

**NUCLEAR REGULATORY COMMISSION**

**[Docket Nos. 50-003, 50-247, and 50-286; NRC-2022-0203]**

**Holtec Decommissioning International, LLC, Holtec Indian Point 2, LLC**

**and Holtec Indian Point 3, LLC;**

**Indian Point Nuclear Generating Unit Nos. 1, 2, and 3**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** License amendment request; opportunity to comment, request a hearing and to petition for leave to intervene.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Provisional Operating License No. DPR-5, and Renewed Facility License Nos. DPR-26 and DPR-64, issued to Holtec Decommissioning International, LLC, on behalf of Holtec Indian Point 2, LLC and Holtec Indian Point 3, LLC, for Indian Point Nuclear Generating Unit Nos. 1, 2, and 3, collectively referred to as the Indian Point Energy Center. The proposed amendment would remove the Cyber Security Plan requirements contained in License Condition 3.d of the Indian Point Unit 1 Provisional License, License Condition 2.H of the Indian Point Unit 2 Renewed Facility License, and License Condition 2.G of the Indian Point Unit 3 Renewed Facility License to reflect the cyber security requirements associated with decommissioning power reactors.

**DATES:** Submit comments by January 6, 2023. Requests for a hearing or petition for leave to intervene must be filed by February 6, 2023.

**ADDRESSES:** You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the **Federal rulemaking website**.

- **Federal rulemaking website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2022-0203**. Address questions about Docket IDs in Regulations.gov to Stacy Schumann; telephone: 301-415-0624; email: [Stacy.Schumann@nrc.gov](mailto:Stacy.Schumann@nrc.gov). For technical questions, contact the individual listed in the “For Further Information Contact” section of this document.

- **Mail comments to:** Office of Administration, Mail Stop: TWFN-7-A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Program Management, Announcements and Editing Staff.

**FOR FURTHER INFORMATION CONTACT:** Karl Sturzebecher, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-8534, email: [Karl.Sturzebecher@nrc.gov](mailto:Karl.Sturzebecher@nrc.gov).

#### **SUPPLEMENTARY INFORMATION:**

### **I. Obtaining Information and Submitting Comments**

#### **A. Obtaining Information**

Please refer to Docket ID **NRC-2022-0203** when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2022-0203**.

- **NRC’s Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209,

301-415-4737, or by email to PDR.Resource@nrc.gov. The license amendment request is available in ADAMS under Accession No. ML22140A126.

- **NRC's PDR:** You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov. or call 1-800-397-4209 or 301-415-4737, between 8:00 a.m. and 4:00 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

#### B. Submitting Comments

The NRC encourages electronic comment submission through the **Federal rulemaking website** (<https://www.regulations.gov>). Please include Docket ID **NRC-2022-0203** in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

## II. Introduction

The NRC is considering issuance of an amendment to Provisional Operating License No. DPR-5, and Renewed Facility License Nos. DPR-26 and DPR-64 for Indian Point Nuclear Generating Unit Nos. 1, 2, and 3 located in Westchester County, New York. The license amendment request proposes to remove the Cyber Security Plan (CSP) requirements from the licenses for the three reactor units at the Indian Point Energy Center (IPEC) to reflect the NRC guidance associated with cyber security requirements for decommissioning power reactors.

To support the decommissioning of IPEC, the proposed revisions would remove the cyber security requirements from the Indian Point Nuclear Generating Unit Nos. 1, 2, and 3 license conditions prior to the completion of the transfer of spent fuel from the Indian Point Unit 2 (IP2) and Indian Point Unit 3 (IP3) spent fuel pools (SFPs) to dry storage within the onsite independent spent fuel storage installation (ISFSI). The licensee's request considers the cooling period for spent fuel stored in the SFPs after the IP2 and IP3 reactors permanently shut down. Removal of the CSP requirements from the licenses for the three reactor units at IPEC would align with the reduced risks for a nuclear power facility that has permanently ceased operations and removed all fuel from the reactor vessel, and where the spent fuel has had sufficient time to cool down such that the spent fuel stored in the SFPs cannot reasonably heat-up to clad ignition temperature within 10 hours.

Before issuance of the proposed license amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and NRC's regulations.

The NRC has made a proposed determination that the license amendment request involves no significant hazards consideration. Under the NRC's regulations in § 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), this means that

operation of the facility in accordance with the proposed amendment would 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. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented as follows:

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

Response: No.

All power operations at IPEC have ceased and all spent fuel has been removed from the IP1, IP2, and IP3 reactor vessels. All fuel has been removed from the IP1 SFP, and the IP1 SFP is no longer used to store fuel. Spent fuel at IPEC will be stored either in the IP2 SFP, the IP3 SFP, or ISFSI. Therefore, the spectrum of possible transients and accidents at IP1, IP2, and IP3 is significantly reduced compared to an operating nuclear power reactor.

The only design basis accident (DBA) that could potentially result in an offsite radiological release at IPEC is a fuel handling accident (FHA) involving spent fuel stored in the IP2 SFP or IP3 SFP. An analysis indicates that after a decay time of 15 months following permanent cessation of power operations of each unit, there is no longer any possibility of an offsite radiological release from a DBA that could exceed the U.S. Environmental Protection Agency's (EPA's) Protection Action Guides (PAGs). With this significant reduction in radiological risk based on the IP1, IP2, and IP3 reactors being shut down for more than 15 months, the consequences of a cyber-attack are also significantly reduced.

Additionally, per an NRC Memorandum dated December 5, 2016, (ADAMS No. ML16172A285) "Cyber Security Requirements for Decommissioning Nuclear Power Plants," the NRC staff determined that 10 CFR 73.54, "Protection of digital computer and communication systems and networks," does not apply to reactor licensees that have submitted certifications of permanent cessation of power operations and permanent removal of fuel under 10 CFR 50.82(a)(1), and whose certifications have been docketed by the NRC as required by 10 CFR 50.82(a)(2). The IP1 reactor has transferred all spent fuel to the ISFSI and drained the SFP. The IP2 and IP3 certifications were submitted and docketed in accordance with 10 CFR 50.82(a)(1) and 10 CFR 50.82(a)(2), respectively, after all fuel was moved to the IP2 SFP and IP3 SFP, respectively.

The bounding analyses for the IP2 and IP3 SFPs for beyond design basis events demonstrate that 15 months after shutdown of IP3 a minimum of 10 hours is available before the fuel cladding temperature of the hottest fuel assembly in SFP reaches 900°C with a complete loss of SFP water inventory. The site-

specific analysis determined that sufficient time will have passed prior to the requested implementation date for these license amendments such that the spent fuel stored in the IP2 SFP or IP3 SFP cannot reasonably heat-up to clad ignition temperature within 10 hours.

This proposed change does not alter previously evaluated accident analysis assumptions, introduce or alter any initiators, or affect the function of facility structures, systems, and components (SSCs) relied upon to prevent or mitigate any previously evaluated accident or the manner in which these SSCs are operated, maintained, modified, tested, or inspected. The proposed change does not involve any facility modifications which affect the performance capability of any SSCs relied upon to prevent or mitigate the consequences of any previously evaluated accidents.

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

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

Response: No.

This proposed change does not alter accident analysis assumptions, introduce or alter any initiators, or affect the function of facility SSCs relied upon to prevent or mitigate any previously evaluated accident, or the manner in which these SSCs are operated, maintained, modified, tested, or inspected. The proposed change does not involve any facility modifications which affect the performance capability of any SSCs relied upon to mitigate the consequences of previously evaluated accidents and does not create the possibility of a new or different kind of accident from any accident previously evaluated.

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

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

Response: No.

Plant safety margins are established through limiting conditions for operation and design features specified in the IP1, IP2, and IP3 Permanently Defueled Technical Specifications that were approved for IP1 on April 14, 2021, IP2 on April 28, 2020, and IP3 on April 22, 2021, and amended on May 28, 2021. The proposed change does not involve any changes to the initial conditions that establish safety margins and does not involve modifications to any SSCs which are relied upon to provide a margin of safety. Because there is no change to established safety margins as a result of this proposed change, no significant reduction in a margin of safety is involved.

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

The NRC staff has reviewed the licensee's analysis and based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the license amendment request involves no significant hazards consideration.

The NRC is seeking public comments on this proposed determination that the license amendment request involves no significant hazards consideration. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day notice period if the Commission concludes the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the *Federal Register* a notice of issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

### **III. Opportunity to Request a Hearing and Petition for Leave to Intervene**

Within 60 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed

in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested persons should consult 10 CFR 2.309. If a petition is filed, the presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

Petitions must be filed no later than 60 days from the date of publication of this notice in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

If a hearing is requested and the Commission has not made a final determination on the issue of no significant hazards' consideration, the Commission will make a final determination on the issue of no significant hazards consideration, which will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h) no later than 60 days from the date of publication of this



notice. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

For information about filing a petition and about participation by a person not a party under 10 CFR 2.315, see ADAMS Accession No. ML20340A053 (<https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20340A053>) and on the NRC's public website at <https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html#participate>.

#### **IV. Electronic Submissions and E-Filing**

All documents filed in NRC adjudicatory proceedings including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the "Guidance for Electronic Submissions to the NRC" (ADAMS Accession No. ML13031A056) and on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals.html>.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at [Hearing.Docket@nrc.gov](mailto:Hearing.Docket@nrc.gov), or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which

the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals/getting-started.html>. After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at <https://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system timestamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals.html>, by email to [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at

1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9:00 a.m. and 6:00 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)-(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click "cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

For further details with respect to this action, see the application for license amendment dated May 20, 2022 (ADAMS Accession No. ML22140A126).

*Attorney for licensee:* Erin Connolly, Corporate Counsel—Legal, Holtec International, Krishna P. Singh Technology Campus, 1 Holtec Blvd., Camden, NJ 08104.

*NRC Branch Chief:* Shaun M. Anderson.

Dated: December 1, 2022.

For the Nuclear Regulatory Commission.

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Jack D. Parrott, Acting Chief,  
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