

aspects of the surface decommissioning plan are discussed separately in a Technical Evaluation Report (TER) that will accompany the agency's final licensing action.

The results of the staff's appraisal of potential environmental impacts are documented in an EA placed in the docket file. Based on its review, the NRC staff has concluded that there are no significant environmental impacts associated with the proposed action.

### Conclusions

The NRC staff has examined actual and potential impacts associated with the decommissioning plan, and has determined that the requested amendment of Source Material License SUA-1341, authorizing implementation of the surface decommissioning plan, will: (1) be consistent with requirements of 10 CFR part 40, Appendix A; (2) not be inimical to the public health and safety; and (3) not have long-term detrimental impacts on the environment. The following statements summarize the conclusions resulting from the staff's environmental assessment, and support the FONSI:

1. An acceptable environmental and effluent monitoring program is in place to monitor effluent releases and to detect if applicable regulatory limits are exceeded. Radiological effluents resulting from decommissioning activities are expected to remain below the regulatory limits.

2. Present and potential health risks to the public and risks of environmental damage from the proposed decommissioning were assessed. Given the remote location, limited activities requested, small area of impact, and past activities on the site, the staff determined that the risk factors for health and environmental hazards are insignificant.

### Alternatives to the Proposed Action

The proposed action is to amend NRC Source Material License SUA-1341, for decommissioning of surface structures (buildings, well heads, piping) and land by removing the residual byproduct material to meet regulatory criteria and NRC recommended levels. The principal alternatives available to NRC are to:

1. Approve the license amendment request as submitted; or
  2. Amend the license with such additional conditions as are considered necessary or appropriate to protect public health and safety and the environment; or
  3. Deny the amendment request.
- Based on its review, the NRC staff has concluded that the environmental

impacts associated with the proposed action do not warrant either the limiting of COGEMA's plans necessary for license termination (all uranium recovery operations have ceased) or the denial of the license amendment.

Additionally, in the TER prepared for this action, the staff has reviewed the licensee's proposed action with respect to the criteria for decommissioning, specified in 10 CFR 40.42 and Part 40, Appendix A, and has no basis for denial of the proposed action. Therefore, the staff considers that Alternative 1 is the appropriate alternative for selection.

### Finding of No Significant Impact

The NRC staff has prepared an EA for the proposed renewal of NRC Source Material License SUA-1341. On the basis of this assessment, the NRC staff has concluded that the environmental impacts that may result from the proposed action would not be significant, and therefore, preparation of an Environmental Impact Statement is not warranted.

The EA and other documents related to this proposed action are available for public inspection and copying at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852.

### Notice of Opportunity for Hearing

The Commission hereby provides notice that this is a proceeding on an application for a licensing action falling within the scope of 10 CFR Part 2, Subpart L, "Informal Hearing Procedures for Adjudications in Materials and Operators Licensing Proceedings," of the Commission's Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(d), a request for a hearing must be filed within thirty (30) days from the date of publication of this **Federal Register** notice. The request for a hearing must be filed with the Office of the Secretary either:

(1) By delivery to the Rulemakings and Adjudications Staff of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff.

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail to:

(1) The applicant, COGEMA Mining Incorporated, P.O. Box 730, Mills, WY 82644;

(2) The NRC staff, by delivery to the General Counsel, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or

(3) By mail addressed to the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

In addition to meeting other applicable requirements of 10 CFR part 2 of the Commission's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

Any hearing that is requested and granted will be held in accordance with the Commission's "Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings" in 10 CFR part 2, subpart L.

Dated at Rockville, Maryland, this 26th day of December, 2001.

For The Nuclear Regulatory Commission.

**Melvyn Leach,**

*Chief, Fuel Cycle Licensing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.*

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## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-10, 50-237, and 50-249]

**Exelon Generation Company, LLC, Dresden Nuclear Power Station, Units 1, 2, and 3; Exemption**

### 1.0 Background

The Exelon Generation Company, LLC, (Exelon, or the licensee) is the holder of Facility Operating License Nos. DPR-2, DPR-19, and DPR-25, which authorizes operation of the Dresden Nuclear Power Station (DNPS), Units 1, 2, and 3. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory

Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of Unit 1, which is permanently defueled, and Units 2 and 3, which are both operating boiling water reactors. The facility is located in Grundy County, Illinois.

## 2.0 Request/Action

Title 10 of the Code of Federal Regulations (10 CFR), part 50, appendix E, section IV.F.2.c. requires that offsite emergency plans at each site be exercised every 2 years with full or partial participation by each offsite response organization (ORO) having a role under the plan. Normally during such biennial full-participation exercises, the NRC evaluates onsite, and the Federal Emergency Management Agency (FEMA) evaluates offsite, emergency preparedness activities.

The licensee conducted a biennial exercise on May 26, 2001, but participation by the OROs was curtailed due to the need to respond to emergency conditions caused by flooding within the State. The licensee rescheduled the ORO participation for September 18, 2001, but the national emergency preempted the conduct of that exercise. By letter dated December 18, 2001, the licensee requested an exemption to postpone the remaining portions of ORO participation into an exercise to be conducted in 2002. The last full participation exercise for DNPS was conducted on May 26, 1999. The period between exercises could be as long as 42 months if the exercise were conducted in December of 2002. This is outside the period of time normally allowed for the scheduling of biennial exercises. However, it is recognized that rescheduling the exercise is a challenge to the licensee. This being the case, a schedular exemption for conducting the remaining portions of the offsite exercise before the end of the third quarter of 2002 is appropriate. This could result in a maximum interval between FEMA-evaluated exercises of about 39 months if the licensee conducted the exercise in September of 2002. While this interval is longer than the 36 month period allowed by regulations, it is consistent with other exemptions recently granted due to the national emergency.

Exelon is among several licensees requesting exercise exemptions in the wake of the national emergency of September 11, 2001. It is recognized that it was not appropriate to conduct an exercise during the period of disruption and heightened security after the national emergency. The State of Illinois was initially involved with the recovery response to the national emergency and

continues to respond to heightened security needs. Considering the extraordinary circumstances, a schedular exemption is acceptable. However, in this period of heightened security concerns regarding nuclear plant vulnerability, it is prudent to conduct the exercise as soon as practicable to maintain and demonstrate readiness. The following evaluation addresses the technical issues necessary to grant a schedular exemption from the requirements of 10 CFR Part 50, Appendix E, section IV.F.2.c, to conduct an evaluated biennial exercise.

## 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. Under 10 CFR 50.12(a)(2)(v), special circumstances are present whenever the exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation.

The exemption only provides temporary relief from the applicable regulation, in that the licensee has committed to conduct the exercise during the next calendar year (2002) and has not requested any permanent changes in future exercise scheduling. The staff has also determined that conduct of the exercise as early as practicable in 2002 is prudent, but the exemption is not predicated on the licensee following this recommendation.

The licensee has stated that due to the number of Exelon nuclear facilities in the area around DNPS, most of the OROs have participated in other biennial exercises. There are three counties responsible for offsite emergency preparedness in support of DNPS. Will County participated in the Braidwood Exercise of March 1, 2000, and Grundy County participated in the LaSalle exercise of October 4, 2000. Kendall County, which is located in the five-to-ten mile portion of the DNPS emergency planning zone, has not participated in an exercise during the last two years. The Illinois Department of Nuclear Safety (IDNS) participated in the May 26, 2001, DNPS exercise (and four others during the last two years) and the Illinois Emergency Management Agency (IEMA) participated with various Exelon sites as follows:

Braidwood, March 1, 2000; LaSalle, October 4, 2000; Clinton, August 28, 2001; and Byron, November 28, 2001.

The licensee stated that all past exercises were conducted using the Exelon standard evaluation techniques. Weaknesses and deficiencies were identified and entered into the corrective action program and are tracked to completion. Future exercises are to be conducted in the same manner. The licensee stated that an appropriate level of emergency preparedness is being maintained as evidenced by ORO participation.

For this exemption request, the special circumstances described in Section 50.12(a)(2) of 10 CFR 50 are present:

50.12(a)(2)(v) The exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made a good faith effort to comply with the regulation.

The national emergency of September 11, 2001, and the subsequent recovery and security responses prevented the OROs from participating in the rescheduled biennial exercise. The licensee made a good faith effort to comply with regulations through the conduct of an exercise on May 26, 2001, and the rescheduling of the ORO participation aspects of that exercise for September 18, 2001. The circumstances dictating the request for exemption are beyond the licensee's control. Additionally, the licensee's exercise program includes multiple opportunities for the participation of OROs and is a compensating measure contributing to justification of the exemption. The exemption only provides temporary relief from the applicable regulation, in that the licensee has committed to conduct the remaining portions of the offsite exercise during the next calendar year (2002) and has not requested any permanent changes in future exercise scheduling. The staff has determined that conduct of the exercise as early as practicable in 2002, but no later than the end of the third quarter, is prudent even though the licensee is expected to conduct another full or partial participation exercise in 2003.

## 4.0 Conclusion

The staff finds that granting the licensee's request for a one-time schedular exemption from the requirement of section IV.F.2.c. of appendix E to 10 CFR part 50 to conduct a full participation emergency preparedness exercise in 2001 will not present an undue risk to the public health and safety, is consistent with the

common defense and security, and that special circumstances are present as set forth in 10 CFR 50.12(a)(2). This conclusion is based on the expectation that the licensee will conduct the remaining offsite portions of the postponed exercise before the end of the third quarter 2002.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 66948).

This exemption is effective upon issuance and expires on September 30, 2002.

Dated at Rockville, Maryland, this 28th day of December, 2001.

For the Nuclear Regulatory Commission.

**Herbert N. Berkow,**

*Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 02-229 Filed 1-3-02; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 040-08794]

### Notice of Consideration of Amendment Request for Molycorp, Inc., York, PA, Site and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of a license amendment to Source Materials License SMB-1408 issued to Molycorp, Inc., (Molycorp), to defer the second round of sampling groundwater monitoring wells in 2001 at the Molycorp, York, PA, site until the completion of its decommissioning activities in 2002. Molycorp's license requires that samples are to be drawn from designated wells biannually. One round of groundwater sampling results was submitted to NRC in March 2001, with the reported data below levels of concern. Molycorp then plugged and abandoned all existing groundwater wells on site in order to proceed with decommissioning. Due to the increased volume of contaminated soil encountered during the decommissioning of the York facility, and the extension of decommissioning activities, Molycorp will not be able to reinstall and sample the monitoring wells in 2001. Prior to installing the new wells, Molycorp has committed to confer with both NRC and the Pennsylvania Department of Environmental Protection to ensure that the new well locations are satisfactory. Molycorp shall install the new wells following the completion of

decommissioning activities in 2002, and will sample the new wells on a biannual basis until its license is terminated. Molycorp's request is contained in a letter to NRC dated November 19, 2001.

If the NRC approves this request, the approval will be documented in a license amendment to NRC License SMB-1408. However, before approving the proposed amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a safety evaluation report and an environmental assessment.

NRC hereby provides notice that this is a proceeding on an application for an amendment of a license falling within the scope of Subpart L, "Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings," of NRC's rules of practice for domestic licensing proceedings in 10 CFR part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary by mail or facsimile (301-415-1101) addressed to: The Rulemaking and Adjudications Staff of the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Attention: Rulemakings and Adjudications Staff.

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally, or by mail, to:

1. The applicant, Molycorp, Inc., 300 Caldwell Avenue, Washington, PA 15301, Attention: George Dawes, and,
2. The NRC staff, General Counsel, by mail, addressed to the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

In addition to meeting other applicable requirements of 10 CFR part 2 of NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;
2. How that interest may be affected by the results of the proceeding, including the reasons why the requester should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);
3. The requester's areas of concern about the licensing activity that is the subject matter of the proceeding; and,

4. The circumstance establishing that the request for a hearing is timely in accordance with § 2.1205(d).

**FOR FURTHER INFORMATION CONTACT:** The application for the license amendment and supporting documentation are available for inspection at NRC's Public Electronic Reading Room at <http://www.nrc.gov/NRC/ADAMS/index.html>. Any questions with respect to this action should be referred to Tom McLaughlin, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Telephone: (301) 415-5869. Fax: (301) 415-5398.

Dated at Rockville, Maryland, this 27th day of December 2001.

For the Nuclear Regulatory Commission.

**Tom McLaughlin,**

*Project Manager, Facilities Decommissioning Section, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 40-8905]

### Quivira Mining Company

**AGENCY:** U.S. Nuclear Regulatory Commission.

**ACTION:** Notice of receipt of a request from Quivira Mining Company to revise a site-reclamation milestone in License No. SUA-1473 for the Ambrosia Lake, New Mexico facility and notice of opportunity for a hearing.

**SUMMARY:** Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has received, by letter dated November 6, 2001, a request from Quivira Mining Company to amend License Condition (LC) 40 B.(1) of Source Material License SUA-1473 for the Ambrosia Lake, New Mexico, facility. The license amendment request proposes to modify LC 40 B.(1) to change the completion date for placement of the erosion protection on the pile to December 31, 2003.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jill Caverly, Project Manager, Fuel Cycle Licensing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T-8 A33, Washington, D.C. 20555. Telephone (301) 415-6699, e-mail [jsc1@nrc.gov](mailto:jsc1@nrc.gov).