

approved for Pilgrim and the ISFSI, subject to the following conditions:

(1) Prior to the closing of the license transfer, Holtec Pilgrim and HDI shall provide the Directors of NRC's Office of Nuclear Material Safety and Safeguards (NMSS) and Office of Nuclear Reactor Regulation (NRR) satisfactory documentary evidence that they have obtained the appropriate amount of insurance required of a licensee under 10 CFR 140.11(a)(4) and 10 CFR 50.54(w) of the Commission's regulations.

(2) The NRC staff's approval of this license transfer is subject to the Commission's authority to rescind, modify, or condition the approved transfer based on the outcome of any post-effectiveness hearing on the license transfer application. For example, if the Commission overturns the NRC staff's approval of this license transfer, this Order and any conforming amendments reflecting this transfer, will be rescinded, and the Applicants must return the plant ownership to the status quo ante and revert to the conditions existing before the transfer.

IT IS FURTHER ORDERED that, consistent with 10 CFR 2.1315(b), the license amendment that makes changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the license to reflect the subject direct and indirect license transfer, is approved. The amendment shall be issued and made effective within 30 days of the date when the proposed direct and indirect license transfer action is completed.

IT IS FURTHER ORDERED that Holtec Pilgrim and HDI shall, at least 2 business days prior to closing, inform the Directors of NMSS and NRR in writing of the date of closing of the license transfer for Pilgrim and the ISFSI. Should the transfer of the license not be completed within 1 year of this Order's date of issuance, this Order shall become null and void; provided, however, that upon written application and for good cause shown, such date may be extended by order.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated November 16, 2018, as supplemented by letters dated November 16, 2018, April 17, and July 29, 2019, and the associated NRC safety evaluation dated August 22, 2019, which are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available documents are accessible electronically through ADAMS in the NRC Library at <http://www.nrc.gov/>

[reading-rm/adams.html](#). Persons who encounter problems with ADAMS should contact the NRC's Public Document Room reference staff by telephone at 1-800-397-4209 or 301-415-4737 or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

Dated at Rockville, Maryland this 22nd day of August, 2019.

FOR THE NUCLEAR REGULATORY COMMISSION

**Ho K. Nieh,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 2019-18506 Filed 8-27-19; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[NRC-2019-0001]

### Sunshine Act Meetings

**TIME AND DATE:** Weeks of August 26, September 2, 9, 16, 23, 30, 2019.

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

**STATUS:** Public and Closed.

**MATTERS TO BE CONSIDERED:**

#### Week of August 26, 2019

There are no meetings scheduled for the week of August 26, 2019.

#### Week of September 2, 2019—Tentative

There are no meetings scheduled for the week of September 2, 2019.

#### Week of September 9, 2019—Tentative

*Monday, September 9, 2019*

10:00 a.m. NRC All Employees Meeting (Public Meeting), Marriott Bethesda North Hotel, 5701 Marinelli Road, Rockville, MD 20852

*Tuesday, September 10, 2019*

10:00 a.m. Briefing on NRC International Activities (Closed—Ex. 1 & 9)

#### Week of September 16, 2019—Tentative

There are no meetings scheduled for the week of September 16, 2019.

#### Week of September 23, 2019—Tentative

There are no meetings scheduled for the week of September 23, 2019.

#### Week of September 30, 2019—Tentative

There are no meetings scheduled for the week of September 30, 2019.

#### CONTACT PERSON FOR MORE INFORMATION:

For more information or to verify the status of meetings, contact Denise McGovern at 301-415-0681 or via email at [Denise.McGovern@nrc.gov](mailto:Denise.McGovern@nrc.gov). The

schedule for Commission meetings is subject to change on short notice.

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

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please notify Kimberly Meyer-Chambers, NRC Disability Program Manager, at 301-287-0739, by videophone at 240-428-3217, or by email at [Kimberly.Meyer-Chambers@nrc.gov](mailto:Kimberly.Meyer-Chambers@nrc.gov). Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301-415-1969), or by email at [Wendy.Moore@nrc.gov](mailto:Wendy.Moore@nrc.gov) or [Tyesha.Bush@nrc.gov](mailto:Tyesha.Bush@nrc.gov).

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated at Rockville, Maryland, this 26th day of August, 2019.

For the Nuclear Regulatory Commission.

**Denise L. McGovern,**

*Policy Coordinator, Office of the Secretary.*

[FR Doc. 2019-18702 Filed 8-26-19; 4:15 pm]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-293; NRC-2019-0152]

### Entergy Nuclear Operations, Inc.; Pilgrim Nuclear Power Station

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Exemption; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to a November 16, 2018, request from Entergy Nuclear Operations, Inc. (ENOI), on behalf of Entergy Nuclear Generation Company (to be renamed Holtec Pilgrim, LLC) and Holtec Decommissioning International, LLC (HDI). The exemption permits Holtec Pilgrim, LLC and HDI to use funds from the Pilgrim decommissioning trust fund for management of spent fuel and site restoration activities. By Order dated

August 22, 2019, the NRC approved the request for the direct transfer of ENOI's operating authority to HDI and the indirect transfer of control of the Renewed Facility Operating License No. DPR-35 for Pilgrim, as well as the general license for the Pilgrim Independent Spent Fuel Storage Installation, to Holtec International. This exemption is being issued simultaneously with the license transfer Order and will be effective upon the NRC's issuance of a conforming license amendment reflecting Holtec Pilgrim, LLC and HDI as the licensees for Pilgrim, following consummation of the license transfer transaction.

**DATES:** The exemption was issued on August 22, 2019.

**ADDRESSES:** Please refer to Docket ID NRC-2019-0152 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-2019-0152. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301-287-9127; email: [Jennifer.Borges@nrc.gov](mailto:Jennifer.Borges@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](mailto: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 this document.

- *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.

**FOR FURTHER INFORMATION CONTACT:** Scott P. Wall, Office of Nuclear Reactor Regulation; U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2855; email: [Scott.Wall@nrc.gov](mailto:Scott.Wall@nrc.gov).

**SUPPLEMENTARY INFORMATION:** The text of the exemption is attached.

Dated at Rockville, Maryland, this 22nd day of August, 2019.

For the Nuclear Regulatory Commission.

**Scott P. Wall,**

*Senior Project Manager, Plant Licensing Branch III, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

#### Attachment—Exemption

### NUCLEAR REGULATORY COMMISSION

#### Docket No. 50-293

#### Holtec Decommissioning International, LLC

#### Pilgrim Nuclear Power Station

#### Exemption

##### I. Background

By letter dated November 10, 2015 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML15328A053), Entergy Nuclear Operations, Inc. (ENOI), submitted a notification to the U.S. Nuclear Regulatory Commission (NRC) indicating that it would permanently shut down Pilgrim Nuclear Power Station (Pilgrim) no later than June 1, 2019. By letter dated June 10, 2019 (ADAMS Accession No. ML19161A033), ENOI submitted to the NRC a certification in accordance with § 50.82(a)(1) of Title 10 of the *Code of Federal Regulations* (10 CFR), stating that Pilgrim permanently ceased power operations on May 31, 2019, and that as of June 9, 2019, all fuel had been permanently removed from the Pilgrim reactor vessel and placed in the spent fuel pool. Accordingly, pursuant to 10 CFR 50.82(a)(2), the Pilgrim renewed facility operating license no longer authorizes operation of the reactor or emplacement or retention of fuel in the reactor vessel. By letter dated November 16, 2018 (ADAMS Accession No. ML18320A036), ENOI submitted the updated Pilgrim spent fuel management plan (SFMP) pursuant to 10 CFR 50.54(bb) and preliminary decommissioning cost estimate (DCE). By letter dated November 16, 2018 (ADAMS Accession No. ML18320A034), as supplemented by letter dated January 9, 2019 (ADAMS Accession No. ML19015A020) and letter dated July 29, 2019 (ADAMS Accession No. ML19210E470), ENOI submitted a post-shutdown decommissioning activities report (PSDAR) and the site-specific DCE for Pilgrim.

By letter dated November 16, 2018 (ADAMS Accession No. ML18320A031), ENOI, on behalf of itself and Entergy Nuclear Generation Company (ENGCO) (to be known as Holtec Pilgrim, LLC (Holtec Pilgrim)), Holtec International (Holtec), and Holtec Decommissioning International (HDI) submitted a license transfer application (LTA) requesting that the NRC consent to the direct transfer of ENOI's operating authority to HDI and the indirect transfer of control of the Pilgrim Renewed Facility Operating License and the General License for the Pilgrim Independent Spent Fuel Storage Installation (ISFSI) to Holtec. By letter dated November 16, 2018 (ADAMS Accession No. ML18320A040), HDI submitted a "Notification of Revised Post-Shutdown Decommissioning Activities Report and Revised Site-Specific Decommissioning Cost

Estimate for Pilgrim Nuclear Power Station" (revised PSDAR), to notify the NRC of changes to accelerate the schedule for the prompt decommissioning (*i.e.*, the DECON method for decommissioning) of Pilgrim and unrestricted release of all portions of the site (excluding the ISFSI) within 8 years after the license transfer.

Under the proposed transfers, Holtec Pilgrim will own the Pilgrim nuclear facility and will have responsibility for Pilgrim as its licensed owner. Holtec Pilgrim will enter into an agreement for decommissioning services with HDI, with HDI acting as Holtec Pilgrim's agent and with Holtec Pilgrim paying for all HDI expenses related to decommissioning, spent fuel management, and site restoration. Accordingly, HDI will become the licensed operator for decommissioning.

##### II. Request/Action

The requested exemption from 10 CFR 50.82(a)(8)(i)(A) would permit Holtec Pilgrim and HDI to use funds from the Pilgrim Decommissioning Trust Fund (DTF) for spent fuel management and site restoration activities in accordance with HDI's site-specific DCE for Pilgrim. HDI submitted a revised site-specific DCE for Pilgrim by letter dated November 16, 2018, as part of the revised PSDAR. A similar exemption request from Entergy was approved by the NRC for Pilgrim by letter dated July 22, 2019 (ADAMS Accession No. ML19162A334).

The 10 CFR 50.82(a)(8)(i)(A) requirement restricts the use of DTF withdrawals to expenses for legitimate decommissioning activities consistent with the definition of decommissioning that appears in 10 CFR 50.2. The definition of "decommission" in 10 CFR 50.2 reads as follows:

To remove a facility or site safely from service and reduce residual radioactivity to a level that permits—

- (1) Release of the property for unrestricted use and termination of the license; or
- (2) Release of the property under restricted conditions and termination of the license.

This definition does not include activities associated with spent fuel management or site restoration activities. Therefore, an exemption from 10 CFR 50.82(a)(8)(i)(A) is needed to allow Holtec Pilgrim and HDI to use funds from the DTF for spent fuel management and site restoration activities.

Similar to 10 CFR 50.82(a)(8)(i)(A), provisions of 10 CFR 50.75(h)(1)(iv) and (h)(2) dictate that with certain exceptions, disbursements from nuclear decommissioning trusts "are restricted to decommissioning expenses." However, in accordance with 10 CFR 50.75(h)(5), these provisions do not apply to "any licensee that as of December 24, 2003, has existing license conditions relating to decommissioning trust agreements, so long as the licensee does not elect to amend those license conditions." The operating license for Pilgrim included "existing license conditions relating to decommissioning trust agreements" on December 24, 2003, and as such, Pilgrim is exempt from the provisions of sections (h)(1) through (h)(3) of 10 CFR 50.75, pursuant to the terms of 10 CFR 50.75(h)(5).

### III. 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(1) when the exemptions are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security; and (2) when any of the special circumstances listed in 10 CFR 50.12(a)(2) are present. These special circumstances include, among other things:

(a) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule; and

(b) 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.

#### A. Authorized by Law

The requested exemption from 10 CFR 50.82(a)(8)(i)(A) would allow Holtec Pilgrim and HDI to use a portion of the funds from the DTF for spent fuel management and site restoration activities at Pilgrim in the same manner that withdrawals are made under 10 CFR 50.82(a)(8) for radiological 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 further below, that there is reasonable assurance of adequate funding for radiological decommissioning because the Applicants' use of the DTF for activities associated with spent fuel management and site restoration will not negatively impact the availability of funding for radiological decommissioning. Accordingly, the exemption is authorized by law because granting the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations.

#### B. No Undue Risk to Public Health and Safety

The underlying purpose of 10 CFR 50.82(a)(8)(i)(A) is to provide reasonable assurance that adequate funds will be available for the radiological decommissioning of power reactors and license termination. As explained in further detail in Section D below, based on NRC staff's review of HDI's revised site-specific DCE and the staff's independent cash flow analysis contained in Attachment 1 to the NRC staff's safety evaluation for the associated LTA (ADAMS Accession No. ML19170A250), the NRC staff finds that the use of the Pilgrim DTF for spent fuel management and site restoration activities at Pilgrim will not adversely impact Holtec Pilgrim and HDI's ability to terminate the Pilgrim license (*i.e.*, complete radiological decommissioning) as planned, consistent with the schedule and costs contained in the revised PSDAR.

Furthermore, withdrawals from the DTF for spent fuel management and site

restoration are still constrained by the provisions of 10 CFR 50.82(a)(8)(i)(B)–(C) and are reviewable under the annual reporting requirements of 10 CFR 50.82(a)(8)(v)–(vii).

There are no new accident precursors created by using the DTF in the proposed manner. Thus, the probability of postulated accidents is not increased. Also, based on the above, the consequences of postulated accidents are not increased. No changes are being made in the types or amounts of effluents that may be released offsite. There is no significant increase in occupational or public radiation exposure. Therefore, the requested exemption will not present an undue risk to the public health and safety.

#### C. Consistent With the Common Defense and Security

The requested exemption would allow Holtec Pilgrim and HDI to use funds from the Pilgrim DTF for spent fuel management and site restoration activities at Pilgrim. Spent fuel management under 10 CFR 50.54(bb) is an integral part of the planned decommissioning and license termination process and will not adversely affect Holtec Pilgrim and HDI'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 DTF for spent fuel management and site restoration activities has no relation to security issues. Therefore, the common defense and security is not impacted by the requested exemption.

#### 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 50.82(a)(8)(i)(A), which restricts withdrawals from DTFs to expenses for radiological decommissioning activities, is to provide reasonable assurance that adequate funds will be available for radiological decommissioning of power reactors and license termination. Strict application of this requirement would prohibit the withdrawal of funds from the Pilgrim DTF for spent fuel management and site restoration activities, until final radiological decommissioning at Pilgrim has been completed.

ENOI's March 28, 2019, annual report (ADAMS Accession No. ML19087A318) on the status of decommissioning funding for Pilgrim reports a DTF balance of approximately \$1.028 billion as of December 31, 2018, and approximately \$1.043 billion as of February 28, 2019. The cash flow analysis in Table 1 of the November 16, 2018, application is based on a beginning DTF balance of \$1.030 billion (following closure of the equity sale in 2019).<sup>1</sup> HDI states that this beginning DTF balance reflects the fund value post-closure of the asset sale. Furthermore, the application states that the 2019 costs include estimated pre-closure and post-closure costs. In the NRC staff's analysis provided in its safety evaluation for the LTA,

<sup>1</sup> The terms of the Equity Purchase and Sales Agreement describes the after-tax market value of the DTF must be no less than \$1.030 billion at time of transaction closing.

the staff used the opening DTF balance of \$1.030 billion as the money available to cover radiological decommissioning, spent fuel management, and site restoration costs.

The analysis in the November 16, 2018 revised PSDAR, projects the total radiological decommissioning cost of Pilgrim to be approximately \$593 million in 2018 dollars which is lower than the 10 CFR 50.75(c) minimum formula amount of approximately \$633 million. The revised PSDAR estimated decommissioning costs are consistent with the estimated costs for radiological decommissioning, including ISFSI decommissioning costs, provided in the November 16, 2018 request for exemptions. However, the LTA and the exemption request did not provide any explanation for the difference in funding levels for radiological decommissioning costs between the site-specific DCE and the 10 CFR 50.75(c) minimum formula amount. Therefore, the staff sought supplemental information from the Applicants in a request for additional information (RAI) dated July 26, 2019, (ADAMS Accession No. ML19207B366). The RAI requested, among other things, that the Applicants provide justification for using a radiological decommissioning cost estimate value that is less than the 10 CFR 50.75(c) minimum formula amount.

On July 29, 2019 (ADAMS Accession No. ML19210E470), HDI provided its justification, stating that the HDI site-specific DCE is a more reliable and precise estimate of decommissioning cost because it is based on Pilgrim-specific plant data and historical information, actual site conditions, regulatory requirements applicable to Pilgrim, and actual pricing information, as compared to the 10 CFR 50.75(c) minimum formula amount, which is based on generic inputs. Additionally, in both the November 16, 2018 application and the July 29, 2019 supplement, HDI states that its site-specific DCE was reviewed against the estimates of costs associated with license termination (radiological decommissioning) in NUREG/CR-6174, "Revised Analyses of Decommissioning for the Reference Boiling Water Reactor Power Station" (ADAMS Accession No. ML14008A186), benchmarked against nine comparable decommissioning projects, and compared with costs from similar activities at seven boiling water reactors. Accordingly, as part of its review, the NRC staff compared the Pilgrim site-specific radiological decommissioning costs with the estimated activities of the four periods associated with the DECON decommissioning method as outlined in NUREG/CR-6174:

- (1) Pre-shutdown planning/engineering and regulatory reviews,
- (2) Plant deactivation and preparation for storage,
- (3) A period of plant safe storage with concurrent operations in the spent fuel pool until the pool inventory is zero, and
- (4) Decontamination and dismantlement of the radioactive portions of the plant, leading to license termination.

The NRC staff also compared the Pilgrim site-specific estimated radiological decommissioning costs of approximately \$593 million with the site-specific costs of similar decommissioning projects.

Based on the review of the Pilgrim site-specific radiological decommissioning costs of approximately \$593 million, as compared to NUREG/CR-6174, the staff concludes that HDI's method for developing the Pilgrim site-specific radiological decommissioning cost estimate is reasonable. Further, when compared to radiological decommissioning costs associated with similar decommissioning projects, the staff finds that the HDI's Pilgrim site-specific radiological decommissioning costs of approximately \$593 million is reasonable.

As such, the staff used the value of approximately \$593 million for radiological decommissioning costs when it conducted its independent cash flow analysis. As allowed by 10 CFR 50.75(e)(1)(ii), the staff began its cost analysis using a 2% real rate of return on annual balances. In its application dated November 16, 2018, HDI states they also used a 2% real rate of return. However, in Table 1 of the November 16, 2018, application, HDI noted that the Year Ending DTF Balance is after-taxes. Therefore, in its cost analysis, the staff found that Table 1 reflects an actual annual real rate of return of 1.42%. The staff notes that this is conservative to the 2% annual real rate of return allowed by 10 CFR 50.75(e)(1)(ii). To be consistent in validating HDI's site-specific DCE, the staff used the more conservative 1.42% annual real rate of return. The staff's independent cash flow analysis is contained in Attachment 1 to the NRC staff's safety evaluation for the associated LTA.

As noted above, HDI's site-specific DCE relies on estimated radiological decommissioning costs of approximately \$593 million, which is lower than the 10 CFR 50.75(c) minimum formula amount of approximately \$633 million. In its RAI dated July 26, 2019, the staff requested a justification for this lower amount and, in case the Applicants' failed to provide sufficient justification, the staff also requested that the Applicants provide a revised decommissioning cash flow analysis using the higher minimum formula amount of \$633,267,558. In Attachment 1 of the July 29, 2019, supplement, HDI provided the requested revised cash flow analysis. Although the staff completed a separate, independent cash flow analysis to validate this revised cash flow analysis, ultimately, as noted above, the staff determined that HDI's site-specific DCE, which uses \$592,553,000 for the estimated site-specific radiological decommissioning costs for Pilgrim, is reasonable and sufficiently justified.

Based on its evaluation above and the cash flow analysis contained in Attachment 1 to the NRC staff's safety evaluation for the associated LTA, the staff finds that the funds in the DTF are expected to be available and sufficient to cover the estimated costs of approximately \$593 million for the radiological decommissioning of the facility (including the ISFSI). Therefore, the NRC staff finds that HDI has provided reasonable assurance that adequate funds will be available for the radiological decommissioning of Pilgrim, even with the disbursement of funds from the DTF for spent fuel management and site restoration activities. Consequently, the NRC staff

concludes that application of the 10 CFR 50.82(a)(8)(i)(A) requirement that funds from the DTF only be used for radiological decommissioning activities and not for spent fuel management and site restoration activities is not necessary to achieve the underlying purpose of the rule; thus, special circumstances are present supporting approval of the exemption request.

By granting the exemption to 10 CFR 50.82(a)(8)(i)(A), withdrawals from the DTF for spent fuel management and site restoration activities, consistent with the licensee's submittal dated November 16, 2018, are authorized. As stated previously, the NRC staff has determined that there are sufficient funds in the DTF to complete radiological decommissioning activities as well as to conduct spent fuel management and site restoration activities consistent with the revised PSDAR, DCE, SFMP, and the November 16, 2018, exemption request. Pursuant to the requirements in 10 CFR 50.82(a)(8)(v) and (vii), licensees are required to monitor and annually report to the NRC the status of the DTF and the licensee's funding for managing spent fuel. These reports provide the NRC staff with awareness of, and the ability to take action on, any actual or potential funding deficiencies. Additionally, 10 CFR 50.82(a)(8)(vi) requires that the annual financial assurance status report must include additional financial assurance to cover the estimated cost of completion if the sum of the balance of any remaining decommissioning funds, plus earnings on such funds calculated at not greater than a 2% real rate of return, together with the amount provided by other financial assurance methods being relied upon, does not cover the estimated cost to complete the decommissioning. The requested exemption would not allow the withdrawal of funds from the DTF for any other purpose that is not currently authorized in the regulations without prior approval from the NRC.

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. HDI states that the DTF contains funds in excess of the estimated costs of radiological decommissioning and that these excess funds are needed for spent fuel management and site restoration activities. The NRC does not preclude the use of funds from the decommissioning trust in excess of those needed for radiological decommissioning for other purposes, such as spent fuel management or site restoration activities (see NRC Regulatory Issue Summary 2001-07, Rev. 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, "Decommissioning of Nuclear Power Reactors," dated October 2013 (ADAMS Accession No. ML13144A840)). Preventing access to those excess funds in the DTF because spent fuel management and site restoration activities are not associated with radiological decommissioning would

create an unnecessary financial burden without any corresponding safety benefit. The adequacy of the DTF to cover the cost of activities associated with spent fuel management and site restoration, in addition to radiological decommissioning, is supported by the site-specific DCE. If the licensee cannot use its DTF for spent fuel management and site restoration activities, it would need to obtain additional funding that would not be recoverable from the DTF, or the licensee 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 10 CFR 50.82(a)(8)(i)(A) was adopted.

The underlying purposes of 10 CFR 50.82(a)(8)(i)(A) would be achieved by allowing Holtec Pilgrim and HDI to use a portion of the Pilgrim DTF for spent fuel management and site restoration activities, and compliance with the regulation would result in an undue hardship or other costs that are significantly in excess of those contemplated when the regulations were adopted. Thus, 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 exemption.

#### *E. Environmental Considerations*

In accordance with 10 CFR 51.31(a), the Commission has determined that the granting of the exemption will not have a significant effect on the quality of the human environment (see Environmental Assessment and Finding of No Significant Impact published in the **Federal Register** on August 20, 2019 (84 FR 43186)).

#### **IV. Conclusions**

In consideration of the above, the NRC staff finds that the proposed exemption confirms the adequacy of funding in the Pilgrim DTF to complete radiological decommissioning of the site and to terminate the license and also to cover estimated spent fuel management and site restoration activities. The NRC staff also finds that there is reasonable assurance that adequate funds are available in the DTF to complete all activities associated with radiological decommissioning.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the 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. Also, special circumstances are present. Therefore, the Commission hereby grants Holtec Pilgrim and HDI an exemption from 10 CFR 50.82(a)(8)(i)(A) to allow them to use of a portion of the funds from the Pilgrim DTF for spent fuel management and site restoration activities consistent with the revised PSDAR and site-specific DCE dated November 16, 2018.

These exemptions are effective upon the NRC's issuance of a conforming license amendment reflecting HDI and Holtec Pilgrim as the licensees for Pilgrim, following NRC approval of the license transfer application and the Applicants' completion of the transaction.

Dated at Rockville, Maryland, this 22nd day of August, 2019.

For the Nuclear Regulatory Commission.  
/RA/

Gregory F. Suber,  
Deputy Director, Division of Operating  
Reactor Licensing, Office of Nuclear Reactor  
Regulation.

[FR Doc. 2019-18490 Filed 8-27-19; 8:45 am]

BILLING CODE 7590-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-86728; File No. SR-ICC-  
2019-009]

### Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice Relating to ICC's Treasury Operations Policies and Procedures

August 22, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 8, 2019, ICE Clear Credit LLC ("ICC") filed with the Securities and Exchange Commission the proposed rule change, security-based swap submission, or advance notice as described in Items I, II and III below, which Items have been prepared by ICC. ICC filed the proposed rule change pursuant Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> such that the proposed rule change was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, security-based swap submission, or advance notice from interested persons.

#### I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice

The principal purpose of the proposed rule change is to revise the ICC Treasury Operations Policies and Procedures ("Treasury Policy"). These revisions do not require any changes to the ICC Clearing Rules ("Rules").

#### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change, security-based swap submission, or advance notice and discussed any comments it received on the proposed rule change, security-based swap submission, or advance notice. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

##### (A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice

###### (a) Purpose

ICC proposes to revise its Treasury Policy. Specifically, ICC proposes minor changes to the Treasury Policy to more generally refer to a data provider for the purposes of collateral valuation and to promote uniform investment guidelines that are applicable to Euro-denominated cash posted by Clearing Participants ("CPs") for their margin requirements related to client positions ("customer origin cash") and Euro-denominated Guaranty Fund and margin cash posted by CPs ("house origin cash"). ICC believes that such revisions will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible. The proposed changes are described in detail as follows.

ICC proposes to more generally refer to a data provider for the purposes of collateral valuation in the 'Collateral Valuation' sub-section. Currently, the Treasury Policy references, by name, a data provider that ICC uses as a source for collateral valuation information. ICC proposes to remove references to the specific data provider and to more generally require ICC to use a reliable data provider as a source for collateral valuation information. ICC does not intend that the Treasury Policy list ICC service providers or control the onboarding or review of such data provider. Service providers are subject to contractual arrangements entered into by authorized ICC officers and, if deemed a critical vendor under the Operational Risk Management Framework, governed by the Operational Risk Management

Framework that describes their review and approval.<sup>5</sup>

ICC proposes updates to the Euro investment guidelines appendix, which is applicable to Euro-denominated customer origin and house origin cash. The current Euro investment guidelines allow direct investments in French and German sovereign debt securities having a final maturity of no greater than 198 days but require that all such investments with customer origin cash comply with any applicable conditions and restrictions in Commodity Futures Trading Commission ("CFTC") Regulation 1.25,<sup>6</sup> including any applicable exemptive orders. As such, direct investments with customer origin cash are limited to French and German sovereign debt securities having a final maturity of no greater than 180 days in accordance with the exemptive order that was issued by the CFTC (the "Order").<sup>7</sup> ICC proposes to update the Euro investment guidelines to restrict direct investments with both customer origin and house origin cash to French and German sovereign debt securities having a final maturity of no greater than 180 days in order to promote uniform Euro investment guidelines that are applicable to customer origin and house origin cash.

ICC has filed the proposed rule change for immediate effectiveness and proposes that it will be operative on or about, but no sooner than, September 10, 2019.

###### (b) Statutory Basis

Section 17A(b)(3)(F) of the Act<sup>8</sup> requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to the extent applicable, derivative agreements, contracts and transactions; to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible; and to comply with the provisions of the Act and the rules and regulations thereunder. ICC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, to Section 17(A)(b)(3)(F),<sup>9</sup> because ICC believes that the proposed rule change will promote the prompt

<sup>5</sup> See SR-ICC-2018-003 for more information regarding the review and approval of critical vendors under the ICC Operational Risk Management Framework.

<sup>6</sup> 17 CFR 1.25.

<sup>7</sup> 83 FR 35241 (July 25, 2018).

<sup>8</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>9</sup> *Id.*

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).