

**NUCLEAR REGULATORY COMMISSION**

**[Docket No. 50-219; NRC-2018-0175]**

**Exelon Generation Company, LLC**

**Oyster Creek Nuclear Generating Station**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Environmental assessment and finding of no significant impact; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of exemptions in response to a March 22, 2018, request from Exelon Generation Company, LLC (Exelon or the licensee), for the Oyster Creek Nuclear Generating Station (Oyster Creek). One exemption would permit the licensee to use funds from the Oyster Creek decommissioning trust fund (DTF or the Trust) for irradiated fuel management activities and site restoration. Another exemption would allow the licensee to use withdrawals from the Trust for these activities without prior notification to the NRC. The NRC staff is issuing a final Environmental Assessment (EA) and final Finding of No Significant Impact (FONSI) associated with the proposed exemptions.

**DATES:** The environmental assessment and finding of no significant impact referenced in this document is available on September 14, 2018.

**ADDRESSES:** Please refer to Docket ID **NRC-2018-0175** 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 Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2018-0175**. Address questions about NRC dockets in Regulations.gov to Jennifer Borges; telephone: 301-287-9127; e-mail: [Jennifer.Borges@nrc.gov](mailto:Jennifer.Borges@nrc.gov). For technical questions, contact the individual(s) 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 “[Begin Web-based ADAMS Search](#).” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. In addition, for the convenience of the reader, the ADAMS accession numbers are provided in a table in the “Availability of Documents” section of 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:** John G. Lamb, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-3100; e-mail: [John.Lamb@nrc.gov](mailto:John.Lamb@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

The NRC is considering issuance of exemptions from sections 50.82(a)(8)(i)(A) and 50.75(h)(1)(iv) of title 10 of the *Code of Federal Regulations* (10 CFR) for Renewed Facility Operating License No. DPR-16, issued to Exelon for Oyster Creek, located in Ocean County, New Jersey. The licensee requested the exemptions by letter dated March 22, 2018 (ADAMS Accession No. ML18081A201). The exemptions would allow the licensee to use funds from the Trust for irradiated fuel management and site restoration activities without prior notice to the NRC, in the same manner that funds from

the Trust are used under 10 CFR 50.82(a)(8) for decommissioning activities. In accordance with 10 CFR 51.21, the NRC prepared the following environmental assessment (EA) that analyzes the environmental impacts of the proposed action. Based on the results of this EA, which are provided in Section II, and in accordance with 10 CFR 51.31(a), the NRC has determined not to prepare an environmental impact statement for the proposed licensing action, and is issuing a final FONSI.

## **II. Environmental Assessment**

### *Description of the Proposed Action*

The proposed action would partially exempt Exelon from meeting the requirements set forth in 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(1)(iv). Specifically, the proposed action would allow Exelon to use funds from the Trust for irradiated fuel management and site restoration activities not associated with radiological decontamination and would exempt Exelon from meeting the requirement for prior notification to the NRC for these activities.

The proposed action is in accordance with the licensee's application dated March 22, 2018.

### *Need for the Proposed Action*

By letter dated February 14, 2018 (ADAMS Accession No. ML18045A084), Exelon informed the NRC that it plans to permanently ceased power operations at Oyster Creek no later than October 31, 2018.

As required by 10 CFR 50.82(a)(8)(i)(A), decommissioning trust funds may be used by the licensee if the withdrawals are for legitimate decommissioning activity expenses, consistent with the definition of decommissioning in 10 CFR 50.2. This definition addresses radiological decontamination and does not include activities associated with irradiated fuel management or site restoration. Similarly, the

requirements of 10 CFR 50.75(h)(1)(iv) restrict the use of decommissioning trust fund disbursements (other than for ordinary and incidental expenses) to decommissioning expenses until final decommissioning has been completed. Therefore, partial exemptions from 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(1)(iv) are needed to allow Exelon to use funds from the Trust for irradiated fuel management and site restoration activities.

Exelon stated that Table 2 of the application dated March 22, 2018, demonstrates that the DTF contains the amount needed to cover the estimated costs of radiological decommissioning, as well as spent fuel management and site restoration activities. The adequacy of funds in the Trust to cover the costs of activities associated with irradiated fuel management, site restoration, and radiological decontamination through license termination is supported by the Oyster Creek Post-Shutdown Decommissioning Activities Report submitted by Exelon in a letter dated May 21, 2018 (ADAMS Accession No. ML18141A775). The licensee stated that it needs access to the funds in the Trust in excess of those needed for radiological decontamination to support irradiated fuel management and site restoration activities not associated with radiological decontamination.

The requirements of 10 CFR 50.75(h)(1)(iv) further provide that, except for decommissioning withdrawals being made under 10 CFR 50.82(a)(8) or for payments of ordinary administrative costs and other incidental expenses of the Trust, no disbursement may be made from the Trust until written notice of the intention to make a disbursement has been given to the NRC at least 30 working days in advance of the intended disbursement. Therefore, an exemption from 10 CFR 50.75(h)(1)(iv) is needed to allow Exelon to use funds from the Trust for irradiated fuel management and site restoration activities without prior NRC notification.

In summary, by letter dated March 22, 2018, Exelon requested exemptions to allow Trust withdrawals, without prior written notification to the NRC, for irradiated fuel management and site restoration activities.

*Environmental Impacts of the Proposed Action*

The NRC staff has completed its evaluation of the environmental impacts of the proposed action.

The proposed action involves exemptions from requirements that are of a financial or administrative nature and that do not have an impact on the environment. The NRC has completed its evaluation of the proposed action and concludes that there is reasonable assurance that adequate funds are available in the Trust to complete all activities associated with decommissioning and irradiated fuel management and site restoration. There is no decrease in safety associated with the use of the Trust to fund activities associated with irradiated fuel management and site restoration. Section 50.82(a)(8)(v) of 10 CFR requires a licensee to submit a financial assurance status report annually between the time of submitting its decommissioning cost estimate and submitting its final radiation survey and demonstrating that residual radioactivity has been reduced to a level that permits termination of its license. Section 50.82(a)(8)(vi) of 10 CFR requires that if the remaining balance, plus expected rate of return, plus any other financial surety mechanism does not cover the estimated costs to complete the decommissioning, additional financial assurance must be provided to cover the cost of completion. These annual reports provide a means for the NRC to monitor the adequacy of available funding. Since the exemptions would allow Exelon to use funds from the Trust that are in excess of those required for radiological decontamination of the site and the adequacy of funds dedicated for radiological decontamination are not

affected by the proposed exemptions, there is reasonable assurance that there will be no environmental impact due to lack of adequate funding for decommissioning.

The proposed action will not significantly increase the probability or consequences of radiological accidents. Additionally, the NRC staff has concluded that the proposed changes have no direct radiological impacts. There would be no change to the types or amounts of radiological effluents that may be released, therefore, no change in occupational or public radiation exposure from the proposed changes. There are no materials or chemicals introduced into the plant that could affect the characteristics or types of effluents released offsite. In addition, the method of operation of waste processing systems will not be affected by the exemption. The proposed exemption will not result in changes to the design basis requirements of structures, systems, and components (SSCs) that function to limit or monitor the release of effluents. All the SSCs associated with limiting the release of effluents will continue to be able to perform their functions. Moreover, no changes would be made to plant buildings or the site property from the proposed changes. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed changes would have no direct impacts on land use or water resources, including terrestrial and aquatic biota, as they involve no new construction or modification of plant operational systems. There would be no changes to the quality or quantity of nonradiological effluents and no changes to the plant's National Pollutant Discharge Elimination System permits would be needed. In addition, there would be no noticeable effect on socioeconomic conditions in the region, no environment justice impacts, no air quality impacts, and no impacts to historic and cultural resources from the proposed changes. Therefore, there are no significant nonradiological environment impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

#### *Environmental Impacts of the Alternatives to the Proposed Action*

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (i.e., the “no-action” alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

#### *Alternative Use of Resources*

There are no unresolved conflicts concerning alternative uses of available resources under the proposed action.

#### *Agencies or Persons Consulted*

No additional agencies or persons were consulted regarding the environmental impact of the proposed action. On August 10, 2018, the State of New Jersey representatives were notified of the EA and FONSI.

### **III. Finding of No Significant Impact**

The licensee has proposed exemptions from 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(1)(iv), which would allow Exelon to use funds from the Trust for irradiated fuel management and site restoration activities, without prior written notification to the NRC. The proposed action would not significantly affect plant safety, would not have a significant adverse effect on the probability of an accident occurring, and would not have any significant radiological or nonradiological impacts. The reason the human environment would not be significantly affected is that the proposed action involves exemptions from requirements that are of a financial or administrative nature and that do not have an impact of the human environment. Consistent with 10 CFR 51.21, the NRC conducted the EA for the proposed action, and this FONSI incorporates by reference the

EA included in Section II. Therefore, the NRC concludes that the proposed action will not have significant effects on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

Other than the licensee’s letter dated March 22, 2018, there are no other environmental documents associated with this review. This document is available for public inspection as indicated section I.

Previous considerations regarding the environmental impacts of operating Oyster Creek Nuclear Generating Station, in accordance with its renewed operating license, is described in the “Final Environmental Statement for Oyster Creek Nuclear Generating Station,” dated December 1974, and NUREG-1437, Supplement 28, “Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Regarding Oyster Creek Nuclear Generating Station,” Volumes 1 and 2, Final Report, dated January 2007.

#### **IV. Availability of Documents**

<b>Date</b>	<b>Title</b>	<b>ADAMS Accession No.</b>
3/22/2018	Letter from Exelon to NRC titled “Request for Exemption from 10 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(1)(iv)”	ML18081A201
2/14/2018	Letter from Exelon to NRC titled “Certification of Permanent Cessation of Power Operations for Oyster Creek Nuclear Generating Station”	ML18045A084
5/21/2018	Letter from Exelon to NRC titled “Oyster Creek Nuclear Generating Station - Post-Shutdown Decommissioning Activities Report”	ML18141A775
12/1974	Final Environmental Statement for Oyster Creek Nuclear Generating Station	ML072200150



1/2007	NUREG-1437, Supplement 28, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Regarding Oyster Creek Nuclear Generating Station," Volumes 1 and 2	ML070100234 ML070100258
--------	---	----------------------------

Dated at Rockville, Maryland, this 10<sup>th</sup> day of September, 2018.

For the Nuclear Regulatory Commission.

***/RA/***

John G. Lamb, Senior Project Manager,  
Special Projects and Process Branch,  
Division of Operating Reactor Licensing,  
Office of Nuclear Reactor Regulation.