



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

April 14, 2020

Dr. Jennifer L. Uhle
Vice President, Generation & Suppliers
Nuclear Energy Institute
1201 F Street, NW, Suite 1100
Washington, DC 20004

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION PLANNED ACTIONS RELATED TO THE REQUIREMENTS FOR OPERATOR LICENSING DURING THE CORONAVIRUS DISEASE 2019 PUBLIC HEALTH EMERGENCY

Dear Dr. Uhle:

As you know, on January 31, 2020, the U.S. Department of Health and Human Services declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to the Coronavirus Disease 2019 (COVID-19). On March 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization. On March 19, 2020, the U.S. Department of Homeland Security issued "Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response," which identified workers needed for safe and secure operations at nuclear generation and pharmaceutical manufacture (e.g., medical isotope production) facilities as essential critical infrastructure workforce.

As discussed during a public meeting held on March 27, 2020, with nuclear industry representatives and members of the public, this is an unprecedented time for our country, the U.S. Nuclear Regulatory Commission (NRC), and its regulated entities. In all our actions, we are committed to following the NRC's Principles of Good Regulation (independence, openness, efficiency, clarity, and reliability) while performing our mission. In keeping with these principles, this letter provides information regarding the NRC's planned actions related to Title 10 of the *Code of Federal Regulations* (CFR) Part 55 requirements for operators' licenses during the COVID-19 PHE. While NRC is providing guidance for seeking exemptions from certain operator requalification program requirements, the NRC considers reliable operator performance to be essential to safe nuclear power plant operations.

Under the NRC's regulations in 10 CFR 55.11, "Specific exemptions," "The Commission may, upon application by an interested person, or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property and are otherwise in the public interest." This letter contains criteria to inform exemption requests from requirements in 10 CFR Part 55 related to (1) requalification program scheduling, (2) licensed operator active status for research and test reactors (RTRs), and (3) delays in completion of biennial medical examinations of licensed operators and senior operators. Exemption requests that provide the information discussed in this letter will be reviewed using an expedited review process. Exemption requests that do not provide the information specified in this letter will be processed using the NRC's normal review process.

Requalification Program Requirements

The NRC will consider exemption requests for facility licensees from the “not to exceed two years” requirement for the requalification program in 10 CFR 55.59(c)(1). The NRC will also consider exemption requests for operators and senior operators from the requirements in 10 CFR 55.59(a)(1) (requiring the operators and senior operators to successfully complete the Commission-approved requalification program) and in 10 CFR 55.59(a)(2) (requiring the operators and senior operators to pass a comprehensive requalification written examination and an annual operating test); these exemptions would allow delay of these requalification program requirements during the COVID-19 PHE. These exemptions would, if granted, ensure that the requirements for operator requalification scheduling do not conflict with practices recommended by the Centers for Disease Control and Prevention to limit the spread of the coronavirus (<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html> (last visited April 9, 2020)). Requalification tests require operators to gather closely in compact spaces and to touch common surfaces.

Therefore, if a facility licensee’s normal schedule would require the annual tests and exams to occur during the COVID-19 PHE, then the facility licensee may request an exemption from that schedule. Any exemptions approved by the NRC under the process described in this letter will be effective until 90 days after the end of the PHE or December 31, 2020, whichever occurs first. A facility licensee that intends to request exemptions for itself and on behalf of its licensed operators should notify the NRC as soon as practicable. These exemption requests should include the following:

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2. a request for exemption for operators and senior operators from the requirements in 10 CFR 55.59(a)(1) and in 10 CFR 55.59(a)(2) for the purpose of allowing delay of these requalification program requirements during the COVID-19 PHE;
3. a statement that the tests and exam will be provided after the end of the PHE, but before the end of the calendar year (December 31, 2020).
4. a statement that the facility licensee has modified or will, prior to the effective date of any exemption that is granted, modify its requalification program so that it will provide for training and evaluations of operator knowledge, skills, and abilities during the time when the biennial written exams and annual operating tests would have been scheduled to occur; and
5. a statement that the facility licensee, in conjunction with the training program, will continue to evaluate operator performance in the plant and control room to identify and correct operator performance issues in a timely manner. If such a program does not exist, then provide a statement that the facility licensee will implement, prior to the effective date of any exemption that is granted, a program to evaluate operator performance in the plant and control room to identify and correct operator performance issues in a timely manner.

Medical Requirements

The NRC will consider requests for an exemption for operators and senior operators from the requirements in 10 CFR 55.21 and 10 CFR 55.53(i), which require operator licensees to have a medical examination biennially. The NRC will also consider requests for an exemption for operators and senior operators from the requirement in 10 CFR 55.57(a)(6), which requires

applicants for renewal of an operator's license to provide certification by the facility licensee of the applicant's medical condition and general health. These exemptions would allow for the delay of the medical examination requirement during the COVID-19 PHE.

The purpose of the medical examination is to prevent the manipulation of the controls by an operator whose medical condition and general health would cause operational errors endangering public health and safety. Because many physicians have cancelled routine examinations due to the PHE, an operator may not be able to receive the medical examination before it is due. Therefore, the facility licensee should as soon as practicable submit exemption requests that include the following:

1. a request for exemption from 10 CFR 55.21, 55.53(i), and, if applicable, 55.57(a)(6), and the names and docket numbers of the operators and senior operators for whom the exemption is being requested; and
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Licensed Operator Active Status for Research and Test Reactors (RTRs)

This section applies exclusively to RTR licensees. During the COVID-19 PHE, many RTR facilities shut down and may remain in an extended period of shutdown. Therefore, licensed operators will not be able to actively perform the functions of an operator and will not maintain active status under 10 CFR 55.53(e). The NRC will consider alternative measures for these operators to maintain active status. These exemption requests should include the following:

1. a request for exemption from the minimum of four hours per calendar quarter requirement normally needed to maintain active status under 10 CFR 55.53(e);
2. a description of the alternative measures (e.g., refresher training on operating procedures) being used for the hours under the four-hour minimum of 10 CFR 55.53(e); and
3. a statement that an authorized representative of the facility licensee will certify completion of alternative measures.

How to Submit Requests

Licensees should make every effort to submit timely exemption requests. Facility licensees and individually licensed operators should continue to follow 10 CFR 55.5 "Communications." To ensure the timely receipt and review of these exemption requests, facility licensees that wish to receive an expedited review of their request must contact their facility's NRC project manager for assistance before submitting the request.

Review Process

The NRC will consider these requests on a case-by-case basis and, if the requirements for an exemption are met, will provide a written decision. If sufficient time is not available for the NRC to provide a prior written decision for the exemption, then the NRC may provide a verbal decision that will be followed promptly by a written safety evaluation documenting the approval or a letter documenting the denial of the request.

Duration of Exemptions

Exemptions that are approved under this process will be in effect until 90 days after the PHE is ended or December 31, 2020, whichever occurs first. Ninety days after the PHE ends provides a reasonable period of time to prepare and administer examinations and tests, and to arrange for and receive medical exams. Licensees must come back into compliance with the regulations or receive approval for an additional exemption period from the NRC before the end of each exemption period. As with the initial approval, subsequent approvals would be granted in writing or verbally, depending on the timing of the licensee's request.

If the COVID-19 PHE is not lifted before expiration of the exemption, then the licensee may request an additional exemption.

In the event this results in a follow-on requalification cycle that would be too short to successfully meet the facility licensee's accreditation training program, the NRC will work with the licensee to determine how to proceed.

Alternative Approaches

This letter does not preclude requests for exemptions that take a different approach or present different rationales or proposed end dates. The NRC cannot guarantee expedited consideration of such requests.

The expedited review process outlined in this letter may be used by RTR facility licensees and operators, as discussed above. However, because some requirements may differ for each RTR, the RTR licensee or licensed operator should contact their NRC project manager to discuss what information will be submitted.

If you have any further questions about this matter, please contact your facility's NRC project manager.

Paperwork Reduction Act

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Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

Sincerely,

/RA/

Ho K. Nieh, Director
Office of Nuclear Reactor Regulation

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DATED APRIL 14, 2020

Identical letters sent to:

Dr. Jennifer L. Uhle
Vice President, Generation & Suppliers
Nuclear Energy Institute
1201 F Street, NW, Suite 1100
Washington, DC 20004

Mr. Chris Bakken
Executive Vice President
Nuclear Operations & Chief Nuclear Officer
Energy Nuclear
1340 Echelon Parkway
Jackson, MS 39213

Mr. Don Moul
Executive Vice President, Nuclear
Division and Chief Nuclear Officer
Florida Power & Light Company
Mail Stop: NT3/JW
15430 Endeavor Drive
Jupiter, FL 33478

Mr. Clive Townsend
Chair, National Organization of Test, Research,
and Training Reactors
1611 Lionheart Ln
West Lafayette, IN 47906

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***via e-mail**

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Executive Vice President
Nuclear Operations & Chief Nuclear Officer
Entergy Nuclear
1340 Echelon Parkway
Jackson, MS 39213

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Ho K. Nieh, Director
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WASHINGTON, D.C. 20555-0001

April 14, 2020

Mr. Don Moul
Executive Vice President, Nuclear
Division and Chief Nuclear Officer
Florida Power & Light Company
Mail Stop: NT3/JW
15430 Endeavor Drive
Jupiter, FL 33478

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2. a description of the alternative measures (e.g., refresher training on operating procedures) being used for the hours under the four-hour minimum of 10 CFR 55.53(e); and
3. a statement that an authorized representative of the facility licensee will certify completion of alternative measures.

How to Submit Requests

Licensees should make every effort to submit timely exemption requests. Facility licensees and individually licensed operators should continue to follow 10 CFR 55.5 "Communications." To ensure the timely receipt and review of these exemption requests, facility licensees that wish to receive an expedited review of their request must contact their facility's NRC project manager for assistance before submitting the request.

Review Process

The NRC will consider these requests on a case-by-case basis and, if the requirements for an exemption are met, will provide a written decision. If sufficient time is not available for the NRC to provide a prior written decision for the exemption, then the NRC may provide a verbal decision that will be followed promptly by a written safety evaluation documenting the approval or a letter documenting the denial of the request.

Duration of Exemptions

Exemptions that are approved under this process will be in effect until 90 days after the PHE is ended or December 31, 2020, whichever occurs first. Ninety days after the PHE ends provides a reasonable period of time to prepare and administer examinations and tests, and to arrange for and receive medical exams. Licensees must come back into compliance with the regulations or receive approval for an additional exemption period from the NRC before the end of each exemption period. As with the initial approval, subsequent approvals would be granted in writing or verbally, depending on the timing of the licensee's request.

If the COVID-19 PHE is not lifted before expiration of the exemption, then the licensee may request an additional exemption.

In the event this results in a follow-on requalification cycle that would be too short to successfully meet the facility licensee's accreditation training program, the NRC will work with the licensee to determine how to proceed.

Alternative Approaches

This letter does not preclude requests for exemptions that take a different approach or present different rationales or proposed end dates. The NRC cannot guarantee expedited consideration of such requests.

The expedited review process outlined in this letter may be used by RTR facility licensees and operators, as discussed above. However, because some requirements may differ for each RTR, the RTR licensee or licensed operator should contact their NRC project manager to discuss what information will be submitted.

If you have any further questions about this matter, please contact your facility's NRC project manager.

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Sincerely,

/RA/

Ho K. Nieh, Director
Office of Nuclear Reactor Regulation



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

April 14, 2020

Mr. Clive Townsend
Chair, National Organization of Test,
Research, and Training Reactors
1611 Lionheart Ln
West Lafayette, IN 47906

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION PLANNED ACTIONS RELATED
TO THE REQUIREMENTS FOR OPERATOR LICENSING DURING THE
CORONAVIRUS DISEASE 2019 PUBLIC HEALTH EMERGENCY

Dear Mr. Townsend:

As you know, on January 31, 2020, the U.S. Department of Health and Human Services declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to the Coronavirus Disease 2019 (COVID-19). On March 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization. On March 19, 2020, the U.S. Department of Homeland Security issued "Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response," which identified workers needed for safe and secure operations at nuclear generation and pharmaceutical manufacture (e.g., medical isotope production) facilities as essential critical infrastructure workforce.

As discussed during a public meeting held on March 27, 2020, with nuclear industry representatives and members of the public, this is an unprecedented time for our country, the U.S. Nuclear Regulatory Commission (NRC), and its regulated entities. In all our actions, we are committed to following the NRC's Principles of Good Regulation (independence, openness, efficiency, clarity, and reliability) while performing our mission. In keeping with these principles, this letter provides information regarding the NRC's planned actions related to Title 10 of the *Code of Federal Regulations* (CFR) Part 55 requirements for operators' licenses during the COVID-19 PHE. While NRC is providing guidance for seeking exemptions from certain operator requalification program requirements, the NRC considers reliable operator performance to be essential to safe nuclear power plant operations.

Under the NRC's regulations in 10 CFR 55.11, "Specific exemptions," "The Commission may, upon application by an interested person, or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property and are otherwise in the public interest." This letter contains criteria to inform exemption requests from requirements in 10 CFR Part 55 related to (1) requalification program scheduling, (2) licensed operator active status for research and test reactors (RTRs), and (3) delays in completion of biennial medical examinations of licensed operators and senior operators. Exemption requests that provide the information discussed in this letter will be reviewed using an expedited review process. Exemption requests that do not provide the information specified in this letter will be processed using the NRC's normal review process.

Requalification Program Requirements

The NRC will consider exemption requests for facility licensees from the “not to exceed two years” requirement for the requalification program in 10 CFR 55.59(c)(1). The NRC will also consider exemption requests for operators and senior operators from the requirements in 10 CFR 55.59(a)(1) (requiring the operators and senior operators to successfully complete the Commission-approved requalification program) and in 10 CFR 55.59(a)(2) (requiring the operators and senior operators to pass a comprehensive requalification written examination and an annual operating test); these exemptions would allow delay of these requalification program requirements during the COVID-19 PHE. These exemptions would, if granted, ensure that the requirements for operator requalification scheduling do not conflict with practices recommended by the Centers for Disease Control and Prevention to limit the spread of the coronavirus (<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html> (last visited April 9, 2020)). Requalification tests require operators to gather closely in compact spaces and to touch common surfaces.

Therefore, if a facility licensee’s normal schedule would require the annual tests and exams to occur during the COVID-19 PHE, then the facility licensee may request an exemption from that schedule. Any exemptions approved by the NRC under the process described in this letter will be effective until 90 days after the end of the PHE or December 31, 2020, whichever occurs first. A facility licensee that intends to request exemptions for itself and on behalf of its licensed operators should notify the NRC as soon as practicable. These exemption requests should include the following:

1. a request for exemption from the “not to exceed two years” requirement for the requalification program in 10 CFR 55.59(c)(1);
2. a request for exemption for operators and senior operators from the requirements in 10 CFR 55.59(a)(1) and in 10 CFR 55.59(a)(2) for the purpose of allowing delay of these requalification program requirements during the COVID-19 PHE;
3. a statement that the tests and exam will be provided after the end of the PHE, but before the end of the calendar year (December 31, 2020).
4. a statement that the facility licensee has modified or will, prior to the effective date of any exemption that is granted, modify its requalification program so that it will provide for training and evaluations of operator knowledge, skills, and abilities during the time when the biennial written exams and annual operating tests would have been scheduled to occur; and
5. a statement that the facility licensee, in conjunction with the training program, will continue to evaluate operator performance in the plant and control room to identify and correct operator performance issues in a timely manner. If such a program does not exist, then provide a statement that the facility licensee will implement, prior to the effective date of any exemption that is granted, a program to evaluate operator performance in the plant and control room to identify and correct operator performance issues in a timely manner.

Medical Requirements

The NRC will consider requests for an exemption for operators and senior operators from the requirements in 10 CFR 55.21 and 10 CFR 55.53(i), which require operator licensees to have a medical examination biennially. The NRC will also consider requests for an exemption for operators and senior operators from the requirement in 10 CFR 55.57(a)(6), which requires

applicants for renewal of an operator's license to provide certification by the facility licensee of the applicant's medical condition and general health. These exemptions would allow for the delay of the medical examination requirement during the COVID-19 PHE.

The purpose of the medical examination is to prevent the manipulation of the controls by an operator whose medical condition and general health would cause operational errors endangering public health and safety. Because many physicians have cancelled routine examinations due to the PHE, an operator may not be able to receive the medical examination before it is due. Therefore, the facility licensee should as soon as practicable submit exemption requests that include the following:

1. a request for exemption from 10 CFR 55.21, 55.53(i), and, if applicable, 55.57(a)(6), and the names and docket numbers of the operators and senior operators for whom the exemption is being requested; and
2. a description of the interim compensatory measures that the facility licensee is using to address delay in receipt of recommendations from a licensed physician concerning the operator's health. For example, the facility licensee, in coordination with the operator, might elect to have the operators partially examined, e.g., an assessment of the operator's responses on an ANSI-standard-based questionnaire about medical history without an in-person examination.

Under 10 CFR 55.55(b), operator license renewal applications filed with incomplete information during, and due to, the COVID-19 PHE will be considered to be in timely renewal, notwithstanding the absence of the medical examination certification.

Licensed Operator Active Status for Research and Test Reactors (RTRs)

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