NUCLEAR REGULATORY COMMISSION

[DOCKET NO. 50–333; NRC–2017–0128]

Exelon Generation Company, LLC; James A. FitzPatrick Nuclear Power Plant

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; opportunity to comment, request a hearing, and to petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Renewed Facility Operating License No. DPR–59, issued to Exelon Generation Company, LLC, for operation of the James A. FitzPatrick Nuclear Power Plant. The proposed amendment would change the Emergency Action Level (EAL) HU1.5.

DATES: Submit comments by June 29, 2017. A request for a hearing or petition for leave to intervene must be filed by July 31, 2017.

ADDRESSES: Please refer to Docket ID NRC–2017–0128 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 Web site: Go to http://www.regulations.gov and search for Docket ID NRC–2017–0128. 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 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 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 in this document (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–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.


SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0128 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- NRC’s Agencywide Documents Access and Management System (ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents 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.”

B. Submitting Comments

Please include Docket ID NRC–2017–0128 in your comment submission.

The NRC post all comment submissions at http://www.regulations.gov as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Introduction

The NRC is considering issuance of an amendment to Facility Operating License No. DPR–59, issued to Exelon Generation Company, LLC, for operation of the James A. FitzPatrick Nuclear Power Plant, located in Oswego, New York.

The proposed amendment would change the EAL HU1.5, pursuant to section 50.54(q) of title 10 of the Code of Federal Regulations (10 CFR).

Before any issuance of the proposed license amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and NRC’s regulations.

The NRC has made a proposed determination that the license amendment request involves no significant hazards consideration. Under the NRC’s regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment 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. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to EAL HU1.5 do not reduce the capability to meet the emergency planning requirements established in 10 CFR 50.47 and 10 CFR 50. Appendix E. The proposed changes do not reduce the functionality, performance, or capability of Exelon’s ER0 [emergency response organization] to respond in...
mitigating the consequences of any design basis accident.

The probability of a reactor accident requiring implementation of Emergency Plan EALs has no relevance in determining whether the proposed changes to the EAL HU1.5 reduce the effectiveness of the Emergency Plans. As discussed in Section D, “Planning Basis,” of NUREG–0654, Revision 1, “Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants.”

The overall objective of emergency response plans is to provide dose savings (and in some cases immediate life saving) for a spectrum of accidents that could produce offsite doses in excess of Protective Action Guides (PAGs). No single specific accident sequence should be isolated as the one for which to plan because each accident could have different consequences, both in nature and degree. Further, the range of possible selection for a planning basis is very large, starting with a zero point of requiring no planning at all, to a significant offsite radiological accident consequences are unlikely to occur, to planning for the worst possible accident, regardless of its extremely low likelihood.

Therefore, Exelon did not consider the risk insights regarding any specific accident initiation or progression in evaluating the proposed changes. The proposed changes do not involve any physical changes to plant equipment or systems, nor do they alter the assumptions of any accident analyses. The proposed changes do not adversely affect accident initiators or precursors nor do they alter the design assumptions, conditions, and configuration or the manner in which the plans are operated and maintained. The proposed changes do not adversely affect the ability of Structures, Systems, or Components (SSCs) to perform their intended safety functions in mitigating the consequences of an initiating event within the assumed acceptance limits.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes to EAL HU1.5 do not involve any physical changes to plant systems or equipment. The proposed changes do not involve the addition of any new plant equipment. The proposed changes will not alter the design configuration, or method of operation of plant equipment beyond its normal functional capabilities. All Exelon ERO functions will continue to be performed as required. The proposed changes do not create any new credible failure mechanisms, malfunctions, or accident initiators.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from those that have been previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes to EAL HU1.5 do not alter or exceed a design basis or safety limit. There is no change being made to safety analysis assumptions, safety limits, or limiting safety system settings that would adversely affect plant safety as a result of the proposed changes. There are no changes to setpoints or environmental conditions of any SSC or the manner in which any SSC is operated. Margins of safety are unaffected by the proposed changes. The applicable requirements of 10 CFR 50.47 and 10 CFR 50, Appendix E will continue to be met.

Therefore, the proposed changes do not involve any reduction in a margin of safety.

The NRC staff has reviewed the licensee’s analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the license amendment request involves no significant hazards consideration.

The NRC is seeking public comments on this proposed determination that the license amendment request involves no significant hazards consideration. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day notice period if the Commission concludes the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in prevention of either resumption of operation or of increase in power output up to the plant’s licensed power level. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the Federal Register a notice of issuance. If the Commission determines no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

III. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by the amendment may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission’s “Agency Rules of Practice and Procedure” in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC’s regulations are accessible electronically from the NRC Library on the NRC’s Web site at http://www.nrc.gov/reading-rm/doc-collections/cfr/. Alternatively, a copy of the regulations is available at the NRC’s Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner’s right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner’s property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner’s interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitionor intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to provide references to the specific sources and documents on which the petitionor intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.
to participate fully in the conduct of the hearing with respect to resolution of
that party’s admitted contentions, including the opportunity to present
evidence, consistent with the NRC’s regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of
this notice. Petitions and motions for leave to file new or amended
contentions that are filed after the
deadline will not be entertained absent
a determination by the presiding officer
that the filing demonstrates good cause
by satisfying the three factors in 10 CFR
2.309(c)(1)(i) through (iii). The petition
must be filed in accordance with the
filing instructions in the “Electronic
Submissions (E-Filing)” section of this
document.

If a hearing is requested, and the
Commission has not made a final
determination on the issue of no
significant hazards consideration, the
Commission will make a final
determination on the issue of no
significant hazards consideration.

The final determination will serve to
establish when the hearing is held. If the
final determination is that the
amendment request involves no
significant hazards consideration, the
Commission may issue the amendment
and make it immediately effective,
notwithstanding the request for a
hearing. Any hearing would take place
after issuance of the amendment. If the
final determination is that the
amendment request involves a
significant hazards consideration, then
any hearing would take place
before the issuance of the amendment
unless the Commission finds an
imminent danger to the health or safety
of the public, in which case it will issue
an appropriate order or rule under 10
CFR part 2.

A State, local governmental body,
Federally-recognized Indian Tribe, or
agency thereof, may submit a petition to
the Commission to participate as a party
under 10 CFR 2.309(b)(1). The petition
should state the nature and extent of the
petitioner’s interest in the proceeding.

The petition should be submitted to the
Commission by July 31, 2017. The
petition must be filed in accordance with
the filing instructions in the
“Electronic Submissions (E-Filing)”
section of this document, and should
meet the requirements for petitions set
forth in this section, except that under 10
CFR 2.309(h)(2) a State, local
governmental body, or federally-
recognized Indian Tribe, or agency
thereof does not need to address the
standing requirements in 10 CFR
2.309(d) if the facility is located within
its boundaries. Alternatively, a State,
local governmental body, Federally-
recognized Indian Tribe, or agency
thereof may participate as a non-party
under 10 CFR 2.315(c).

If a hearing is granted, any person
who is not a party to the proceeding and
is not affiliated with or represented by
a party may, at the discretion of the
presiding officer, be permitted to make
a limited appearance pursuant to the
provisions of 10 CFR 2.315(a). A person
making a limited appearance may make an
oral or written statement of his or her
position on the issues but may not
otherwise participate in the proceeding.

A limited appearance may be made at
any session of the hearing or at any
prehearing conference, subject to the
limits and conditions as may be
imposed by the presiding officer. Details
regarding the opportunity to make a
limited appearance will be provided by
the presiding officer if such sessions are
scheduled.

IV. Electronic Submissions (E-Filing)

All documents filed in NRC


adjudicatory proceedings, including a
request for hearing and petition for
leave to intervene (petition), any motion
or other document filed in the
proceeding prior to the submission of a
request for hearing or petition to
intervene, and documents filed by
interested governmental entities that
request to participate under 10 CFR
2.315(c), must be filed in accordance
with the NRC’s E-Filing rule (72 FR
49139; August 28, 2007, as amended at
77 FR 46562, August 3, 2012). The E-
Filing process requires participants to
submit and serve all adjudicatory
documents over the internet, or in some
cases to mail copies on electronic
storage media. Detailed guidance on
making electronic submissions may be
found in the Guidance for Electronic
Submissions to the NRC and on the NRC
Web site at http://www.nrc.gov/site-
help/e-submittals.html. Participants
may not submit paper copies of their
filings unless they seek an exemption in
accordance with the procedures
described below.

To comply with the procedural
requirements of E-Filing, at least 10
days prior to the filing deadline, the
participant should contact the Office of
the Secretary by email at


hearing.docket@nrc.gov, or by telephone
at 301–415–1677, to (1) request a digital
identification (ID) certificate, which
allows the participant (or its counsel or
representative) to digitally sign
submissions and access the E-Filing
system for any proceeding in which it
is participating, and (2) advise the
Secretary that the participant will be
submitting a petition or other
adjudicatory document (even in
instances in which the participant, or its
counsel or representative, already holds
an NRC-issued digital ID certificate).

Based upon this information, the
Secretary will establish an electronic
docket for the hearing in this proceeding
if the Secretary has not already
established an electronic docket.

Information about applying for a
digital ID certificate is available on the
NRC’s public Web site at http://
www.nrc.gov/site-help/e-submittals/
getting-started.html. Once a participant
has obtained a digital ID certificate and
a docket has been created, the
participant can then submit
adjudicatory documents. Submissions
must be in Portable Document Format
(PDF). Additional guidance on PDF
submissions is available on the NRC’s
public Web site at http://www.nrc.gov/
site-help/electric-sub-ref-mat.html. A
filing is considered complete at the time
the document is submitted through the
NRC’s E-Filing system. To be timely, an
electronic filing must be submitted to
the E-Filing system no later than 11:59
p.m. Eastern Time on the due date.

Upon receipt of a transmission, the E-
Filing system time-stamps the document
and sends the submitter an email notice
confirming receipt of the document. The
E-Filing system also distributes an email
notice that provides access to the
document to the NRC’s Office of the
General Counsel and any others who
have advised the Office of the Secretary
that they wish to participate in the
proceeding, so that the filer need not
serve the document on those
counsel or representative) must
apply for and receive a digital ID
certificate before adjudicatory
documents are filed so that they can
obtain access to the documents via the
E-Filing system.

A person filing electronically using
the NRC’s adjudicatory E-Filing system
may seek assistance by contacting the
NRC’s Electronic Filing Help Desk
through the “Contact Us” link located
on the NRC’s public Web site at http://
www.nrc.gov/site-help/e-
submittals.html, by email to
MSHD_Resource@nrc.gov, or by a toll-
free call at 1–866–672–7640. The NRC
Electronic Filing Help Desk is available
between 9 a.m. and 6 p.m., Eastern
Time, Monday through Friday,
excluding government holidays.

Participants who believe that they
have a good cause for not submitting
documents electronically must file an
exemption request, in accordance with
10 CFR 2.302(g), with their initial paper
filing stating why there is good cause for
not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852. Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC’s electronic hearing docket which is available to the public at https://adams.nrc.gov/ehd, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC’s electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to this action, see the application for license amendment dated May 19, 2017 (ADAMS Accession No. ML17139C739). Attorney for licensee: Donald P. Ferraro, Assistant General Counsel, Exelon Generation Company, LLC, 200 Exelon Way, Suite 305, Kennett Square, PA 19348.

Dated at Rockville, Maryland, this 24th day of May 2017.

For the Nuclear Regulatory Commission.

James G. Danna,
Chief, Plant Licensing Branch I–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2017–11039 Filed 5–26–17; 8:45 am]