



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

July 9, 2025

Mr. Clark Shurtleff
Licensing Manager, SMR, LLC
1 Holtec Boulevard
Camden, NJ 08104

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION STAFF RESPONSE TO SMR, LLC
(A HOLTEC INTERNATIONAL COMPANY) PRESENTATION ON USING THE
10 CFR 50.160 EMERGENCY PREPAREDNESS RULE FOR THE SMR-300
DESIGN

Dear Mr. Shurtleff,

By letter dated February 28, 2025, SMR, LLC (SMR), a Holtec International Company (Holtec) submitted to the U.S. Nuclear Regulatory Commission (NRC) its meeting materials for the March 19, 2025, pre-application public meeting.^{1,2} During the meeting, SMR (Holtec) shared an overview of its planned exemption request that would allow the SMR-300 design to utilize Title 10 of the *Code of Federal Regulations* (10 CFR) 50.160 emergency preparedness rule.

As part of the meeting discussion, SMR (Holtec) noted that the requirements of 10 CFR 50.160 limit its usage to small modular reactors (SMRs) as that term is defined in 10 CFR 50.2, "Definitions," which limits SMRs to 1,000 megawatt thermal (MWt). This definition would exclude the SMR-300 from using the alternate emergency preparedness rule described in 10 CFR 50.160 by virtue of its design thermal power of 1050 MWt. During the public meeting, SMR (Holtec) presented three options to use the requirements in 10 CFR 50.160 in lieu of the applicable requirements in 10 CFR 50.47 and Appendix E to 10 CFR Part 50. The first option was requesting an exemption from 10 CFR 50.2 definition of an SMR. The second option was requesting an exemption from 10 CFR 50.33, 10 CFR 50.34, and 10 CFR 50.54. The final option that SMR (Holtec) presented was requesting exemptions from specific aspects of 10 CFR 50.47 and 10 CFR Part 50, Appendix E.

The NRC staff has considered the three options SMR (Holtec) presented in the public meeting. Regarding the first option, a request for an exemption from the definition of SMR in 10 CFR 50.2, the NRC staff notes that because 10 CFR 50.2 definitions apply to the entire Part, any requested exemption from the 50.2 definition of SMR would also need to address the substantive regulations that use or rely on that definition. In contrast, if the definition is only applicable to a specific section of the regulation, such as the definition of construction in 10 CFR 50.10, the NRC is able to issue an exemption only to the definition, as was discussed in the *Federal Register* notice titled "US SFR Owner, LLC; Kemmerer Power Station, Unit 1;

¹ Letter from A. Brenner to U.S. NRC, "SMR, LLC, Preapplication Meeting Materials for March 19, 2025 [Project No. 9992049]," dated February 28, 2025, (Agencywide Document Access and Management System (ADAMS) Accession No. ML25059A170, part of ML25059A169).

² Enclosure 1 to Letter from A. Brenner to U.S. NRC dated February 28, 2025: SMR, LLC, Open Meeting Presentation Materials for March 19, 2025, "SMR, LLC, Exemption Request to Utilize 50.160 EP Rule," (ADAMS Accession No. ML25059A171, part of ML25059A169).

Exemption” dated May 15, 2025 (90 FR 20692) and suggested in the letter from the NRC to NuScale Power, LLC dated September 14, 2022³. In addition, SMR (Holtec) would also need to provide sufficient technical justification for an exemption demonstrating that it meets all applicable requirements as stated in 10 CFR 50.12. The NRC staff provided comments and questions for SMR (Holtec) consideration during the presentation and has no additional comments on options two and three. The NRC staff notes that any exemption request must meet all applicable requirements in 10 CFR 50.12, and provide the associated technical justification.

Additionally, SMR (Holtec) stated its intent to submit an exemption request prior to submitting an SMR-300 application and the NRC accepting and docketing the application. SMR (Holtec) expressed its view that 10 CFR 50.12 does not require that the requestor or recipient of an exemption to be an applicant or a licensee, and that there is precedent that suggest that this approach would be viable. The precedent cited by SMR (Holtec) is an exemption issued to Tennessee Valley Authority (TVA) from 10 CFR 50.10 that would permit TVA to conduct certain excavation support activities at the Clinch River Site⁴. The NRC staff notes that TVA was issued an early site permit for the Clinch River Site in 2019. Under 10 CFR 50.2, license is defined to include early site permits.

As a general matter, a future applicant is not generally required to comply with NRC regulations until it submits an application that is accepted and docketed for review. For the same reason, the NRC staff would not be able to grant an exemption submitted in a topical report, absent a licensing application that requests to use the topical report. In some cases, the NRC staff can make a finding that the information in the topical report could support an exemption request for a future licensing submittal, but the exemption would not be granted until the licensing application that references the topical report is approved.

In summary, SMR (Holtec) could pursue an exemption under option 1 (with additional information as described above), 2 or 3, supported by technical justification that meets the requirements of 10 CFR 50.12. The exemption request should be submitted for staff review either with or following a license application submittal.

³ Letter from U.S. NRC to T. Bergman, “U.S. Nuclear Regulatory Commission Response to Request to Clarify Whether Installation of Excavation Supports is a Preconstruction Activity,” dated September 14, 2022 (ADAMS Accession No. ML22222A012).

⁴ Tennessee Valley Authority Clinch River Nuclear Site; Exemption, 89 Fed. Reg. 10,1644 (Dec. 16, 2024).

If you have any questions, please contact me at 301-415-5183 or via email at Victoria.Huckabay@nrc.gov.

Sincerely,

/RA Emmanuel Sayoc for/

Victoria V. Huckabay
Senior Project Manager
Licensing and Regulatory Infrastructure Branch
Division of New and Renewed License
Office of Nuclear Reactor Regulation

Docket No. 99902049

cc: Monica Haneman, SMR, LLC

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION RESPONSE TO SMR, LLC (A
 HOLTEC INTERNATIONAL COMPANY) REGARDING THE PROPOSED
 PATHWAYS TO USING 10 CFR 50.160 EMERGENCY PREPAREDNESS RULE
 FOR THE SMR-300 DESIGN
 DATED: JULY 09, 2025

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ADAMS Accession No.: Letter: ML25153A579***via e-Concurrence****NRR-106**

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