

Accordingly, consistent with the legal standard presented in SECY–93–127, under which decommissioning reactor licensees may be relieved of the requirements to carry the maximum amount of insurance available and to participate in the secondary retrospective premium pool where there is sufficient technical justification, the NRC staff concludes that the requested exemption is authorized by law.

B. The Exemption is Otherwise in the Public Interest

The financial protection limits of 10 CFR 140.11 were established to require

licensees to maintain sufficient offsite liability insurance to ensure adequate funding for offsite liability claims following an accident at an operating reactor. However, the regulation does not consider the reduced potential for and consequence of nuclear incidents at permanently shutdown and decommissioning reactors.

The basis provided in SECY–93–127, SECY–00–0145, and SECY–01–0100 allows licensees of decommissioning plants to reduce their primary offsite liability insurance and to withdraw from participation in the retrospective rating pool for deferred premium charges. As discussed in these documents, once the zirconium fire concern is determined to be negligible, possible accident scenario risks at permanently shutdown and defueled reactors are greatly reduced when compared to the risks at operating reactors, and the associated potential for offsite financial liabilities from an accident are commensurately less. The licensee analyzed and the NRC staff confirmed that the risks of accidents that could result in an offsite radiological release are minimal, thereby justifying the proposed reductions in offsite primary liability insurance and withdrawal from participation in the secondary retrospective rating pool for deferred premium charges.

Additionally, participation in the secondary retrospective rating pool could potentially have adverse consequences on the safe and timely completion of decommissioning. If a nuclear incident sufficient to trigger the secondary insurance layer occurred at another nuclear power plant, the licensee could incur financial liability of up to $131,056,000. However, because IPEC is permanently shut down, it cannot produce revenue from electricity generation sales to cover such a liability. Therefore, such liability if subsequently incurred could significantly affect the ability of the facility to conduct and complete timely radiological decontamination and decommissioning activities. In addition, as SECY–93–127 concluded, the shared financial risk exposure to the licensee is greatly disproportionate to the radiological risk posed by IPEC when compared to operating reactors.

The reduced overall risk to the public at decommissioning power plants does not warrant that the licensee be required to carry full operating reactor insurance coverage after the requisite spent fuel cooling period has elapsed following final reactor shutdown. The licensee's proposed financial protection limits will maintain a level of liability insurance coverage commensurate with the risk to the public. These changes are consistent with previous NRC policy as discussed in SECY–00–0145 and exemptions approved for other decommissioning reactors. Thus, the underlying purpose of the regulations will not be adversely affected by the reductions in insurance coverage. Accordingly, an exemption from participation in the secondary insurance pool and a reduction in the primary insurance to $100 million, a value more in line with the potential consequences of accidents, would be in the public interest in that this ensures that there will be adequate funds to address any of those consequences and helps to ensure the safe and timely decommissioning of the reactors.

Therefore, the NRC staff has concluded that an exemption from 10 CFR 140.11(a)(4), which would permit the licensee to lower the IPEC primary insurance levels and to withdraw from the secondary retrospective premium pool at the requested effective date of 15 months after the permanent cessation of power operations, is in the public interest.

C. Environmental Considerations

The NRC's approval of an exemption from insurance or indemnity requirements belongs to a category of actions that the Commission, by rule or regulation, has declared to be a categorical exclusion after first finding that the category of actions does not individually or cumulatively have a significant effect on the human environment. Specifically, the exemption is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement in accordance with 10 CFR 51.22(c)(25).

Under 10 CFR 51.22(c)(25), granting of an exemption from the requirements of any regulation of Chapter I to 10 CFR is a categorical exclusion provided that: (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 involve surety, insurance, or indemnity requirements.

As the Director of the Division of Decommissioning, Uranium Recovery, and Waste Programs in the NRC's Office of Nuclear Material Safety and Safeguards, I have determined that approval of the exemption request involves no significant hazards consideration, as defined in 10 CFR 50.92, because reducing the licensee's offsite liability requirements for IPEC does not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (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. The exempted financial protection regulation is unrelated to the operation of IPEC or site activities. Accordingly, there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite and no significant increase in individual or cumulative public or occupational radiation exposure. The exempted regulation is not associated with construction so there is no significant construction impact. The exempted regulation does not concern the source term (*i.e.,* potential amount of radiation in an accident) or any activities conducted at the site. Therefore, there is no significant increase in the potential for, or consequences of, a radiological accident. In addition, there would be no significant impacts to biota, water resources, historic properties, cultural resources, or socioeconomic conditions in the region resulting from issuance of the requested exemption. The requirement for offsite liability insurance involves surety, insurance, or indemnity matters only.

Therefore, pursuant to 10 CFR 51.22(b) and 51.22(c)(25), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption request.

IV. Conclusions

Accordingly, the Commission has determined that, pursuant to 10 CFR 140.8, the exemption is authorized by law and is otherwise in the public interest. Therefore, the Commission hereby grants the licensee an exemption from the requirements of 10 CFR 140.11(a)(4) for IPEC. IPEC permanently ceased power operations on October 31, 1974, April 30, 2020, and April 30, 2021, for IP1, IP2 and IP3, respectively. The exemption from 10 CFR 140.11(a)(4) permits IPEC to reduce the required level of primary financial protection from $450 million to $100 million and to withdraw from participation in the secondary layer of financial protection 15 months after permanent cessation of power

operations, which was August 1, 2022. Because this period has already elapsed, the exemption is effective upon issuance.

Dated: November 16, 2023.

For the Nuclear Regulatory Commission.

Jane Marshall,

Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2023–28776 Filed 12–28–23; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–003, 50–247, and 50–286; NRC–2023–0175]

Holtec Decommissioning International, LLC, Holtec Indian Point 2, LLC, and Holtec Indian Point 3, LLC; Indian Point Energy Center; Exemption

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued an exemption in response to a request from Holtec Decommissioning International, LLC that would permit it, Holtec Indian Point 2, LLC, and Holtec Indian Point 3, LLC, to reduce the minimum coverage limit for onsite property damage insurance from $1.06 billion to $50 million for the Indian Point Nuclear Generating Unit Nos. 1, 2, and 3, collectively referred to as the Indian Point Energy Center (IPEC).

DATES: The exemption was issued on November 14, 2023.

ADDRESSES: Please refer to Docket ID NRC–2023–0175 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–2023–0175. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@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.* 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* 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: Karl Sturzebecher, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–8534, email: *Karl.Sturzebecher@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated: December 26, 2023.

For the Nuclear Regulatory Commission.

Marlayna V. Doell,

Project Manager, Reactor Decommissioning Branch, Division of Decommissioning, Uranium Recovery and Waste Programs, Office of Nuclear Material Safety and Safeguards.

Attachment—Exemption

NUCLEAR REGULATORY COMMISSION

Docket Nos. 50–003, 50–247, and 50–286

Holtec Decommissioning International, LLC, Holtec Indian Point 2, LLC, and Holtec Indian Point 3, LLC; Indian Point Nuclear Generating Unit Nos. 1, 2, and 3; Exemption

I. Background

Indian Point Nuclear Generating Unit No. 1 (IP1) permanently ceased generation on October 31, 1974, and all fuel was removed from the IP1 reactor vessel by January 1976. In 1996, the U.S. Nuclear Regulatory Commission (NRC, the Commission) issued an order approving the safe-storage condition of IP1. In 2003, the NRC issued Amendment No. 52 to IP1's provisional operating license, which changed the expiration date of the provisional license to be consistent with that of the Indian Point Nuclear Generating Unit No. 2 (IP2) facility license at that time. Pursuant to title 10 of the *Code of Federal Regulations* (10 CFR) section 50.82(a)(2), the IP1 license no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel. There is no IP1 spent fuel in wet storage at the Indian Point Energy Center (IPEC) site; IP1 spent fuel is stored onsite in dry cask storage at the independent spent fuel storage installation (ISFSI).

By letter dated February 8, 2017 (Agencywide Documents Access and Management System Accession No. ML17044A004), Entergy Nuclear Indian Point 2, LLC, and Entergy Nuclear Indian Point 3, LLC (the IPEC licensees at that time, collectively, Entergy) certified to the NRC that they planned to permanently cease power operations at IP2 and Indian Point Nuclear Generating Unit No. 3 (IP3) by April 30, 2020, and April 30, 2021, respectively. By letters dated May 12, 2020, and May 11, 2021 (ML20133J902 and ML21131A157), Entergy certified to the NRC that power operations permanently ceased at IP2 and IP3 on April 30, 2020, and April 30, 2021, respectively. In the same letters, Entergy certified to the NRC that the fuel was permanently removed from the IP2 and IP3 reactor vessels and placed in the IP2 and IP3 spent fuel pools (SFPs) as of May 12, 2020, and May 11, 2021, respectively.

Based on the docketing of these certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessels, as specified in 10 CFR 50.82(a)(2), the 10 CFR part 50 renewed facility licenses for IP2 and IP3 (Nos. DPR–26 and DPR–64, respectively) no longer authorize operation of the reactors or emplacement or retention of fuel in the reactor vessels. The facility is still authorized to possess and store irradiated (*i.e.,* spent) nuclear fuel. At the time of the exemption request described below, spent fuel was stored onsite at the IP2 and IP3 facilities in the SFPs and in a dry cask ISFSI.

II. Request/Action

By letter dated March 18, 2022 (ML22077A132), Holtec Decommissioning International, LLC (HDI), one of the licensees of IPEC and an indirect wholly owned subsidiary of Holtec International (Holtec), requested an exemption on behalf of Holtec Indian Point 2, LLC (a licensee of IP1 and IP2, referred to as Holtec IP2) and Holtec Indian Point 3, LLC (a licensee of IP3, and referred to as Holtec IP3), from the requirements of 10 CFR 50.54(w)(1) concerning onsite liability insurance. HDI, Holtec IP2, and Holtec IP3 are hereafter collectively referred to as the licensee. The exemption from 10 CFR 50.54(w)(1) would permit the licensee to reduce the required level of onsite