

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-445 and 50-446; NRC-2024-0156]

Vistra Operations Company LLC;

Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2;

Exemption

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting an exemption in response to a request from Vistra Operations Company LLC (the licensee), submitted by letter dated August 24, 2023, as supplemented by letter dated August 15, 2024, seeking exemption from specific regulations that require periodic updates of the Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2, Updated Final Safety Analysis Report.

DATES: The exemption was issued on September 11, 2024.

ADDRESSES: Please refer to Docket ID **NRC-2024-0156** 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 Website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2024-0156**. Address questions about Docket IDs in Regulations.gov to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@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 <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, at 301-415-4737, or by email to PDR.Resource@nrc.gov. The request for the exemption was submitted by letter dated August 24, 2023, as supplemented by letter dated August 15, 2024 (ADAMS Accession Nos. ML23236A605 and ML24228A186, respectively).

- **NRC's PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. 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 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Samson Lee, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-3168; email: Samson.Lee@nrc.gov.

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated: September 13, 2024.

For the Nuclear Regulatory Commission.

/RA/

Samson Lee, Senior Project Manager,
Plant Licensing Branch 4,
Division of Operating Reactor Licensing,
Office of Nuclear Reactor Regulation.

Attachment – Exemption.

NUCLEAR REGULATORY COMMISSION

Docket Nos. 50-445 and 50-446

Vistra Operations Company LLC

Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2

Exemption

I. Background

Vistra Operations Company LLC (Vistra OpCo, the licensee) is the holder of Renewed Facility Operating License Nos. NPF-87 and NPF-89, for the Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2 (Comanche Peak), respectively. The licenses provide, among other things, that the licensee is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect. These facilities consist of two pressurized water reactors located in Somervell County, Texas.

II. Request/Action

In accordance with Section 50.71 of Title 10 of the *Code of Federal Regulations* (10 CFR), “Maintenance of records, making of reports,” paragraph (e)(4) states, in part, that “Subsequent revisions [to the Updated Final Safety Analysis Report (UFSAR) submitted as part of the original license application] must be filed annually or 6 months after each refueling outage provided the interval between successive updates [to the UFSAR] does not exceed 24 months.” By letter dated August 24, 2023 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML23236A605), as supplemented by letter dated August 15, 2024 (ML24228A186), Vistra OpCo requested that the due date for submittal of the Comanche Peak UFSAR be by July 31

of every odd-numbered year, provided the interval between successive updates does not exceed 24 months.

III. Discussion

Pursuant to 10 CFR 50.12, "Specific exemptions," the NRC may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," including 10 CFR 50.71(e)(4) when: (1) the exemptions 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; and (2) special circumstances are present. Under 10 CFR 50.12(a)(2), special circumstances include, among other things, whenever application of the regulation in the particular circumstances would not serve, or is not necessary to achieve, the underlying purpose of the rule.

A. The Exemption is Authorized by Law

The regulation at 10 CFR 50.71(e)(4) requires revisions to UFSARs to be filed annually or 6 months after each refueling outage, provided the interval between successive updates does not exceed 24 months. The underlying purpose of the regulation is to ensure that the licensee periodically updates its UFSAR so that the UFSAR remains up-to-date and accurately reflects the plant design and operation for use in subsequent reviews or activities concerning that facility performed by the licensee, the Commission, and other interested parties. The proposed exemption would change the current UFSAR submittal schedule for Comanche Peak to a calendar-based schedule that would not exceed the maximum 24 months between successive updates as required by 10 CFR 50.71(e)(4). Submitting the UFSAR updates for Comanche Peak as proposed by July 31 of the odd year continues to maintain the UFSAR information up-to-date. 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, or the Commission's regulations. Therefore, the exemption is authorized by law.

B. The Exemption Presents No Undue Risk to Public Health and Safety

The underlying purpose of 10 CFR 50.71(e)(4) is to ensure that licensees periodically update their UFSARs so that the UFSARs remain up-to-date and accurately reflect the plant design and operation. The NRC has determined by rule that an update frequency not exceeding 24 months between successive updates is acceptable for maintaining up-to-date UFSAR content. The NRC granted an exemption dated September 25, 1995 (ML021790732), with respect to Comanche Peak that allowed the licensee to submit a unified UFSAR update for both units every 18 months, not to exceed 24 months from the last submittal. While the regulation requires, in part, that UFSAR updates be submitted "annually or 6 months after each refueling outage," it allows the submission of such updates on a different schedule, "provided the interval between successive updates does not exceed 24 months." The requested exemption also serves the purpose of the 1992 revision to the rule for regulatory burden reduction. Additionally, based on the nature of the requested exemption and the requirement that updates will not exceed 24 months from the last submittal as described above, no new accident precursors are created by the exemption; therefore, neither the probability nor the consequences of postulated accidents are increased. In conclusion, the requested exemption does not result in any undue risk to the public health and safety.

C. The Exemption is Consistent with the Common Defense and Security

The requested exemption from 10 CFR 50.71(e)(4) would allow Vistra OpCo to submit its periodic updates to the Comanche Peak UFSAR by July 31 of odd-numbered years, not to exceed 24 months from the last submittal. Neither the regulation nor the proposed exemption has any relation to security issues. Therefore, the common defense

and security is not impacted by the exemption.

D. Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(ii), are present whenever 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. The underlying purpose of the rule is to ensure that an updated FSAR will be available to be used in subsequent reviews or activities concerning that facility performed by the licensee, the Commission, and other interested parties—with the original reporting requirement set that subsequent revisions shall be filed no less frequently than annually (45 FR 30614; May 9, 1980). The rule change promulgated in August 1992 (57 FR 39358; August 31, 1992) was intended to provide a reduction in regulatory burden by providing licensees with the option to submit UFSAR updates once per refueling outage, not to exceed 24 months between successive updates, instead of annually. Currently, Comanche Peak submits a combined UFSAR every 18 months, not to exceed 24 months from the last submittal.

The licensee requested that the due date for the submittal of the Comanche Peak UFSAR update be by July 31 of every odd-numbered year, provided the interval between successive updates does not exceed 24 months. The licensee's request would decouple the UFSAR update schedule from the refueling cycle. In a response to a comment suggesting that the UFSAR update be decoupled from the refueling cycle, the Commission explained in the statements of consideration for the 1992 final rule amending 10 CFR 50.71(e) (57 FR 39354; August 31, 1992), "The majority of facility design changes reflected in an updated FSAR [Final Safety Analysis Report] are effected during the refueling outage. The use of the refueling cycle interval provides for a current plant status document that is coordinated with plant changes." However, by letter

dated August 15, 2024, the licensee stated that: "...the majority of facility design changes reflected in the UFSAR at Comanche Peak are no longer effected during refueling outages. As a result, for Comanche Peak there is little coordination between plant changes and refueling cycle intervals. Therefore, the application of the regulation, with respect to coupling reporting frequency to refueling cycle intervals, is not necessary to achieve the underlying purpose of the rule for Comanche Peak." The NRC staff acknowledges that plant operation practices have evolved over time and as stated by the licensee, the majority of facility design changes reflected in the UFSAR at Comanche Peak are no longer effected during refueling outages. Therefore, special circumstances exist under 10 CFR 50.12(a)(2)(ii) in that application of the requirements in these particular circumstances are not necessary to achieve the underlying purpose of the rule, which is to ensure that an up-to-date and accurate UFSAR will be available for use in subsequent reviews or activities concerning Comanche Peak Unit Nos. 1 and 2.

E. Environmental Considerations

With respect to the impact of the exemption on the quality of the human environment, the NRC has determined that the issuance of the exemption discussed herein meets the eligibility criteria for categorical exclusion from the requirement to prepare an environmental assessment or environmental impact statement, set forth in 10 CFR 51.22(c)(25).

Under 10 CFR 51.22(c)(25), the granting of an exemption from the requirements of any regulation of 10 CFR chapter I (which includes 10 CFR 50.71(e)(4)) is an action that is a categorical exclusion, provided that certain specified criteria are met. The basis for NRC's determination is provided in the following evaluation of the requirements in 10 CFR 51.22(c)(25)(i)-(vi).

Requirements in 10 CFR 51.22(c)(25)(i):

To qualify for a categorical exclusion under 10 CFR 51.22(c)(25)(i), the exemption must involve no significant hazards consideration. The criteria for determining whether an action involves a significant hazards consideration are found in 10 CFR 50.92, "Issuance of amendment." The proposed action involves only a schedule change regarding the submission of an update to the UFSAR. As set forth in that regulation, there are no significant hazard considerations because granting the exemption 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.

Requirements in 10 CFR 51.22(c)(25)(ii):

There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite. The proposed action involves only a schedule change, which is administrative in nature, and does not involve any changes in the types or increase in the amounts of any effluents that may be released offsite.

Requirements in 10 CFR 51.22(c)(25)(iii):

There is no significant increase in individual or cumulative public or occupational radiation exposure. Because the proposed action involves only a schedule change, which is administrative in nature, it does not contribute to any significant increase in individual or cumulative public or occupational radiation exposures.

Requirements in 10 CFR 51.22(c)(25)(iv):

There is no significant construction impact. Because the proposed action involves only a schedule change related to the timing for submittal of UFSAR updates, which is administrative in nature, it does not involve any construction impact.

Requirements in 10 CFR 51.22(c)(25)(v):

There is no significant increase in the potential for or consequences from radiological accidents. The proposed action involves only a schedule change related to the timing for submittal of UFSAR updates, which is administrative in nature and does not impact the potential for or consequences from radiological accidents.

Requirements in 10 CFR 51.22(c)(25)(vi):

The requirements from which the exemption is sought involve recordkeeping, reporting, scheduling, or other requirements of an administrative, managerial, or organizational nature. The proposed action involves recordkeeping, reporting, and scheduling requirements, and other requirements of an administrative, managerial, or organizational nature because it is associated with the schedule for submittal of UFSAR updates pursuant to 10 CFR 50.71(e)(4), and meets that regulation's requirement that the interval between successive updates does not exceed 24 months.

Based on the above, the NRC staff concludes that the proposed exemption meets the eligibility criteria for the categorical exclusion set forth in 10 CFR 51.22(c)(25). Therefore, in accordance with 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the NRC's issuance of these exemption.

IV. Conclusions

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the requested exemption is authorized by law, will not present an undue risk to public health and safety, and is consistent with the common defense and security. Also, special circumstances, pursuant to 10 CFR 50.12(a)(2)(ii), are present. Therefore, the NRC hereby grants Vistra OpCo an exemption from the requirements of 10 CFR 50.71(e)(4) to allow Vistra OpCo to file its periodic updates to the Comanche Peak UFSAR by July

31 of odd-numbered years, not to exceed 24 months from the last submittal.

The exemption is effective upon issuance.

Dated: September 11, 2024

For the Nuclear Regulatory Commission.

/RA/

Aida Rivera-Varona, Deputy Director,
Division of Operating Reactor Licensing,
Office of Nuclear Reactor Regulation.