

either air or water for high-latitude seals. Utilizing a two-part study including a hypothesis-driven field experiment and an objective driven model component, the applicant will quantify these costs for the Weddell seal under both ambient air and water conditions. The wide range of body size (80 kg pups–450 kg adults) and condition (10–45% total body fat) of these seals makes them an ideal model polar species to investigate both physiological costs and limitations of thermoregulation as a function of body mass and isolative properties.

Location: Delbrige Islands, Turtle Rock, Hutton Cliffs, the Erebus glacier tongue, Turks Head, other suitable areas in McMurdo Sound, and Cape Royds (ASPA #121).

Dates: October 2, 2011 to January 31, 2013.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50–010; NRC–2011–0108]

Exelon Nuclear, Dresden Nuclear Power Station, Unit 1; Exemption From Certain Security Requirements

1.0 Background

Exelon Nuclear is the licensee and holder of Facility Operating License No. DPR–2 issued for Dresden Nuclear Power Station (DNPS), Unit 1, located in Grundy County, Illinois. DNPS Unit 1 is a permanently shutdown nuclear reactor facility that began commercial operation in October 1960 and shutdown on October 31, 1978. The facility is in a SAFSTOR condition. Spent fuel has been removed from the facility and is currently stored either in an Independent Spent Fuel Storage Installation (ISFSI) or the DNPS Unit 3 spent fuel pool, both located within the protected area of DNPS Units 2 and 3. Additionally, the DNPS Unit 1 spent fuel pool has been drained and decontaminated. The reactor vessel and primary system piping remain in place. DNPS Unit 1 is currently licensed pursuant to Section 104(b) of the Atomic Energy Act of 1954, as amended, and 10 CFR 50, “Domestic Licensing of Production and Utilization Facilities,” to possess and maintain, but not to operate, the facility.

2.0 Action

Section 50.54(p)(1) of Title 10 of the Code of Federal Regulations states, in

part, “The licensee shall prepare and maintain safeguards contingency plan procedures in accordance with Appendix C of part 73 of this chapter for affecting the actions and decisions contained in the Responsibility Matrix of the safeguards contingency plan.”

Part 73 of Title 10 of the Code of Federal Regulations, “Physical Protection of Plant and Materials,” provides in part, “This part prescribes requirements for the establishment and maintenance of a physical protection system which will have capabilities for the protection of special nuclear material at fixed sites and in transit and of plants in which special nuclear material is used.” In Section 73.55, entitled “Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage,” paragraph (b)(1) states, “The licensee shall establish and maintain a physical protection program, to include a security organization, which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety.”

The NRC revised 10 CFR 73.55, in part to include the preceding language, through the issuance of a final rule on March 27, 2009 (74 FR 13926). The revised regulation stated that it was applicable to all Part 50 licensees. The NRC became aware that many part 50 licensees with facilities in decommissioning status did not recognize the applicability of this regulation to their facility. Accordingly, the NRC informed licensees with facilities in decommissioning status and other stakeholders that the requirements of 10 CFR 73.55 were applicable to all part 50 licensees. By letter dated August 2, 2010, the NRC informed Exelon Nuclear of the applicability of the revised rule and stated that it would have to evaluate the applicability of the regulation to its facility and either make appropriate changes or request an exemption.

By letter dated December 3, 2010, Exelon Nuclear responded to the NRC’s letter and requested exemptions from the security requirements in 10 CFR Part 73 and 10 CFR 50.54(p).

3.0 Discussion

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 10 CFR part 50, when (1) The exemptions are authorized by law, will not present an undue risk to

public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances are present when, for example, application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or when compliance would result in costs significantly in excess of those incurred by others similarly situated. Also, pursuant to 10 CFR 73.5, “Specific exemptions,” the Commission may, upon application of any interested person or upon its own initiative, grant exemptions from the regulations in part 73 as it determines are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

The purpose of the security requirements of 10 CFR part 73, as applicable to a 10 CFR part 50 licensed facility, is to prescribe requirements for a facility that possesses and utilizes SNM. With the completion of the transfer of the DNPS Unit 1 spent nuclear fuel to either the ISFSI site or DNPS Unit 3 spent fuel pool, both located within the protected area of Units 2 and 3, there is no longer any SNM located within DNPS Unit 1 other than that contained in plant systems as residual contamination.

The remaining radioactive material of concern (*i.e.*, reactor vessel, piping systems, and building structures) for DNPS Unit 1 is in a form that does not pose a risk of removal (*i.e.*, an intact reactor pressure vessel) and is well dispersed and is not easily aggregated into significant quantities. With the removal of the fuel containing SNM, the potential for radiological sabotage or diversion of SNM at the 10 CFR part 50 licensed site was eliminated. Therefore, the continued application of the fixed site physical protection requirements of 10 CFR part 73 to DNPS Unit 1 would no longer be necessary to achieve the underlying purpose of the rule. Additionally, as has been noted at other decommissioning nuclear power facilities, with the removal of the spent nuclear fuel from the site, the 10 CFR part 50 licensed site would be comparable to a source and byproduct licensee that uses general industrial security (*i.e.* locks and barriers) to protect the public health and safety. The continued application of the fixed site physical protection requirements of 10 CFR part 73 security requirements would cause the licensee to expend significantly more funds for security requirements than other source and byproduct facilities that use general industrial security. Therefore,

compliance with the fixed site physical protection requirements of 10 CFR part 73 would result in costs significantly in excess of those incurred by others similarly situated. Based on the above, the NRC has determined that the removal of the fuel containing SNM at the 10 CFR part 50 licensed site constitutes special circumstances. With the SNM removed from the Unit 1 site, the protection of the SNM is no longer a requirement of the licensee's 10 CFR part 50 license. With no SNM to protect, there is no need for the physical protection requirements of 10 CFR part 73, which includes a safeguards contingency plan or procedures, physical security plan, guard training and qualification plan, or cyber security plan for the DNPS Unit 1, 10 CFR part 50 licensed site. The requirements for protection of safeguards information, physical protection of SNM in transit, and records and reports remain applicable.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), an exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security based on the continued maintenance of appropriate security requirements for the SNM. Additionally, special circumstances are present based on the removal of the spent nuclear fuel from the 10 CFR part 50 licensed site. Therefore, the Commission hereby grants Exelon Nuclear an exemption from the requirements of 10 CFR 50.54(p) at DNPS Unit 1.

The Commission has also determined that, pursuant to 10 CFR 73.5, an exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest because the security requirements for the spent fuel containing SNM are no longer the responsibility of the licensee. Therefore, the Commission hereby grants Exelon Nuclear an exemption from the fixed site physical protection requirements of 10 CFR part 73 at DNPS Unit 1. The fixed site physical protection requirements of 10 CFR part 73 are delineated in 73.20, 74.40, 73.45, 73.46, 73.50, 73.51, 73.54, 73.55, 73.56, 73.57, 73.58, 73.59, 73.60, 73.61, 73.67, Appendix B and Appendix C. The requirements for protection of safeguards information, physical protection of SNM in transit, and records and reports, contained in these or other sections of Part 73 continue to apply. To the extent that the licensee's request for an exemption from 10 CFR

part 73 included the requirements other than for the fixed site physical protection requirements, that request is denied.

Part of this licensing action meets the categorical exclusion provision in 10 CFR part 51.22(c)(25), as part of this action is an exemption from the requirements of the Commission's regulations and (i) There is no significant hazards consideration; (ii) there is no significant change in 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; (iv) there is no significant construction impact; (v) there is no significant increase in the potential for or consequences from radiological accidents; and (vi) the requirements from which an exemption is sought involve safeguard plans. Therefore, this part of the action does not require either an environmental assessment or an environmental impact statement.

Pursuant to 10 CFR 51.21, 51.32, and 51.35, an environmental assessment and finding of no significant impact related to part of this exemption was published in the **Federal Register** on May 17, 2011 (76 FR 28480). Based upon the environmental assessment, the Commission has determined that issuance of this exemption will not have a significant effect on the quality of the human environment.

These exemptions are effective immediately.

Dated at Rockville, Maryland, this 17th day of May 2011.

For the Nuclear Regulatory Commission.

Keith I. McConnell,

Deputy Director, Decommissioning and Uranium Recovery, Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

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NUCLEAR REGULATORY COMMISSION

[NRC-2011-0006]

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATE: Weeks of May 23, 30, June 6, 13, 20, 27, 2011.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

Week of May 23, 2011

Friday, May 27, 2011

9 a.m. Briefing on Results of the Agency Action Review Meeting (AARM) (Public Meeting) (Contact: Rani Franovich, 301-415-1868).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

Week of May 30, 2011—Tentative

Thursday, June 2, 2011

9:30 a.m. Briefing on Human Capital and Equal Employment Opportunity (EEO) (Public Meeting) (Contact: Susan Salter, 301-492-2206).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

Week of June 6, 2011—Tentative

Monday, June 6, 2011

10 a.m. Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting) (Contact: Tanny Santos, 301-415-7270).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

Week of June 13, 2011—Tentative

Wednesday, June 15, 2011

9:30 a.m. Briefing on the Progress of the Task Force Review of NRC Processes and Regulations Following Events in Japan (Public Meeting) (Contact: Nathan Sanfilippo, 301-415-3951).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

Week of June 20, 2011—Tentative

There are no meetings scheduled for the week of June 20, 2011.

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Week of June 27, 2011—Tentative

There are no meetings scheduled for the week of June 27, 2011.

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*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415-1292. Contact person for more information: Rochelle Baval, (301) 415-1651.

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The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/public-involve/public-meetings/schedule.html>.

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or