The Commission issued its approval to the owner/operator of Vermont Yankee, Entergy Nuclear Operations, Inc. ("Entergy"), via letter dated June 17, 2015, and notice was published in the Federal Register on June 23, 2015 (80 Fed. Reg. 35992; a copy of which is attached hereto). This filing is within the 60-day statute of limitations and is timely pursuant to 28 U.S.C. § 2344. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 2342(4) and 2344, and is a proper venue pursuant to 28 U.S.C. § 2343.

Petitioners have standing pursuant to 28 U.S.C. § 2344 and 5 U.S.C. § 702 to bring this Petition. The State of Vermont, its citizens, and its ratepayers are aggrieved by the Commission’s decision, which affects: (1) the license for a nuclear power plant located in the State, and (2) the Nuclear Decommissioning Trust Fund ("Decommissioning Fund") for Vermont Yankee, which was primarily funded by monies collected from Vermont ratepayers, and in which Vermont ratepayers have an interest in excess funds remaining after decommissioning. The Vermont Yankee Nuclear Power Corporation and its current sole owner, Green Mountain Power Corporation, are utilities that also have a direct interest in proper use of the Decommissioning Fund. Vermont Yankee Nuclear Power Corporation, now owned by Green Mountain Power Corporation, collected the principal funds that (with interest) constitute the entirety of the Decommissioning Fund. Further, Green Mountain Power Corporation, and through it their Vermont ratepayers, have
a 55% interest in all monies that remain in that fund following completion of decommissioning. Thus, every time the Commission allows an improper withdrawal from the Decommissioning Fund, it harms Vermont Yankee Nuclear Power Corporation, Green Mountain Power Corporation, and their Vermont ratepayers. Finally, Petitioners jointly submitted a letter (dated June 5, 2015) to the Commission requesting the opportunity for public participation on Entergy’s exemption request and requesting to participate in the matter before the Commission issued its decision. No such opportunity was granted.

The Commission acted arbitrarily, abused its discretion, and violated the Atomic Energy Act, the Administrative Procedure Act, and the National Environmental Policy Act in approving the exemptions and failing to provide an opportunity for Petitioners to participate in the process. Petitioners respectfully request that this Court review the Commission’s decision, vacate that decision, and remand the matter to the Commission.

Dated: August 13, 2015

Respectfully submitted,

THE STATE OF VERMONT

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ATTACHMENT

U.S. Nuclear Regulatory Commission
Issuance of Exemptions

ENTERGY NUCLEAR OPERATIONS, INC.
VERMONT YANKEE NUCLEAR POWER STATION
DOCKET NO. 50-271

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intent to request the OMB’s approval for the information collection summarized below:


2. OMB approval number: 3150–0021.

3. Type of submission: Extension.

4. The form number, if applicable: N/A.

5. How often the collection is required or requested: Upon submittal of an application for a combined license, construction permit, operating license, operating license renewal, early site permit, design certification, decommissioning or license termination review, or manufacturing license, or upon submittal of a petition for rulemaking.

6. Who will be required or asked to respond: Licensees and applicants requesting approvals for actions proposed in accordance with the provisions of 10 CFR parts 30, 32, 33, 34, 35, 56, 39, 40, 50, 52, 54, 60, 61, 70, and 72.

7. The estimated number of annual respondents: 48.7.

8. The estimated number of annual respondents: 48.7.

9. The estimated number of hours needed annually to comply with the information collection requirement or request: 48.104.

10. Abstract: The NRC’s regulations at 10 CFR part 51 specify information to be provided by applicants and licensees so that the NRC can make determinations necessary to adhere to the policies, regulations, and public laws of the United States, which are interpreted and administered in accordance with the provisions set forth in the National Environmental Policy Act of 1969, as amended.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 18th day of June, 2015.

For the Nuclear Regulatory Commission.

Tremaine Donnell,
NRC Clearance Officer, Office of Information Services.

[FR Doc. 2015–15390 Filed 6–23–15; 8:45 am]
BILING CODE 7390–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271; NRC–2015–0157]

Entergy Nuclear Operations, Inc.; Vermont Yankee Nuclear Power Station

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing exemptions in response to a request from Entergy Nuclear Operations, Inc. (ENO or the licensee) for permission to use the Vermont Yankee Nuclear Power Station (VY) Decommissioning Trust Fund (Trust) to implement the licensee's plan to manage liquidated fuel in accordance with the updated Irradiated Fuel Management Plan and post-shutdown decommissioning activities report (PSDAR). The permission exempts the licensee to make withdrawals from the Trust in accordance with the updated Irradiated Fuel Management Plan and PSDAR without prior notification to the NRC.

DATES: June 23, 2015.

ADDRESSES: Please refer to Docket ID NRC–2015–0157 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:

- FederalRulemaking Web site: Go to http://www.regulations.gov and search for Docket ID NRC–2015–0157. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section at the end of this document.

- NRC’s Agencywide Documents Access and Management System (ADAMS): You may access publicly-available documents online in the ADAMS public document collection at http://www.nrc.gov/reading-rm/ADAMS.html. To begin the search, select “ADAMS Public Documents” and then 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 ADAMS accession number for each document referenced (if that document is available in ADAMS) is provided the first time that a document is referenced.

- NRC’s PDR: You may examine and purchase copies of public documents at the NRC’s PDR, Room O1–P21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:

I. Background

Entergy Nuclear Operations, Inc. (ENO), is the holder of Renewed Facility Operating License No. DPR–28 for VY. By letter dated January 12, 2015 (ADAMS Accession No. ML15013A426), ENO submitted to the NRC a certification in accordance with Sections 50.82(a)(1)(i) and 50.82(a)(1)(ii) of Title 10 of the Code of Federal Regulations (10 CFR), indicating that it had permanently ceased power operations at VY and had permanently defueled the VY reactor vessel. VY has not operated since December 29, 2014. The facility consists of a boiling water reactor located in the town of Vernon, Windham County, Vermont on the west bank of the Connecticut River, immediately upstream of the Vernon Hydroelectric Station.

II. Request/Action

By letter dated January 6, 2015 (ADAMS Accession No. ML15013A171), ENO submitted a request for exemptions from 10 CFR 50.82(a)(6)(i)(A) and 10 CFR 50.75(h)(1)(iv). The exemption from 10 CFR 50.82(a)(6)(i)(A) would permit ENO to make withdrawals from the VY Trust to implement its plan to manage irradiated fuel in accordance with the updated Irradiated Fuel Management Plan and PSDAR. The exemption from 10 CFR 50.75(h)(1)(iv) would permit ENO to make these withdrawals without prior notification of the NRC, similar to withdrawals for decommissioning activities made in accordance with 10 CFR 50.62(a)(6). By separate letter dated December 19, 2014 (ADAMS Accession No. ML14358A251), ENO submitted an
A. The Exemptions are Authorized by Law

The requested exemptions from 10 CFR 50.82a(8)(i)(A) and 10 CFR 50.75(h)(1)(iv) would allow ENO to use a portion of the funds from the Trust for irradiated fuel management without prior notice to the NRC, in the same manner that withdrawals are made under 10 CFR 50.82a(8) for decommissioning activities. As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR part 50 when the exemptions are authorized by law. The NRC staff has determined, as explained below, that granting the licensee’s proposed exemptions will 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.

B. The Exemptions Present No Undue Risk to the Public Health and Safety

The underlying purpose of 10 CFR 50.82a(8)(i)(A) and 10 CFR 50.75(h)(1)(iv) is to provide reasonable assurance that adequate funds will be available for radiological decommissioning of power reactors. Based on the site-specific cost estimate and the cash flow analysis, use of a portion of the Trust for irradiated fuel management will not adversely impact ENO’s ability to complete radiological decommissioning within 60 years and terminate the VY license. Furthermore, exemption from 10 CFR 50.75(h)(1)(iv) to allow the licensee to make withdrawals from the Trust for irradiated fuel management without prior written notification to the NRC should not affect the sufficiency of funds in the Trust to accomplish radiological decontamination of the site because such withdrawals are still constrained by the provisions of 10 CFR 50.82a(8)(ii)(B)–(C) and are reviewable under the annual reporting requirements of 10 CFR 50.82a(8)(v)–(vii).

C. The Exemptions are Consistent With the Common Defense and Security

The requested exemptions would allow ENO to use funds from the Trust for irradiated fuel management. Irradiated fuel management under 10 CFR 50.54(bb) is an integral part of the planned NRC decommissioning and final license termination process and will not adversely affect ENO’s ability to physically secure the site or protect special nuclear material. This change to enable the use of a portion of the funds from the Trust for activities other than decommissioning activities has no relation to security issues. Therefore, the common defense and security is not impacted by the requested exemptions.

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 is not necessary to achieve the underlying purpose of the regulation. The underlying purpose of 10 CFR 50.82a(8)(i)(A) and 10 CFR 50.75(h)(1)(iv) is to provide reasonable assurance that adequate funds will be available for radiological decommissioning of power reactors. Strict application of these requirements would prohibit withdrawal of funds from the Trust for activities other than decommissioning activities, such as irradiated fuel management, until final radiological decommissioning at VY has been completed.

The total VY Trust balance as of October 31, 2014, was approximately $655.0 million in 2014 dollars. The ENO analysis projects the total radiological decommissioning cost of VY to be approximately $817.2 million (2014 dollars). As required by 10 CFR 50.54(bb), ENO estimated the costs associated with the long-term irradiated fuel management at VY to be $364.4 million in 2014 dollars.

The staff performed an independent cash flow analysis of the Trust through 2075, assuming an annual real rate of return of two percent, as allowed by 10 CFR 50.75(e)(1)(ii), and determined the projected earnings of the Trust. The staff confirmed that the current funds, planned future contributions, and projected earnings of the Trust provide reasonable assurance of adequate funding to complete all NRC required decommissioning activities and to conduct irradiated fuel management in accordance with the updated Irradiated Fuel Management Plan and PSDAR. The staff’s review and conclusions are based on ENO’s specific financial situation, as described in its December 19, 2014,
letter. Consequently, the staff concludes that application of the requirement that funds from the Trust only be used for decommissioning activities and not for irradiated fuel management is not necessary to achieve the underlying purpose of the rule and, thus, that special circumstances are present supporting the approval of the exemption request.

In its submittal, ENO also requested exemption from the requirements of 10 CFR 50.75(h)(1)(iv) concerning prior written notification to the NRC of withdrawals from the Trust to fund activities other than decommissioning activities. The underlying purpose of notifying the NRC prior to withdrawals from the Trust is to provide an opportunity for NRC intervention, when deemed necessary, if the withdrawals are for expenses other than those authorized by 10 CFR 50.75(h)(1)(iv) and 10 CFR 50.82(a)(6) that could result in the being insufficient funds in the Trust to accomplish radiological decommissioning of the site.

As stated previously, the staff has determined that there are sufficient funds in the Trust to complete legitimate radiological decommissioning activities as well as to conduct irradiated fuel management. Pursuant to the annual reporting requirements in 10 CFR 50.82(a)(8)(vii), licensees are required to monitor and report the status of the Trust and the funding status for managing irradiated fuel. These reports provide the NRC with awareness of, and the ability to take action on, any actual or potential funding deficiencies. The requested exemptions would not allow withdrawal of funds from the VY Trust for any other purpose that is not currently authorized in the regulations without prior notification to the NRC. Therefore, the granting of this exemption to the 10 CFR 50.75(h)(1)(iv) to allow the licensee to make withdrawals from the Trust for authorized expenses for irradiated fuel management without prior written notification to the NRC will still meet the underlying purpose of the regulation.

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(iii) are present whenever compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated. The licensee states that the Trust contains funds in excess of the estimated costs of radiological decommissioning and that these excess funds are needed for irradiated fuel management activities. The NRC does not preclude use of funds from the Trust in excess of those needed for radiological decommissioning for other purposes, such as irradiated fuel management. The NRC has stated that funding for irradiated fuel management may be incorporated into the Trust, provided the license is able to identify and account for the radiological decommissioning funds separately from the funds set aside for irradiated fuel management (see NRC Regulatory Issue Summary 2001–07, Revision 1, “10 CFR 50.75 Reporting and Recordkeeping for Decommissioning Planning” dated January 8, 2009 (ADAMS Accession No. ML083440158), and Regulatory Guide 1.184, Revision 1, “10 CFR 50.75 Reporting and Recordkeeping for Decommissioning Planning” (ADAMS Accession No. ML13144A840)). To prevent access to those excess funds in the Trust because irradiated fuel management is not associated with radiological decommissioning, would create an unnecessary financial burden without any corresponding safety benefit. The adequacy of the Trust to cover the cost of activities associated with irradiated fuel management, in addition to radiological decommissioning, is supported by the site-specific decommissioning cost analysis. If ENO cannot use its Trust for irradiated fuel management, it would need to obtain additional funding that would not be recoverable from the Trust, or ENO would have to modify its decommissioning approach and methods. The NRC staff concludes that either outcome would impose an unnecessary and undue burden significantly in excess of that contemplated when the regulation was adopted.

Since the underlying purpose of 10 CFR 50.82(a)(8)(ii)(A) and 10 CFR 50.75(h)(1)(iv) would be achieved by allowing ENO to use a portion of the Trust for irradiated fuel management without prior NRC notification, and compliance with the regulations would result in an undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, the special circumstances required by 10 CFR 50.12(a)(2)(ii) and 10 CFR 50.12(a)(2)(iii) exist and support the approval of the requested exemptions.

E. Environmental Considerations

Under 10 CFR 51.22(c)(25), granting of an exemption from the requirements of any regulation of Chapter I is a categorical exclusion provided that (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 the potential for or consequences from radiological accidents; and (iv) the requirements from which an exemption is sought are among those identified in 10 CFR 51.22(c)(25). The Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation, has determined that approval of the exemption request involves no significant hazards consideration because allowing the licensee to use withdrawals from the Trust, in accordance with the updated Irradiated Fuel Management Plan and PSDLAR, without prior notification to the NRC at the permanently shutdown and defueled VY power reactor, does 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. The exempted decommissioning trust fund regulations are unrelated to any operational restriction. Accordingly, there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; and no significant increase in individual or cumulative public or occupational radiation exposure. The exempted decommissioning trust fund regulations are unrelated to any operational restriction. Accordingly, there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; and no significant increase in individual or cumulative public or occupational radiation exposure. The exempted decommissioning trust fund regulations are unrelated to any operational restriction.

IV. Conclusions

Accordingly, the Commission has determined that, pursuant to 10 CFR 51.22(b) and 51.22(c)(25), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption request.
NUCLEAR REGULATORY COMMISSION

Information Collection; Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, “Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material.”

DATES: Submit comments by August 24, 2015. Comments received after this date will be considered if it is practical to do so, but the Commission is able to consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

- Federal Rulmaking Web site: Go to http://www.regulations.gov and search for Docket ID NRC–2015–0033. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.


II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the NRC is requesting public comment on its intention to request the OMB’s approval for the information collection summarized below.

1. The title of the information collection: 10 CFR part 37, Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material.

2. OMB approval number: 3150–0214.

3. Type of submission: Extension.

4. The form number, if applicable: Standard Fingerprint Form, FD–258.

5. How often the collection is required or requested: One time for initial compliance notifications and fingerprints for the reviewing officials; and as needed for implementation notifications, event notifications, notifications of shipments of radioactive material, and fingerprinting of new employees.

6. Who will be required or asked to respond: Licensees that are authorized to possess and use category 1 or category 2 quantities of radioactive material.

7. The estimated number of annual responses: 103,983.

8. The estimated number of annual respondents: 1,500 (300 NRC Licensees and +1,200 Agreement State Licensees).

9. The estimated number of hours needed annually to comply with the information collection requirement or request: 138,570.2 hours (1932.4 hours reporting + 85,644.2 hours reporting)
UNITED STATES COURT OF APPEALS
FOR THE
DISTRICT OF COLUMBIA CIRCUIT

THE STATE OF VERMONT,
VERMONT YANKEE NUCLEAR
POWER CORPORATION; and
GREEN MOUNTAIN POWER
CORPORATION

Petitioners

v.

UNITED STATES NUCLEAR
REGULATORY COMMISSION, and
UNITED STATES OF AMERICA,

Respondents

No. __________________

CERTIFICATE OF SERVICE

I hereby certify that I have on this 13th day of August 2015 served a copy of the
foregoing Petition for Review by first-class mail, postage prepaid, on the
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