

## SAFETY EVALUATION REPORT

DOCKET NO.: 70-27

LICENSEE: BWXT Nuclear Operations Group – Lynchburg, Inc.  
Lynchburg, Virginia

SUBJECT: REQUEST FOR EXEMPTION FROM TITLE 10 OF THE *CODE OF FEDERAL REGULATIONS* PARAGRAPH 73.46(b)(9)

### REQUEST

By letter dated March 19, 2020, BWXT Nuclear Operations Group – Lynchburg, Inc. (BWXT NOG-L), submitted a request for an exemption from certain requirements of Title 10 of the *Code of Federal Regulations* (10 CFR), Paragraph 73.46(b)(9) (Agencywide Documents Access and Management System Accession Number ML20085F884). In particular, BWXT requests an exemption from the provisions in 10 CFR 73.46(b)(9) that require, during a 12-month period, Tactical Response Team and guard exercises at intervals of at least every four months for each shift, and observation of a force-on-force exercise by the U.S. Nuclear Regulatory Commission (NRC). BWXT NOG-L proposes to resume normal operations and reschedule all missed force-on-force exercises when the applicable guidance regarding the Coronavirus Disease 2019 (COVID-19) is revised by Federal and State Government agencies. Furthermore, BWXT NOG-L proposes to communicate with the NRC to reschedule the annual observed exercise on a mutually agreeable date.

### BACKGROUND

Currently, BWXT NOG-L is required to conduct Tactical Response Team and guard exercises at least every 4 months during each 12 month period as defined under 10 CFR 73.46(b)(9) for each shift, one third of which are to be force-on-force. During each 12-month period, 10 CFR 73.46(b)(9) states that the NRC shall observe one of the force-on-force exercises which demonstrates overall security system performance. The licensee shall notify the NRC of the scheduled exercise 60 days prior to that exercise.

In response to the COVID-19 pandemic, BWXT NOG-L has implemented social distancing and assembly restrictions to conform to the: President's Coronavirus Guidelines for America; Centers for Disease Control, "Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 (COVID-19);" U.S. Department of Labor, Occupational Safety and Health Administration, "Guidance on Preparing Workplaces for COVID-19 (3990-03 2020);" and State of Virginia, Department of Health, "Interim Guidance: Considerations for Business and Employers, Coronavirus Disease 2019 (COVID-19)." Based on the guidance provided by these Federal and State Government agencies, BWXT NOG-L considers the request to be necessary, prudent, and justified.

The required Tactical Response Team and guard exercises may necessitate that the involved participants come within close contact with one another. Therefore, the exercises could provide potential exposure pathways for spreading the COVID-19 virus that may not be prevalent during routine operations at the facility and would not be consistent with the social distancing and assembly restrictions in Federal and State guidelines.

## DISCUSSION – NRC STAFF REVIEW PURSUANT TO 10 CFR 70.17(a)

Pursuant to 10 CFR 70.17(a), the NRC may grant an exemption from the requirements of 10 CFR Part 70 if the staff determines that the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest.

The NRC staff has determined that granting the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, other laws, or the Commission's regulations. Therefore, the requested exemption is authorized by law.

The NRC staff has also determined that temporarily exempting BWXT NOG-L from the frequency requirements for conducting Tactical Response Team and guard exercises will not endanger life or property or the common defense and security, in accordance with 10 CFR 73.46(b)(9). These exercises demonstrate the licensee's overall security system effectiveness and the ability of the security force to perform response and contingency plan responsibilities, and to demonstrate individual skills in assigned teams. Fulfilling the requirements in 10 CFR 73.46(b)(9) are just one element of meeting the general performance objective of establishing and maintaining a physical protection system which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security, and do not constitute an unreasonable risk to the public health and safety. The licensee is also still required to have a physical protection system that meets the performance capabilities in 10 CFR 73.45, and the physical protection requirements in other portions of 10 CFR 73.46.

BWXT has requested an exemption until it resumes normal operations in response to revised Federal and State guidance. However, indefinite discontinuation of these exercises may result in conditions that could endanger life or property or the common defense and security. Therefore, the NRC staff approves postponing all Tactical Response Team and guard exercises only through August 31, 2020. After August 31, 2020, BWXT NOG-L is expected to perform all missed force-on-force exercises by December 31, 2020. Furthermore, BWXT NOG-L is expected to communicate with the NRC on rescheduling the annual observed exercise to a mutually agreeable date. Should additional time beyond the expiration of the exemption of amendment be needed to restore compliance due to the COVID-19 PHE condition, the NRC would consider an extension to the exemption or amendment based on a subsequent request that updates all the information in the initial request. Based on its review of the provided information and establishment of the noted timeframe to resume the exercises, the NRC staff concludes that granting this exemption request would not endanger life or property or the common defense and security.

Finally, granting this exemption request is otherwise in the public interest because it promotes public health and safety by following social distancing and assembly restrictions from the referenced COVID-19 guidance from Federal and State Government agencies. The exemption would defer all Tactical Response Team and guard exercises until after August 31, 2020, a timeframe that is based on the required frequency of the exercises for the current 12-month period for BWXT NOG-L. The revised timeframe will also aid in limiting the current outbreak of COVID-19 and promote public health. The exercises that were missed will be rescheduled and performed by December 31, 2020.

## ENVIRONMENTAL REVIEW

Pursuant to 10 CFR 51.22(b) and 10 CFR 51.22(c)(25)(G), the granting of an exemption from the requirements of any regulation in Chapter I of 10 CFR is a categorical exclusion, provided that (i) there is no significant hazards consideration; (ii) there is no significant increase in the amounts of any effluents that may be released offsite; (iii) there is no significant increase in individual or cumulative public or occupational radiation exposure; (iv) there is no significant construction impact; (v) there is no significant increase in the potential for or consequences from radiological accidents; and (vi) the requirements from which an exemption is sought involve, as relevant here, scheduling requirements.

For the reasons described below, BWXT NOG-L's request meets the criteria for a 10 CFR 51.22(c)(25) categorical exclusion. The BWXT NOG-L is not a reactor and this exemption is limited to security exercises, so there are no significant hazards considerations. Because the request by BWXT NOG-L pertains to an exemption from conducting a security exercise, there are no effluents or offsite releases or significant increase in radiation exposure to workers or members of the public associated with this request. There are no construction activities associated with this request, so there is no significant construction impact. There is no significant increase in the potential for any radiological accidents associated with this request, because the request for exemption to postpone all Tactical Response Team and guard exercises does not affect the facility's operations. Therefore, pursuant to 10 CFR 51.22(b) and 10 CFR 51.22(c)(25)(G), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption request.

## CONCLUSION

Based on its review above, the NRC staff concludes that the postponement of the exercises to be authorized by the issuance of this exemption are in compliance with law and will not endanger life or property or the common defense and security. The staff also concludes that granting the exemption is in the public interest. Accordingly, the NRC hereby grants BWXT NOG-L an exemption, through August 31, 2020, from the requirements in 10 CFR 73.46(b)(9) pertaining to timeframes associated with carrying out an exercise for each shift and having the NRC observe a force-on-force exercise.

A new Physical Protection License Condition SG-6.9 has been issued to reflect the exemption as follows:

SG-6.9 Notwithstanding the requirements of 10 CFR 73.46(b)(9), the licensee is exempt from conducting Tactical Response Team and guard exercises through August 31, 2020, after such date the licensee commits to resuming normal operations and performing all missed exercises by December 31, 2020. Furthermore, the licensee commits to communicating with the NRC to reschedule the annual observed exercise on a mutually agreeable date.

## PRINCIPAL CONTRIBUTORS

Tim Harris, NSIR/DPCP  
James Downs, NMSS/DFM