

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-206, 50-361, and 50-362; NRC-2016-0148]

Southern California Edison Company

San Onofre Nuclear Generating Station, Units 1, 2, and 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a partial exemption from several of the record keeping requirements in its regulations in response to an August 13, 2015, request from the Southern California Edison Company (the licensee). Specifically, the licensee requested that the San Onofre Nuclear Generating Station, Units 1, 2, and 3, be granted a partial exemption from regulations that require retention of records for certain systems, structures, and components until the termination of the operating license.

ADDRESSES: Please refer to Docket ID **NRC-2016-0148** 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 Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2016-0148**. 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.

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

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- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Marlayna Vaaler, Office of Nuclear Material Safety and Safeguards; telephone: 301-415-3178; email: Marlayna.Vaaler@nrc.gov, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Background.

The San Onofre Nuclear Generating Station, Units 1, 2, and 3 (SONGS), operated by the Southern California Edison Company (SCE) is located approximately 4 miles south of San

Clemente, California. SONGS, Unit 1, Docket No. 50-206, was a Westinghouse 456 megawatt electric (MWe) pressurized water reactor which was granted Facility Operating License No. DPR-13 on January 1, 1968 (ADAMS Accession No. ML13309A138), and ceased operation on November 30, 1992 (ADAMS Accession No. ML13319B040). The licensee completed defueling on March 6, 1993 (ADAMS Accession No. ML13319B055), and maintained the unit in SAFSTOR until June 1999, when it initiated decommissioning (ADAMS Accession No. ML13319B111). On December 28, 1993 (ADAMS Accession No. ML13319B059), the NRC approved the Permanently Defueled Technical Specifications for SONGS, Unit 1. SCE submitted the proposed Decommissioning Plan for SONGS, Unit 1, on November 3, 1994 (ADAMS Accession No. ML13319B073). As a result of the 1996 revision to the regulations in section 50.82 of title 10 of the *Code of Federal Regulations* (10 CFR), the NRC replaced the requirement for a decommissioning plan with a requirement for a Post Shutdown Decommissioning Activities Report (PSDAR). On August 28, 1996, the SONGS, Unit 1, Decommissioning Plan became the SONGS 1 PSDAR (61 FR 67079; December 19, 1996). On December 15, 1998 (ADAMS Accession No. ML13184A353), SCE submitted an update to the PSDAR to the NRC, as required by 10 CFR 50.82(a)(7), in order to begin planning for the dismantlement and decommissioning of SONGS, Unit 1.

SONGS, Units 2 and 3, Docket Nos. 50-361 and 50-362, are Combustion Engineering 1127 MWe pressurized water reactors, which were granted Facility Operating Licenses NPF-10 on February 16, 1982, and NPF-15 on November 15, 1982, respectively. In June 2013, pursuant to 10 CFR 50.82(a)(1)(i), the licensee certified to the NRC that as of June 12, 2013, operations had ceased at SONGS, Units 2 and 3 (ADAMS Accession No. ML131640201). The licensee later certified, pursuant to 10 CFR 50.82(a)(1)(ii), that all fuel had been removed from the reactor vessels of both units, and committed to maintaining the units in a permanently

defueled status (ADAMS Accession Nos. ML13204A304 and ML13183A391 for Unit 2 and Unit 3, respectively). Therefore, pursuant to 10 CFR 50.82(a)(2), SCE's 10 CFR part 50 licenses do not authorize operation of SONGS or emplacement or retention of fuel into the reactor vessels. The PSDAR for SONGS, Units 2 and 3, was submitted on September 23, 2014 (ADAMS Accession No. ML14272A121), and the associated public meeting was held on October 27, 2014, in Carlsbad, California (ADAMS Accession No. ML14352A063). The NRC confirmed its review of the SONGS, Units 2 and 3, PSDAR and addressed public comments in a letter dated August 20, 2015 (ADAMS Accession No. ML15204A383). On July 17, 2015, the NRC approved the Permanently Defueled Technical Specifications for SONGS, Units 2 and 3 (ADAMS Accession No. ML15139A390).

II. Request/Action.

By letter dated August 13, 2015 (ADAMS Accession No. ML15231A107), SCE filed a request for NRC approval of an exemption from the record retention requirements of: (1) 10 CFR part 50, appendix A, Criterion 1, which requires certain records be retained throughout the life of the unit; (2) 10 CFR part 50, appendix B, Criterion XVII, which requires certain records be retained consistent with regulatory requirements for a duration established by the licensee; (3) 10 CFR 50.59(d)(3), which requires certain records be maintained until termination of a license issued pursuant to 10 CFR part 50; and (4) 10 CFR 50.71(c), which requires certain records be maintained consistent with various elements of the NRC regulations, facility technical specifications and other licensing bases documents.

The licensee is proposing to eliminate: (1) the records related to the nuclear power units and associated systems, structures, and components (SSCs), when the licensing basis requirements previously applicable to the nuclear power units and associated SSCs are no longer effective (e.g., removed from the PSDAR, Defueled Safety Analysis Report, Updated Final Safety Analysis Report, and/or technical specifications by appropriate change mechanisms); and (2) the records related to SSCs associated with safe storage of the fuel in the spent fuel pool (SFP), when the spent nuclear fuel has been completely transferred from the SFP to dry storage, the spent fuel building is ready for demolition, and the associated licensing bases are no longer effective. The licensee cites record retention exemptions granted to Zion Nuclear Power Station, Units 1 and 2 (ADAMS Accession No. ML111260277), Millstone Power Station, Unit 1, (ADAMS Accession No. ML070110567), and Haddam Neck Plant (ADAMS Accession No. ML052160088), as precedents for the NRC granting SCE's request.

Records associated with residual radiological activity and with programmatic controls necessary to support decommissioning, such as security and quality assurance, are not affected by the exemption request because they will be retained as decommissioning records until the termination of the SONGS license. In addition, the licensee did not request an exemption associated with any other record keeping requirements for the storage of spent fuel at its Independent Spent Fuel Storage Installation (ISFSI) under 10 CFR part 50 or the general license requirements of 10 CFR part 72. No exemption was requested from the decommissioning records retention requirements of 10 CFR 50.75, or any other requirements of 10 CFR part 50 applicable to decommissioning and dismantlement.

III. Discussion.

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when 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. However, the Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are described in 10 CFR 50.12(a)(2).

As described in the PSDAR, SONGS, Unit 1, is being returned to a condition suitable for unrestricted use. According to the August 13, 2015, submittal, there are no SSCs classified as safety-related remaining at SONGS, Unit 1. Plant dismantlement is complete and nearly all of the SSCs have been shipped offsite for disposal. Only the spent fuel, reactor vessel, and the below-grade portions of some buildings remain onsite. The principal remaining decommissioning activities are soil remediation, compaction, and grading. This is to be completed in conjunction with the future decommissioning of the ISFSI subsequent to shipment offsite of the SONGS stored spent fuel.

The August 13, 2015, submittal also stated that decommissioning of SONGS, Units 2 and 3, has begun and the nuclear reactor and essentially all associated SSCs in the nuclear steam supply system and balance of plant that supported the generation of power have been retired in place and are being prepared for removal. The SSCs that remain operable are associated with the SFP and the spent fuel building, are needed to meet other regulatory requirements, or are needed to support other site facilities (e.g., radioactive waste handling, ventilation and air conditioning, etc.). No remaining SSCs are classified as safety-related.

The licensee's general justification for eliminating records associated with SONGS, Units 1, 2, and 3, SSCs that have been or will be removed from service under the NRC license, dismantled, or demolished, is that these SSCs will not in the future serve any SONGS, Units 1, 2, or 3 functions regulated by the NRC. SCE's dismantlement plans involve evaluating SSCs with respect to the current facility safety analysis; progressively removing them from the licensing basis where necessary through appropriate change mechanisms (e.g., 10 CFR 50.59 or via NRC-approved technical specification changes, as applicable); revising the Defueled Safety Analysis Report and/or Updated Safety Analysis Report as necessary; and then proceeding with an orderly dismantlement. Dismantlement of the plant structures will also include dismantling existing records storage facilities.

While SCE intends to retain the records required by its licenses as the project transitions from current plant conditions to a fully dismantled plant with the fuel in dry storage, plant dismantlement will obviate the regulatory and business need for maintenance of most records. As the SSCs are removed from the licensing basis and the need for the associated records is, on a practical basis, eliminated, the licensee proposes that they be exempted from the records retention requirements for SSCs and historical activities that are no longer relevant, thereby eliminating the associated regulatory and economic burdens of creating alternative storage locations, relocating records, and retaining irrelevant records.

The exemption request states that all records necessary for spent fuel and spent fuel storage SSCs and activities have been, and will continue to be, retained for the SFP throughout its functional life. Similar to other plant records, once the SFP is emptied of fuel, drained and ready for demolition, there will be no safety-significant function or other regulatory need for retaining SFP related records. In addition, SCE recognized in its application that the SONGS site will continue to be under NRC regulation until license termination, primarily due to residual

radioactivity. The operational, radiological, and other necessary programmatic controls (such as security and quality assurance) for the facility, as well as the implementation of controls for the defueled condition and decommissioning activities, will continue to be appropriately addressed through the 10 CFR part 50 licenses and current decommissioning plan documents such as the PSDAR, Updated Final Safety Analysis Report, and plant technical specifications.

- **The Exemption is Authorized by Law:** 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, as amended, other laws, or the Commission's regulations. Therefore, the exemption from the record keeping requirements of 10 CFR 50.71(c); 10 CFR part 50, appendix A, Criterion I; 10 CFR part 50, appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) is authorized by law.

- **The Exemption Presents no Undue Risk to Public Health and Safety:** Removal of the underlying SSCs associated with the records for which SCE has requested an exemption from record keeping requirements has been or will be determined by the licensee to have no adverse public health and safety impact, in accordance with 10 CFR 50.59 or an NRC-approved license amendment. These change processes involve either a determination by the licensee or an approval from the NRC that the affected SSCs no longer serve any safety purpose regulated by the NRC. Elimination of records associated with these removed SSCs can have no impact to public health and safety.

The partial exemption from the record keeping requirements of 10 CFR 50.71(c); 10 CFR part 50, appendix A, Criterion I; 10 CFR part 50, appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) for the records described above is administrative in nature and will have no impact on any remaining decommissioning activities or on radiological effluents. The exemption will only advance the schedule for disposition of the specified records. Considering the content

of these records, the elimination of these records on an advanced timetable will have no reasonable possibility of presenting any undue risk to the public health and safety.

- **The Exemption is Consistent with the Common Defense and Security:** The elimination of the record keeping requirements does not involve information or activities that could potentially impact the common defense and security of the United States. Upon dismantlement of the affected SSCs, the records have no functional purpose relative to maintaining the safe operation of the SSCs, maintaining conditions that would affect the ongoing health and safety of workers or the public, or informing decisions related to nuclear security.

Rather, the exemption requested is administrative in nature and would only advance the current schedule for disposition of the specified records. Therefore, the partial exemption from the record keeping requirements of 10 CFR 50.71(c); 10 CFR part 50, appendix A, Criterion I; 10 CFR part 50, appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) for the types of records described above is consistent with the common defense and security.

- **Special Circumstances:** Paragraph 50.12(a)(2) states, in part: “The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever: ... (ii) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule; (iii) Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted”

Criterion 1 of 10 CFR Part 50, Appendix A, states in part: “Appropriate records of the design, fabrication, erection, and testing of structures, systems, and components important to safety shall be maintained by or under the control of the nuclear power unit licensee throughout the life of the unit.”

Criterion XVII of 10 CFR Part 50, Appendix B, states in part: “Sufficient records shall be maintained to furnish evidence of activities affecting quality.”

Paragraph 50.59(d)(3) states in part: “The records of changes in the facility must be maintained until the termination of an operating license issued under this part... .”

Paragraph 50.71(c), states in part: “Records that are required by the regulations in this part or Part 52 of this chapter, by license condition, or by technical specifications must be retained for the period specified by the appropriate regulation, license condition, or technical specification. If a retention period is not otherwise specified, these records must be retained until the Commission terminates the facility license... .”

In the Statement of Considerations (SOC) for the final rulemaking, “Retention Periods for Records” (53 FR 19240; May 27, 1988), in response to public comments received during the rulemaking process, the NRC stated that records must be retained “for NRC to ensure compliance with the safety and health aspects of the nuclear environment and for the NRC to accomplish its mission to protect the public health and safety.” In the SOC, the Commission also explained that requiring licensees to maintain adequate records assists the NRC “in judging compliance and noncompliance, to act on possible noncompliance, and to examine facts as necessary following any incident.”

These regulations apply to licensees in decommissioning despite the fact that, during the decommissioning process, safety-related SSCs are retired or disabled and subsequently removed from NRC licensing basis documents by appropriate change mechanisms. Appropriate removal of an SSC from the licensing basis requires either a determination by the licensee or an approval from the NRC that the SSC no longer has the potential to cause an accident, event, or other problem which would adversely impact public health and safety.

The records subject to removal under this exemption are associated with SSCs that had been important to safety during power operation or operation of the SFP but are no longer capable of causing an event, incident, or condition that would adversely impact public health and safety, as evidenced by their appropriate removal from the licensing basis documents. If the SSCs no longer have the potential to cause these scenarios, then it is reasonable to conclude that the records associated with these SSCs would not reasonably be necessary to assist the NRC in determining compliance and noncompliance, taking action on possible noncompliance, and examining facts following an incident. Therefore, their retention would not serve the underlying purpose of the rule.

In addition, once removed from the licensing basis documents, SSCs are no longer governed by the NRC's regulations, and therefore are not subject to compliance with the safety and health aspects of the nuclear environment. As such, retention of records associated with SSCs that are or will no longer be part of the facility serves no safety or regulatory purpose, nor does it serve the underlying purpose of the rule of maintaining compliance with the safety and health aspects of the nuclear environment in order to accomplish the NRC's mission. Accordingly, special circumstances are present which the NRC may consider, pursuant to 10 CFR 50.12(a)(2)(ii), to grant the requested exemption.

Records which continue to serve the underlying purpose of the rule, that is, to maintain compliance and to protect public health and safety in support of the NRC's mission, will continue to be retained pursuant to the regulations in 10 CFR part 50 and 10 CFR part 72. These retained records not subject to the exemption include those associated with programmatic controls, such as those pertaining to residual radioactivity, security, and quality assurance, as well as records associated with the ISFSI and spent fuel assemblies.

The retention of records required by 10 CFR 50.71(c); 10 CFR part 50, appendix A, Criterion I; 10 CFR part 50, appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) provides assurance that records associated with SSCs will be captured, indexed, and stored in an environmentally suitable and retrievable condition. Given the volume of records associated with the SSCs, compliance with the records retention rule results in a considerable cost to the licensee. Retention of the volume of records associated with the SSCs during the operational phase is appropriate to serve the underlying purpose of determining compliance and noncompliance, taking action on possible noncompliance, and examining facts following an incident, as discussed above.

However, the cost effect of retaining operational phase records beyond the operations phase until the termination of the license was not fully considered or understood when the records retention rule was put in place. For example, existing records storage facilities are often eliminated as decommissioning progresses. Retaining records associated with SSCs and activities that no longer serve a safety or regulatory purpose would therefore necessitate creation of new facilities and retention of otherwise unneeded administrative support personnel. As such, compliance with the rule would result in an undue cost in excess of that contemplated when the rule was adopted. Accordingly, special circumstances are present which the NRC may consider, pursuant to 10 CFR 50.12(a)(2)(iii), to grant the requested exemption.

- **Environmental Considerations:** Pursuant to 10 CFR 51.22(b) and (c)(25), the granting of an exemption from the requirements of any regulation in Chapter I of 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 are among those identified in 10 CFR 51.22(c)(25)(vi).

The NRC staff has determined that approval of the exemption request involves no significant hazards consideration because allowing the licensee exemption from the record keeping requirements of 10 CFR 50.71(c); 10 CFR part 50, appendix A, Criterion I; 10 CFR part 50, appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) at the decommissioning San Onofre Nuclear Generating Station, Units 1, 2, and 3 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 (10 CFR 50.92(c)). Likewise, 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 regulations are not associated with construction, so there is no significant construction impact. The exempted regulations do not concern the source term (i.e., potential amount of radiation involved an accident) or accident mitigation; therefore, there is no significant increase in the potential for, or consequences from, radiological accidents. Allowing the licensee partial exemption from the record retention requirements for which the exemption is sought involves record keeping requirements, as well as reporting requirements of an administrative, managerial, or organizational nature.

Therefore, pursuant to 10 CFR 51.22(b) and 10 CFR 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

The NRC staff has determined that the requested partial exemption from the record keeping requirements of 10 CFR 50.71(c); 10 CFR part 50, appendix A, Criterion I; 10 CFR part 50, appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) will not present an undue risk to the public health and safety. The destruction of the identified records will not impact remaining decommissioning activities; plant operations, configuration, and/or radiological effluents; operational and/or installed SSCs that are quality-related or important to safety; or nuclear security. The NRC staff has determined that the destruction of the identified records is administrative in nature and does not involve information or activities that could potentially impact the common defense and security of the United States.

The purpose for the record keeping regulations is to assist the NRC in carrying out its mission to protect the public health and safety by ensuring that the licensing and design basis of the facility is understood, documented, preserved and retrievable in such a way that will aid the NRC in determining compliance and noncompliance, taking action on possible noncompliance, and examining facts following an incident. Since the SONGS SSCs that were safety-related or important to safety have been or will be removed from the licensing basis and removed from the plant, the staff agrees that the records identified in the partial exemption will no longer be required to achieve the underlying purpose of the records retention rule.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants the Southern California Edison Company a one-time partial exemption from the record keeping requirements of 10 CFR 50.71(c); 10 CFR

part 50, appendix A, Criterion I; 10 CFR part 50, appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) for the San Onofre Nuclear Generating Station, Units 1, 2, and 3 to advance the schedule to remove records associated with SSCs that have been removed from NRC licensing basis documents by appropriate change mechanisms.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 18th day of July 2016.

For the Nuclear Regulatory Commission.

/RA/

John R. Tappert, Director,
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