

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-285; NRC-2017-0202]

Omaha Public Power District; Fort Calhoun Station, Unit No. 1

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing exemptions in response to a May 4, 2017, request, as supplemented by letter dated June 5, 2017, from Omaha Public Power District (OPPD or the licensee). The licensee requested that Fort Calhoun Station (FCS), Unit No. 1, be granted a permanent partial exemption from regulations that require retention of records for certain systems, structures, and components (SSCs) until the termination of the operating license.

DATES: The exemption was issued on October 4, 2017.

ADDRESSES: Please refer to Docket ID **NRC-2017-0202** 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-2017-0202**. 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): You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdresource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

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

FOR FURTHER INFORMATION CONTACT: James Kim, Office of Nuclear Reactor Regulation, telephone: 301-415-4125; e-mail: James.Kim@nrc.gov; U.S. Nuclear Regulatory Commission, Washington DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Background

The FCS is a single unit Combustion Engineering pressurized-water reactor located in Fort Calhoun, Nebraska. The FCS was granted Renewed Facility Operating

License No. DPR-40 under part 54 of title 10 of the *Code of Federal Regulations* (10 CFR), on November 4, 2003. The operating license for FCS is held by OPPD.

On November 13, 2016, OPPD submitted the certifications, pursuant to 10 CFR 50.82(a)(1), of permanent cessation of operations and permanent removal of fuel from the reactor (ADAMS Accession No. ML16319A254). Decommissioning activities will be carried out by OPPD, and are described in the Post-Shutdown Decommissioning Activities Report submitted to the NRC on March 30, 2017 (ADAMS Accession No. ML17089A759). The SSCs that supported the generation of electric power are being prepared to enter the SAFSTOR phase. SAFSTOR, often considered “delayed DECON,” involves initially removing all fuel and radioactive wastes and liquids, maintaining the facility in a condition that allows the decay of radioactivity to reduce radiation levels at the facility, and then decontaminating and dismantling the facility.

Completion of fuel transfer from the spent fuel pool (SFP) to an independent spent fuel storage installation (ISFSI) is scheduled for 2023. Preparation for dismantlement and license termination are scheduled to begin in 2059.

II. Request/Action

By letter dated May 4, 2017 (ADAMS Accession No. ML17125A073), as supplemented by letter dated June 5, 2017 (ADAMS Accession No. ML17186A327), OPPD filed a request for NRC approval of a permanent exemption from the following recordkeeping requirements: 10 CFR part 50, appendix B, Criterion XVII; 10 CFR 50.59(d)(3); and 10 CFR 50.71(c). The request was made pursuant to 10 CFR 50.12, “Specific exemptions.”

The licensee is requesting NRC approval of an exemption from 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; 10 CFR 50.59(d)(3), which requires records to be maintained “until the termination of an operating license”; and 10 CFR 50.71(c) where records required by license condition or technical specifications (TSs) are to be retained until termination of the license.

The licensee is proposing to eliminate: (1) the records when the licensing basis requirements previously applicable to the nuclear power unit and associated structures, and components (SSCs) are no longer effective (e.g., removed from the Final Safety Analysis Report (FSAR), as updated, and/or TSs by appropriate change mechanisms); and (2) the records for SSCs associated with safe storage of the fuel in the SFP, when spent nuclear fuel has been completely transferred from the SFP to dry storage, and the SFP is ready for demolition and the associated licensing bases are no longer effective.

The licensee cites precedents for records 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); Rancho Seco Nuclear Generating Station (ADAMS Accession No. ML043310155); Haddam Neck Plant (ADAMS Accession No. ML052160088); Vermont Yankee Nuclear Power Station (ADAMS Accession No. ML15344A243); and San Onofre Nuclear Generating Station, Units 1, 2, and 3 (ADAMS Accession No. ML15355A055).

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 FCS license. Also, the licensee did not request an exemption associated with any other record keeping requirements for the storage of spent fuel at its 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 (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) when special circumstances are present.

The FCS permanently ceased power operations on October 24, 2016, and subsequently removed the spent fuel from the reactor to the SFP. The nuclear reactor and SSCs associated with the nuclear steam supply system and balance of plant that had supported power generation have been drained as necessary and retired in place. The licensee's general justification for eliminating records associated with FCS 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 FCS functions regulated by the NRC. Subsequently, these SSCs can be removed from NRC licensing basis documents, such as TSs or the FSAR, as updated, by appropriate change mechanisms (e.g., 10 CFR 50.59 or via NRC-approved TS changes, as applicable).

While OPPD intends to retain the records required by FCS license, as the project transitions from current plant conditions to fully dismantled with the fuel in dry storage, the regulatory and business needs for maintenance of most of the records will be obviated. 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 SSCs supporting the continued operation of the SFP must remain operable at FCS and will be configured for operational efficiency until the fuel is removed to permanent dry storage. The records associated with the SFP SSCs must be retained through the SFP's functional life. Similar to other plant records, when the SFP is emptied of fuel, drained, and prepared for demolition, there will be no safety-significant function or other regulatory need for retaining SFP SSCs related records. The SSCs that support the SFP will be removed from licensing basis documents by appropriate change mechanisms.

In addition, the FCS 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 FSAR, as updated, and plant TSs.

The Exemption is Authorized by Law

Paragraph 50.71(d)(2) allows for the granting of specific exemptions to the retention of records required by regulations. Paragraph 50.71(d)(2) states, in part, "... the retention period specified in the regulations in this part for such records shall apply unless the Commission, pursuant to § 50.12 of this part, has granted a specific

exemption from the record retention requirements specified in the regulations in this part.”

Based on 10 CFR 50.71(d)(2), if the requirements of 10 CFR 50.12 are satisfied, an exemption from the recordkeeping requirements in 10 CFR part 50, appendix B, Criterion XVII; 10 CFR 50.59(d)(3); and 10 CFR 50.71(c), as requested by the licensee, is authorized by law.

Specific Exemption Presents no Undue Risk to Public Health and Safety

As SSCs are prepared for SAFSTOR and eventual decommission and dismantlement, they may be removed from NRC licensing basis documents through appropriate change mechanisms, such as through the process stipulated by 10 CFR 50.59 or through a license amendment request approved by the NRC. These change processes involve either a determination by the licensee or an approval by the NRC that the affected SSC no longer serves any safety purpose regulated by the NRC.

Therefore, the removal of the SSC would not present an undue risk to the public health and safety. In turn, removal of the records associated with the affected SSC would not cause any additional impact to public health and safety.

The exemptions from the requested requirements of 10 CFR part 50, appendix B, Criterion XVII; 10 CFR 50.59(d)(3); and 10 CFR 50.71(c) are administrative in nature and will have no impact on future decommissioning activities or radiological effluents. The partial exemptions will only advance the schedule for the removal of the records. Because the content of the records pertains to SSCs that have already been removed from licensing basis documents, elimination of the records on an advanced timetable will have no reasonable potential to present any undue risk to the public health and safety.

The Exemption is Consistent with the Common Defense and Security

The elimination of records associated with SSCs, which have already been removed from the NRC's licensing basis documents, is administrative in nature, and does not involve information or involve activities that could potentially impact the common defense or security. After the SSCs are removed from the NRC's licensing basis documents by appropriate change mechanisms, they are determined to no longer serve the purpose of safe operation or maintain conditions that would affect the ongoing health and safety of workers or the public. Therefore, removal of the associated records will also present no potential for impacting the safe operation of the plant or the defense or security of the workers or the public.

The exemptions requested are administrative in nature and will merely advance the current schedule for removal of the specified records. Therefore, the partial exemptions from the recordkeeping requirements of 10 CFR part 50, appendix B, Criterion XVII; 10 CFR 50.59(d)(3); and 10 CFR 50.71(c), and for the types of records as specified above, are consistent with the common defense and security.

Special Circumstances

Pursuant to 10 CFR 50.12, the Commission will consider granting an exemption if special circumstances are present. Paragraph 50.12(a)(2) states, in part, "special circumstance 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."

Appendix B of 10 CFR part 50, Criterion XVII, states, in part, "sufficient records shall be maintained to furnish evidence of activities affecting quality. ... Records shall be identifiable and retrievable."

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 under this part”

Paragraph 50.71(c), states, in part, “Records that are required by the regulations in this part or 10 CFR part 52 of this chapter, by license condition, or by TSs must be retained for the period specified by the appropriate regulation, license condition, or TS. If a retention period is not otherwise specified, these records must be retained until the Commission terminates the facility license”

In the statements of consideration for the final rulemaking, “Retention Periods for Records,” effective July 26, 1988 (53 FR 19240; May 27, 1988), as a response to public comments during the rulemaking process, the NRC states that records must be retained “... so they will be available for examination by the Commission in any analysis following an accident, incident, or other problem involving public health and safety ... [and] 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.”

The statements of consideration express that the underlying purpose of the recordkeeping rule is to ensure that, in the event of an accident, incident, or condition that could impact public health and safety, the NRC has access to information in the records that would assist in the recovery from the event and prevent similar events or conditions, which would impact health and safety. These regulations do not consider the nature of the decommissioning process, in which safety-related SSCs are retired or disabled, and subsequently removed from the NRC’s licensing basis documents by appropriate change mechanisms prior to the termination of the license.

Appropriate removal of an SSC from the licensing basis requires either a determination by the licensee or an approval by the NRC of whether the SSC has the

potential to cause an accident, event, or other problem, which would adversely impact the public health and safety. It follows that at a nuclear power generation plant in the decommissioning stage, SSCs that have been retired from service and removed from licensing basis documents have already been determined, through that evaluation, to no longer have an adverse impact on public health and safety.

The records subject to removal under this exemption are associated with SSCs that are important to safety during power operation and operation of the SFP, but after permanent cessation of operations are not 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. Once removed from 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. Therefore, retention of these records does not serve the underlying purpose of the rule of maintaining compliance with the safety and health aspects of the nuclear environment or to accomplish the NRC's mission.

Records, which continue to serve the underlying purpose of the rule, that is, to maintain compliance and to protect public health and safety, will continue to be retained under 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, quality assurance, etc., and records associated with the ISFSI and spent fuel assemblies.

Paragraph 50.12(a)(2) states, in part, “Special circumstance are present whenever– ... (iii) Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted”

The retention of records required by 10 CFR part 50, appendix B, Criterion XVII, 10 CFR 50.59(d)(3), and 10 CFR 50.71(c) 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 rules results in a considerable cost to the licensee. Retention of the volume of records associated with these SSCs during the operations phase is appropriate to serve the underlying purpose of providing information to the Commission for examination in the case of an event, incident, or other problem involving the public health and safety, as discussed above. However, the cost effect of retaining operations phase records beyond the operations phase until the termination of the license was not fully considered or understood. Therefore, compliance with the rule would result in an undue cost in excess of that contemplated when the rule was adopted.

The granted exemptions apply to records that are associated with SSCs that had supported the operations phase of electricity generation and wet storage of spent fuel assemblies, and that have been, or will be, retired in place, prepared for dismantlement, and removed from licensing basis documents. Records that continue to apply to retired SSCs during the SAFSTOR and decommissioning phase, such as records associated with programmatic controls pertaining to residual radioactivity, security, quality assurance, etc., and records associated with the ISFSI and spent fuel assemblies, will continue to be maintained in an environmentally suitable and retrievable condition.

Environmental Considerations

Under 10 CFR 51.22(c)(25), granting of an exemption from the requirements of any regulation in 10 CFR Chapter I 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 Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation, has determined that approval of the exemption request involves no significant hazards consideration because allowing the licensee exemption from the recordkeeping requirements of 10 CFR part 50, appendix B, Criterion XVII; 10 CFR 50.59(d)(3); and 10 CFR 50.71(c), at the permanently shutdown and defueled FCS 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. 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), nor mitigation. Therefore, there is no significant increase in the potential for, or consequences from radiological accidents.

Allowing the licensee partial exemption from record retention requirements from which the exemption is sought involve recordkeeping requirements, reporting requirements of an administrative, managerial, or organizational nature.

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 50.12, part 50, appendix B, Criterion XVII; 10 CFR 50.59(d)(3); and 10 CFR 50.71(c) are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants OPPD's partial exemptions from 10 CFR part 50, appendix B, Criterion XVII; 10 CFR 50.59(d)(3); and 10 CFR 50.71(c) to advance the schedule to remove records associated with SSCs that have been removed from the NRC's licensing basis documents by appropriate change mechanisms.

Dated at Rockville, Maryland, this 4th day of October, 2017.

For the Nuclear Regulatory Commission.

/RA/

Anne T. Boland, Director,
Division of Operating Reactor Licensing,
Office of Nuclear Reactor Regulation.