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10 CFR 50.12

2.19.009

February 8, 2019

ATTN: Document Control Desk
U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001

SUBJECT: Request for Partial Exemption from Record Retention Requirements Pilgrim
Nuclear Power Station

Pilgrim Nuclear Power Station
Docket 50-293
Renewed License No. DPR-35

- REFERENCES:
1. Letter, Entergy Nuclear Operations, Inc. to NRC, Notification of Permanent Cessation of Power Operations (ADAMS Accession No. ML15328A053, Pilgrim Letter 2.15.080)
 2. Post Shutdown Decommissioning Activities Report, Pilgrim Nuclear Power Station (ADAMS Accession No. ML18320A034, Pilgrim Letter 2.18.070)

Dear Sir or Madam:

Pursuant to Title 10 Code of Federal Regulations (CFR) 50.12, Entergy Nuclear Operations, Inc. (Entergy), on behalf of Pilgrim Nuclear Power Station (PNPS), requests a permanent exemption from:

- 1) 10 CFR 50, Appendix B, Criterion XVII, which requires certain records to be retained consistent with applicable regulatory requirements for a duration established by the licensee;
- 2) 10 CFR 50.59(d)(3), which requires certain records to be maintained until "termination of an operating license issued under this part;" and
- 3) 10 CFR 50.71(c), which requires certain records to be retained for the period specified by the appropriate regulation, license condition, or technical specification, or until termination of the license if not otherwise specified.

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NRR

Entergy is not requesting an exemption from 10 CFR 50, Appendix A, Criterion 1, which requires certain records to be maintained "throughout the life of the unit," because PNPS is not a General Design Criteria plant.

On November 10, 2015, pursuant to 10 CFR 50.82(a)(1)(i), Entergy submitted, on behalf of PNPS, the notification of permanent cessation of operations not later than June 1, 2019 (Reference 1). Once PNPS permanently ceases operations and submits the certifications required by 10 CFR 50.82(a)(1)(i) and (ii), pursuant to 10 CFR 50.82(a)(2), the 10 CFR Part 50 license for PNPS will no longer authorize operation of the reactor or placement or retention of fuel in the reactor vessel. Once granted, the requested exemption and application of the exemption will eliminate the requirement to maintain records that are no longer necessary due to the permanently shutdown status of PNPS.

Entergy requests that the NRC approve this exemption request by March 1, 2020. Entergy will use the exemption, if granted, to eliminate the applicable records associated with structures, systems, components, and activities no longer required by the licensing basis due to the permanently shutdown status of PNPS.

If you have any questions or require additional information, please contact Mr. Peter J. Miner at (508) 830-7127.

This letter contains no new commitments and no revisions to existing commitments.

Sincerely,



Mandy K. Halter

MKH/mp

Attachments:

1. Request for Partial Exemption from Record Retention Requirements

cc: USNRC Regional Administrator, Region I
USNRC Project Manager, Pilgrim
USNRC Resident Inspector, Pilgrim

ATTACHMENT 1

Letter Number 2.19.009

Pilgrim Nuclear Power Station

Request for Partial Exemption from Record Retention Requirements

Request for Exemption from Record Retention Requirements

I. BACKGROUND

Entergy Nuclear Operations, Inc. (Entergy) notified the U. S. Nuclear Regulatory Commission by letter dated November 10, 2015 (Reference 1), pursuant to 10 CFR 50.82(a)(1)(i), of its intention to permanently cease power operations at PNPS by June 1, 2019. Once fuel has been permanently removed from the reactor vessel, Entergy will submit a written certification to the NRC in accordance with 10 CFR 50.82(a)(1)(ii) that meets the requirements of 10 CFR 50.4(b)(9). Upon docketing of these certifications, the 10 CFR Part 50 license for PNPS will no longer authorize operation of the reactor or emplacement or retention of fuel into the reactor vessel, as specified in 10 CFR 50.82(a)(2).

The nuclear reactor and essentially all associated systems, structures, and components (SSCs) in the nuclear steam supply system and balance of plant that supported the generation of power will be retired in place and prepared for removal. SSCs that remain operable or functional are: 1) those required to support safe storage of spent fuel in the SFP; or 2) those that are needed to meet other regulatory requirements or are needed to support other site facilities (e.g., radwaste handling, Heating, Ventilation, and Air Conditioning (HVAC), etc.).

Entergy's decommissioning plans for PNPS were described in the Post Shutdown Decommissioning Activities Report (PSDAR), which Entergy submitted to NRC per Reference 2. Entergy is currently planning to decommission PNPS using the SAFSTOR method. The initial decommissioning activities to be performed after plant shutdown will entail preparing the plant for a period of safe-storage (also referred to as dormancy). This includes de-fueling the reactor and transferring the fuel into the SFP, draining of fluids and de-energizing systems, and reconfiguring the electrical distribution, ventilation, heating, and fire protection systems. Systems needed for continued operation of the SFP will be reconfigured for operational efficiency.

While Entergy intends to retain the records required by the PNPS license as the facility transitions from the 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 to retain their associated records is, on a practical basis, eliminated, Entergy requests exemptions from the records retention requirements for PNPS SSCs and historical activities that are no longer relevant. Such exemptions would eliminate the associated, unnecessary regulatory and economic burdens of retaining records for SSCs that are no longer part of the PNPS licensing basis.

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II. DETAILED DESCRIPTION

Pursuant to 10 CFR 50.12, "Specific exemptions," Entergy requests a permanent exemption from:

- (1) 10 CFR 50, Appendix B, Criterion XVII, which requires certain records to be retained consistent with applicable regulatory requirements for a duration established by the licensee;
- (2) 10 CFR 50.59(d)(3), which requires certain records to be maintained until "termination of an operating license issued under this part;" and
- (3) 10 CFR 50.71(c), which requires certain records to be retained for the period specified by the appropriate regulation, license condition, or technical specification, or until termination of the license if not otherwise specified.

The exemption is requested to allow Entergy to eliminate the requirement to maintain records that are no longer necessary or applicable due to the permanently defueled condition and decommissioning status of PNPS. Specifically, the following records would no longer be retained:

- (1) Records associated with SSCs, and activities that were applicable to the nuclear unit, which are no longer required by the Part 50 licensing basis (e.g., removed from the Updated Final Safety Analysis Report and/or Technical Specifications by appropriate change mechanisms); or
- (2) For SSCs associated with safe storage of 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.

Entergy is not requesting an exemption from 10 CFR 50, Appendix A, Criterion 1, which requires certain records to be maintained "throughout the life of the unit," because PNPS is not a General Design Criteria plant. Nor is Entergy requesting an exemption associated with any record keeping requirements for storage of spent fuel at the PNPS Independent Spent Fuel Storage Installation (ISFSI) under 10 CFR 50, the General License requirements of 10 CFR 72, or for the other requirements of 10 CFR 50 or Renewed Facility Operating License No. DPR-35 applicable to the decommissioning and dismantlement of PNPS.

III. DISCUSSION

In order for an exemption to be granted from the requirements of 10 CFR Part 50, Appendix B, Criterion XVII, 10 CFR 50.59(d)(3), and 10 CFR 50.71(c), the licensee must show that the requirements of 10 CFR 50.12(a)(1) are met and that special circumstances, as specified in 10 CFR 50.12(a)(2), exist. As discussed below, Entergy satisfies these standards for the requested exemptions.

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IV. TECHNICAL EVALUATION

A. Nuclear Power Generation SSCs

The PNPS nuclear steam supply system and balance of plant SSCs will be retired in place pending dismantlement. The SSCs are no longer operable or maintained except as required to support safe storage of spent fuel in the SFP and other support needs described above. The general justification for eliminating records associated with that portion of the plant is straightforward in that these SSCs have been (or will be) removed from service under the NRC license, dismantled or demolished, and will not serve any PNPS function regulated by the NRC.

Entergy recognizes that some records related to the nuclear steam supply system and balance of plant will continue to be under NRC regulation primarily due to residual radioactivity. The radiological and other necessary programmatic controls (such as security, quality assurance, etc.) for the facility and the implementation of controls for the defueled condition and the decommissioning activities are and will continue to be appropriately addressed through the license and current plant documents such as the Updated Final Safety Analysis Report and Technical Specifications. Except for future changes made through the applicable change process defined in the regulations (e.g., 10 CFR 50.48(f), 10 CFR 50.59, 10 CFR 50.90, 10 CFR 50.54(a), 10 CFR 50.54 (p), 10 CFR 50.54(q), etc.), these programmatic elements and their associated records are unaffected by the exemption request

B. Spent Fuel Pool and Associated SSCs and Activities

Records necessary for spent fuel storage SSCs and activities will continue to be retained through the SFP's functional life. Similar to the 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. Also, similar to the power generation SSCs, Entergy recognizes that some records related to the SFP SSCs will continue to be under NRC regulation primarily due to residual radioactivity. The radiological and other necessary programmatic controls (such as security, quality assurance, etc.) for the facility and the implementation of controls for the defueled condition and the decommissioning activities are and will continue to be appropriately addressed through the license and current plant documents such as the Updated Final Safety Analysis Report and Technical Specifications. Except for future changes made through the applicable change process defined in the regulations (e.g., 10 CFR 50.48(f), 10 CFR 50.59, 10 CFR 50.90, 10 CFR 50.54(a), 10 CFR 50.54(p), 10 CFR 50.54(q), etc.), these programmatic elements and their associated records are unaffected by the exemption request.

The requested exemption is consistent with the retention period for records of changes in the facility or spent fuel storage cask design implemented under 10 CFR 72.48, Changes, Tests, and Experiments. 10 CFR 72.48(d)(3)(i) specifically states

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that records are to be retained until "... Spent fuel is no longer stored in the facility." This is analogous to the condition when the fuel is no longer stored in the SFP and the SFP is ready for demolition.

C. Spent Fuel

Entergy is not requesting any exemption associated with retention of spent fuel records required by 10 CFR 50 and 10 CFR 72.

D. ISFSI

Entergy is not requesting any exemption associated with the retention of records associated with the storage of spent fuel at the ISFSI required by 10 CFR 72.

V. PRECEDENTS

This exemption request is consistent with similar exemption requests that have been approved recently by the NRC for other nuclear power reactor facilities beginning decommissioning. Specifically, the NRC granted similar exemptions to Millstone Power Station, Unit 1, (Reference 3); Zion Nuclear Power Station, Units 1 and 2 (Reference 4); Vermont Yankee Nuclear Power Plant (Reference 5); San Onofre Nuclear Generating Station, Units 1, 2, and 3 (Reference 6); and Kewaunee Power Station (Reference 7).

VI. JUSTIFICATION FOR EXEMPTION AND SPECIAL CIRCUMSTANCES

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 the regulations of Part 50 which 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. 10 CFR 50.12 also states that the Commission will not consider granting an exemption unless special circumstances are present

As discussed below, the Entergy exemption request satisfies the provisions of 10 CFR 50.12.

A. The exemption is authorized by law

Paragraph 50.71(d)(2) allows for the granting of specific exemptions to the record retention requirements specified in the 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."

If the specific exemption requirements of 10 CFR 50.12 are satisfied, the exemption from the record keeping requirements of 10 CFR 50.71(c); 10 CFR Part 50, Appendix B, and 10 CFR 50.59(d)(3) is authorized by law. The request does not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemptions are authorized by law.

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B. The exemption will not present an undue risk to public health and safety

Removal of the underlying SSCs associated with the records from the PNPS licensing basis has been or will be evaluated in accordance with the applicable change process defined in the regulations, e.g., 10 CFR 50.59, or an NRC approved license amendment, to have no adverse public health and safety impact. Elimination of associated records for these SSCs will have no additional impact.

The partial exemption from the record keeping requirements of 10 CFR 50.71(c); 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 merely advance the schedule for no longer maintaining 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.

C. The exemption is consistent with the common defense and security

The elimination of the recordkeeping requirements is administrative in nature and does not involve information or activities that could potentially impact the common defense and security of the United States. Upon removal of the affected SSCs from the PNPS licensing basis, the records have no functional purpose relative to maintaining the safe operation of the SSCs nor to maintaining conditions that would affect the ongoing health and safety of workers or the public.

Rather, the exemption requested is administrative in nature and would merely advance the current schedule for destruction of the specified records. Therefore, the partial exemption from the recordkeeping requirements of 10 CFR 50.71(c); 10 CFR Part 50, Appendix B; and 10 CFR 50.59(d)(3), for the types of records described above is consistent with the common defense and security.

D. Special circumstances

Pursuant to 10 CFR 50.12(a)(2), the NRC will not consider granting an exemption to its regulations unless special circumstances are present. Special circumstances are present as discussed below.

- 1. 10 CFR 50.12(a)(2)(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.**

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

10 CFR 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..."

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10 CFR 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..."

The common and underlying purpose for the records related regulations cited above is to ensure that the licensing and design basis of the facility is understood, documented, preserved and retrievable relative to establishing and maintaining the SSC's safety functions for the life of the facility. These regulations, however, do not consider the reduction in safety related SSCs during the decommissioning process. Removal of the SSC's from the licensing basis has been, or will be, evaluated in accordance with the applicable change process in the regulations, e.g., 10 CFR 50.59, or NRC approved license amendment, to have no adverse public health and safety impact prior to elimination of any records. Elimination of associated records for these SSCs can have no additional impact. Retention of records associated with SSCs that are or will no longer be part of the facility licensing basis serves no safety or regulatory purpose. Ultimately, the SSCs will be physically removed from the facility. Therefore, application of these record requirements in those circumstances does not serve the underlying purpose of the regulations.

Based on the above, the application of the subject record keeping requirements to the PNPS records specified above is not required to achieve the underlying purpose of the rule. Thus, special circumstances are present which the NRC may consider, pursuant to 10 CFR 50.12(a)(2)(ii), to grant the requested exemption.

2. 10 CFR 50.12(a)(2)(iii): Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted.

The records retention requirements applied by the NRC to the construction and operation of nuclear power plants are intended to demonstrate, on a broad basis, that SSCs and activities are supportive of the safety analysis and the requirements of the NRC license for an operating reactor and operability of its safety functions. The records program requirements provide assurance that records will be captured, indexed, and stored in an environmentally suitable and retrievable condition resulting in a significant volume of records of many forms and a significant associated cost. The burden associated with the operations phase records requirements was understood and considered appropriate by the NRC and their reactor licensees. However, the effect of the operations phase record retention requirements that survived the life of a facility and no longer served an underlying safety purpose were not fully understood or considered. This is the current situation at the decommissioning facilities. The operating reactor records retention requirements to which PNPS is currently regulated are no longer necessary nor appropriate in that the SSCs and activities to which

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many of the records apply are no longer important to the facility, the public or worker health and safety.

VII. ENVIRONMENTAL ASSESSMENT

The proposed exemption meets the eligibility criterion for categorical exclusion set forth in 10 CFR 51.22(c)(25), because the proposed exemption involves: (i) no significant hazards consideration; (ii) no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (iii) no significant increase in individual or cumulative public or occupational radiation exposure; (iv) no significant construction impact; (v) no significant increase in the potential for or consequences from radiological accidents; and (vi) the requirements from which the exemption is sought involve recordkeeping requirements. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the proposed exemption.

(i) No Significant Hazards Consideration Determination

Entergy has evaluated the proposed exemption to determine whether or not a significant hazards consideration is involved by focusing on the three standards set forth in 10 CFR 50.92 as discussed below:

1. Does the proposed exemption involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed exemptions are administrative in nature. The proposed exemption has no effect on structures, systems, and components (SSCs) and no effect on the capability of any plant SSC to perform its design function. The proposed exemption would not increase the likelihood of the malfunction of any plant SSC.

The probability of occurrence of previously evaluated accidents is not increased, since most previously analyzed accidents will no longer be able to occur and the probability and consequences of the remaining Fuel Handling Accident are unaffected by the proposed exemption.

Therefore, the proposed exemption does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed exemption create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed exemption does not involve a physical alteration of the plant. No new or different type of equipment will be installed and there are no physical modifications to existing equipment associated with the proposed exemption. Similarly, the proposed exemption will not physically change any SSCs involved in the mitigation of any accidents. Thus, no new initiators or precursors of a new or different kind of accident are created. Furthermore, the proposed exemption does not create the

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possibility of a new accident as a result of new failure modes associated with any equipment or personnel failures. No changes are being made to parameters within which the plant is normally operated, or in the setpoints which initiate protective or mitigative actions, and no new failure modes are being introduced.

Therefore, the proposed exemption does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed exemption involve a significant reduction in a margin of safety?

The proposed exemption does not alter the design basis or any safety limits for the plant. The proposed exemption does not impact station operation or any plant SSC that is relied upon for accident mitigation.

Therefore, the proposed exemption does not involve a significant reduction in a margin of safety.

Based on the above, Entergy concludes that the proposed exemption presents no significant hazards consideration, and accordingly, a finding of "no significant hazards consideration" is justified.

(ii) There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite.

There are no changes in the types, characteristics, or quantities of effluents discharged to the environment associated with the proposed exemption. 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 SSCs that function to limit or monitor the release of effluents. Therefore, the proposed exemption will result in no significant change to 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.

The proposed exemption does not involve any physical alterations to the plant configuration or any changes to the operation of the facility that could lead to a significant increase in individual or cumulative occupational radiation exposure.

(iv) There is no significant construction impact.

No construction activities are associated with the proposed exemption.

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- (v) **There is no significant increase in the potential for or consequences from radiological accidents.**

See the no significant hazards considerations discussion in item (i)(1) above.

- (vi) **The requirements from which exemption is sought involve recordkeeping requirements.**

The requirements from which the exemption is sought involve recordkeeping requirements as defined in 10 CFR 50, Appendix B, Criterion XVII, 10 CFR 50.59(d)(3), and 10 CFR 50.71(c).

VIII. CONCLUSION

The information provided above gives the NRC sufficient basis for granting an exemption from the recordkeeping requirements of 10 CFR 50, Appendix B, Criterion XVII, 10 CFR 50.59(d)(3), and 10 CFR 50.71(c) for: 1) records pertaining to SSCs or activities associated with the nuclear power unit and associated support systems that are no longer required to support licensed operations at the PNPS site; and 2) records pertaining to the SFP and associated support systems for the safe storage of fuel in the SFP after all the spent nuclear fuel has been transferred from the SFP to the ISFSI, and the SFP is ready for demolition. This exemption does not apply to any recordkeeping requirements for spent fuel or storage of the spent fuel at the PNPS ISFSI under 10 CFR 50 or the general requirements of 10 CFR 72.

Based on the considerations discussed above, the requested exemption is authorized by law, otherwise in the public interest, and consistent with the common defense and security.

Entergy requests that the NRC approve this exemption request by February 6, 2020. Entergy will use the exemption, if granted, to eliminate the applicable records associated with SSCs and activities no longer required by the PNPS licensing basis.

References

1. Letter, Entergy Nuclear Operations, Inc. to NRC, Notification of Permanent Cessation of Power Operations (ADAMS Accession No. ML15328A053, Pilgrim Letter 2.15.080)
2. Post Shutdown Decommissioning Activities Report, Pilgrim Nuclear Power Station (ADAMS Accession No. ML18320A034, Pilgrim Letter 2.18.070)
3. Letter from J. B. Hickman (NRC) to D. A. Christian (Dominion Nuclear Connecticut, Inc.), "Millstone Power Station, Unit No. 1 - Partial Exemption from Record Keeping Requirements (TAC No. J00287)," dated January 30, 2007 (ADAMS Accession No. ML070110567)
4. Letter from J. B. Hickman (NRC) to J. A. Christian (ZionSolutions, LLC), "Zion Nuclear Power Station, Units 1 and 2 - Exemption from Record Keeping

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Requirements (TAC Nos. J00400 and J00401)," dated June 23, 2011 (ADAMS Accession No. ML111260277)

5. Letter from J. Kim (NRC) to Vice President, Operations (Entergy Nuclear Operations, Inc.), "Vermont Yankee Nuclear Power Station - Partial Exemptions from the Requirements of 10 CFR Part 50, Appendix B, Criterion XVII; 10 CFR 50.59(d)(3); 10 CFR 50.71(c) (CAC No. MF5846)," dated December 22, 2015 (ADAMS Accession No. ML15344A243)
6. Letter from M. Vaaler (NRC) to T. J. Palmisano (Southern California Edison Company), "San Onofre Nuclear Generating Station, Units 1, 2, and 3 - Exemption from Record Keeping Requirements (CAC Nos. L53076 and L53077)," dated July 18, 2016 (ADAMS Accession No. ML15355A055)
7. Letter from T. H. Carter (NRC) to D. A. Heacock (Dominion Energy Kewaunee, Inc.), "Kewaunee Power Station – Exemption from Record Retention Requirements (CAC NO. L53174)," dated May 10, 2017, (ADAMS Accession No. ML17069A394)