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Chris Blair,

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NUCLEAR REGULATORY COMMISSION

[Docket No. 40-8907; NRC-2019-0026]

Draft Programmatic Agreement Between the U.S. Nuclear Regulatory Commission, U.S. Environmental Protection Agency, Navajo Nation Tribal Historic Preservation Office, New Mexico State Historic Preservation Office, Bureau of Indian Affairs, and United Nuclear Corporation Regarding the United Nuclear Corporation Mill Site and Northeast Church Rock Mine Site Located in McKinley County, New Mexico

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is requesting comment on a draft Programmatic Agreement (PA) between the NRC, U.S. Environmental Protection Agency (US EPA), Navajo Nation Tribal Historic Preservation Office (NNTHPO), New Mexico State Historic Preservation Office (NMSHPO), Bureau of Indian Affairs (BIA), and United Nuclear Corporation (UNC). The purpose of this draft PA is to resolve any adverse effects to historic properties identified during consultation for a proposed license amendment application for the UNC Mill Site.

DATES: Submit comments by January 20, 2022. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal Rulemaking website:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2019-0026. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individual listed

in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Office of Administration, Mail Stop: TWFN-7-A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

- *Email comments to:* UNC-ChurchRockPA@nrc.gov.

FOR FURTHER INFORMATION CONTACT:

Ashley Waldron, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-7317, email: Ashley.Waldron@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2019-0026 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:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2019-0026.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, 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 it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.

- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal Rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2019-0026 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://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. Discussion

On September 24, 2018, UNC submitted a license amendment application (ADAMS Package Accession No. ML18267A235) to amend its Source Material License No. SUA-1475 for the former UNC Church Rock Mill Site in accordance with part 40 of title 10 of the *Code of Federal Regulations* (10 CFR), “Domestic Licensing of Source Material.” UNC is requesting that the NRC grant a license amendment that would allow disposal of Northeast Church Rock (NECR) mine waste on top of the tailings impoundment at the UNC Church Rock Mill Site (UNC Mill Site) in McKinley County, New Mexico. The NECR Mine Site is located on Navajo Nation trust land and the adjacent UNC Mill Site is located on private land owned by UNC.

Pursuant to 36 CFR 800.8, the NRC is using its National Environmental Policy Act process for developing the Environmental Impact Statement (EIS) to facilitate consultation pursuant to Section 106 of the National Historic Preservation Act (NHPA).

On November 13, 2020, the NRC requested comment (85 FR 72706) on its draft EIS that includes the preliminary analysis that evaluates the environmental impacts from the proposed action and alternatives to the proposed action. After comparing the impacts of the proposed action to the

no-action alternative, the NRC staff, in accordance with the requirements in 10 CFR part 51, preliminarily recommended the proposed action which would authorize UNC to transfer and dispose the waste from the NECR Mine on top of the UNC tailings impoundment. The comment period on the draft EIS closed on October 31, 2021 (86 FR 32285).

Four archaeological sites fall within the area of potential effect (APE) for direct effects: Sites LA 11617, NM-Q-20-69, NM-Q-20-70, and NM-Q-20-71. Each of the four sites within the direct APE includes Anasazi-period artifact scatters and/or habitation sites. A fifth site, NM-Q-20-72, includes historic and Anasazi-period pictographs and is located fully outside the proposed action's direct APE but within 10 m [33 ft] of the direct APE (*i.e.*, the indirect APE), warranting consideration of the proposed action's indirect effects on the setting of this cultural site. The NRC conducted a site visit with the NNTHPO on December 12, 2019 (ADAMS Accession No. ML21328A180). As part of its consultation pursuant to NHPA Section 106, NRC staff discussed the recommended eligibility, potential impacts, and recommendations for avoidance and mitigation measures for each of the five sites. The NMSHPO (ADAMS Accession No. ML20107F771 and ML21312A473); and NNTHPO have concurred with the NRC staff's eligibility recommendations (ADAMS Accession No. ML20167A115). Due to the presence of historic properties located within the direct and indirect APE, the NRC staff concluded that historic properties would be adversely affected by the proposed project.

The NRC met with US EPA, BIA, NNTHPO, the NMSHPO, and UNC to discuss how to address the adverse effects. The NRC proceeded with development of a PA to resolve adverse effects. Pursuant to this agreement, once this agreement is executed, the US EPA will become the lead agency for implementation of the PA.

The draft PA addresses the potential direct and indirect adverse effects from the movement of waste from the NECR Mine to the UNC Mill Site and ensures that appropriate mitigation measures are implemented. The final EIS will reflect the PA once finalized and therefore conclude NHPA Section 106 consultation.

III. Request for Public Comment

The NRC is requesting public comment on the draft PA. The NRC will consider these comments before finalizing the PA, which will be published as an appendix in the final

EIS. The draft PA is available in ADAMS under Accession No. ML21302A221.

Dated: December 1, 2021.

For the Nuclear Regulatory Commission.

Christine L. Pineda,

Acting Chief, Environmental Review Materials Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety, and Safeguards.

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-277 and 50-278; NRC-2020-0110]

Issuance of Exemption in Response to COVID-19 Public Health Emergency

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) issued one exemption in October 2021 in response to a request from one licensee for relief due to the coronavirus 2019 disease (COVID-19) public health emergency (PHE). The exemption affords the licensee temporary relief from certain requirements under NRC regulations. **DATES:** On October 13, 2021, the NRC granted one exemption in response to a request submitted by one licensee on September 17, 2021.

ADDRESSES: Please refer to Docket ID NRC-2020-0110 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 website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2020-0110. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@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 <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, 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. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the "Availability of Documents" section.

- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays

FOR FURTHER INFORMATION CONTACT: James Danna, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-7422, email: James.Danna@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

On October 13, 2021, the NRC granted one exemption in response to a request submitted by one licensee dated September 17, 2021. The exemption temporarily allows the licensee to deviate from certain requirements of chapter I of title 10 of the *Code of Federal Regulations* (10 CFR), part 26, "Fitness for Duty Programs," section 26.205, "Work hours."

The exemption from certain requirements of 10 CFR part 26 for Exelon Generation Company, LLC (for Peach Bottom Atomic Power Station, Units 2 and 3), affords this licensee temporary relief from the work-hour control requirements under 10 CFR 26.205(d)(1) through (d)(7). The exemption from 10 CFR 26.205(d)(1) through (d)(7) ensures that the control of work hours and management of worker fatigue does not unduly limit licensee flexibility in using personnel resources to most effectively manage the impacts of the COVID-19 PHE on maintaining the safe operation of this facility. Specifically, this licensee has stated that its staffing levels are affected or are expected to be affected by the COVID-19 PHE, and it can no longer meet or likely will not meet the work-hour controls of 10 CFR 26.205(d)(1) through (d)(7). This licensee has committed to effecting site-specific administrative controls for COVID-19 PHE fatigue-management for personnel specified in 10 CFR 26.4(a).

The table in this notice provides transparency regarding the number and type of exemptions the NRC has issued. Additionally, the NRC publishes tables of approved regulatory actions related to