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10 CFR 50.12  
10 CFR 50, Appendix R

NL-20-034

April 13, 2020

ATTN: Document Control Desk  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Subject: Temporary Exemption Request from 10 CFR Appendix R, Section III.H due to COVID-19 Pandemic

Indian Point Nuclear Generating Unit Nos. 2 and 3  
NRC Docket Nos. 50-247 and 50-286  
Renewed Facility Operating License Nos. DPR-26 and DPR-64

In accordance with 10 CFR 50.12, "Specific Exemptions," paragraph (a)(2)(v), Entergy Nuclear Operations, Inc. (Entergy) requests a temporary 90-day exemption for Indian Point Nuclear Generating Unit Nos. 2 and 3 (Indian Point Energy Center, hereafter referred to as IPEC) from the requirement to conduct annual fire brigade physical examinations specified in 10 CFR 50, Appendix R, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979," Section III.H, "Fire Brigade."

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 and, on March 13, 2020, President Donald Trump declared the Coronavirus (COVID-19) pandemic a national emergency. In addition, New York State declared a state of emergency on March 7, 2020.

In response to these declarations, and in accordance with the Entergy Pandemic Response Plan, Entergy initiated isolation activities at IPEC (e.g., social distancing, group size limitations, self-quarantining, etc.) on March 16, 2020. These isolation activities have resulted in the inability to complete annual physical examinations for 15 IPEC fire brigade members within the required timeframe. These annual physical examinations are required, by 10 CFR 50, Appendix R, Section III.H, to be completed between April 23, 2020 and June 19, 2020. Consequently, Entergy requests a temporary exemption from the regulation to add 90 days to the current annual physical examination due date for each of the 15 fire brigade members; This request represents a Special Circumstance, as specified in 10 CFR 50.12(a)(2)(v).

Details of Entergy's needs and justification for the issuance of an exemption are provided in the Enclosure to this letter. Entergy requests approval of the proposed exemption by April 22, 2020.

There are no regulatory commitments contained in this request.

If there are any questions or if additional information is needed, please contact Ms. Mahvash Mirzai, IPEC Regulatory Assurance Manager, at (914) 254-7714.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 13<sup>th</sup> day of April 2020.

Respectfully,

A handwritten signature in black ink, appearing to read "Ron J. Gaston", with a long horizontal flourish extending to the right.

Ron Gaston

RWG/jls

Enclosure: Request for Temporary 90-day Exemption from Annual Physical Examination Requirement in 10 CFR 50, Appendix R, Section III.H

cc: NRC Region I Regional Administrator  
NRC Senior Resident Inspector, Indian Point Nuclear Generating Unit Nos. 2 and 3  
NRC Senior Project Manager, NRC/NRR/DORL

**Enclosure**

Request for Temporary 90-day Exemption  
Annual Physical Examination Requirement in 10 CFR 50, Appendix R, Section III.H

## 1. Summary Description

In accordance with 10 CFR 50.12, "Specific Exemptions," paragraph (a)(2)(v), Entergy Nuclear Operations, Inc. (Entergy) requests a temporary 90-day exemption for Indian Point Nuclear Generating Unit Nos. 2 and 3 (Indian Point Energy Center, hereafter referred to as IPEC) from the requirement to conduct annual fire brigade physical examinations specified in 10 CFR 50, Appendix R, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979," Section III.H, "Fire Brigade."

This temporary 90-day exemption supports continued implementation of the isolation activities (e.g., social distancing, group size limitations, self-quarantining, etc.) necessary to protect required site fire brigade personnel in response to the Coronavirus Disease 2019 (COVID-19) virus. These activities are needed to ensure fire brigade personnel are isolated from the COVID-19 virus and remain capable of executing the functions of the fire brigade, as described in the IPEC Fire Protection Program Plan (i.e., Entergy procedure SEP-FPP-IP-001).

## 2. Exemption Details

Entergy anticipates that, starting on April 23, 2020, that it will not be able to comply with the annual physical examination requirement for 15 fire brigade members at IPEC, as specified in 10 CFR 50 Appendix R, Section III.H

10 CFR 50 Appendix R, Section III.H

*The qualification of fire brigade members shall include an annual physical examination to determine their ability to perform strenuous fire fighting activities.*

Entergy requests a temporary 90-day exemption from complying with the annual physical examination requirement for each of the 15 applicable IPEC fire brigade members.

Entergy anticipates that full compliance with the annual physical requirement of 10 CFR 50 Appendix R, Section III.H for the 15 IPEC fire brigade members will be re-established on or before September 17, 2020 (i.e., 90 days from June 20, 2020). However, should the COVID-19 conditions necessitate extension of isolation activities, Entergy may seek additional temporary relief.

## 3. Technical Justification of Acceptability

The U.S. Centers for Disease Control (CDC) has issued recommendations advising "social distancing" to prevent the spread of the COVID-19 Virus (Reference). Entergy has implemented, at all of the company's nuclear stations, the recommended isolation activities (e.g., self-quarantining, group size limitations and social distancing) to protect required site personnel and ensure the continued safe operation of the Entergy nuclear stations. Ideally, this will limit the spread of the virus among the stations' staffs. Maintaining an onsite healthy workforce is preferable to having a sick workforce that is unavailable due to a pandemic.

However, implementation of these isolation activities at IPEC has resulted in the inability to complete annual physical examinations for 15 IPEC fire brigade members within the required timeframe. These examinations are required to be completed between April 23, 2020 and

June 19, 2020. Consequently, Entergy requests a temporary exemption from the regulation to add 90 days to the current annual physical examination due date for each of the 15 affected fire brigade members. In that temporary relief is requested, and Entergy has made good faith efforts to comply with the regulation, the request represents a Special Circumstance, as defined in 10 CFR 50.12(a)(2)(v).

#### **4. Justification of Exemption**

10 CFR 50.12, "Specific exemptions," paragraph (a)(1) states that the NRC may grant exemptions from the requirements of the regulations of this part provided the following three conditions are met.

- i. The exemption is authorized by law.
- ii. The exemptions will not endanger life or property or the common defense and security, and
- iii. The exemption is otherwise in the public interest.

In addition to these three conditions, paragraph (a)(2) of the regulation states that the NRC will not consider granting an exemption unless special circumstances are present. With respect to this request, 10 CFR 50.12(a)(2)(v) states that special circumstances are present whenever: "The exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation."

Entergy has evaluated the requested exemption against the criteria of 10 CFR 50.12(a)(1) and (a)(2)(v), and has determined that the criteria are satisfied, as described below.

##### 1. This exemption is authorized by law

The annual physical examination requirement for fire brigade members specified in 10 CFR 50 Appendix R, Section III.H is not required by any statute. The requested exemption is authorized by law in that no law precludes the activities covered by this exemption request. Granting of the request does not result in a violation of the Atomic Energy Act of 1954, as amended,

##### 2. This exemption will not endanger life or property or the common defense and security.

The requested exemption will not endanger life or property or the common defense and security. The requested exemption is a temporary 90-day extension for completion of annual fire brigade physical examinations. Entergy had scheduled these annual physical examinations to comply with the regulation. Prior to the implementation of isolation activities in response to COVID-19 pandemic conditions, Entergy had successfully scheduled and completed annual fire brigade physical examinations within the specified frequency. However, these annual physical examinations must be rescheduled to allow continued implementation of the Entergy pandemic plan mitigation strategies. These strategies serve the public interest by ensuring adequate staff isolation and maintaining the staff's health to perform their job function during the COVID-19 pandemic.

The proposed exemption is the temporary deferral of annual fire brigade physical examinations, does not change the IPEC Fire Protection Program Plan, and does not impact

the effectiveness of the fire brigade. The fire brigade personnel at IPEC that are impacted by this exemption are currently satisfactorily qualified on all required tasks. Every fire brigade member is part of an Operations Watch Team and as such they are under the Behavior Observation Program which results in continuous interaction with their supervisors while on shift. Any decrease in health or performance would be readily apparent. Due to the numerous COVID-19 expectations and actions Entergy has implemented, including no-touch temperature screening as each person enters the site, fire brigade members are acutely aware of the need to immediately report any change in their current health to their supervisor. Therefore, granting the requested temporary 90-day exemption will not endanger or compromise the common defense or security, or the fire fighting capabilities at IPEC.

### 3. This exemption is otherwise in the public interest.

The Entergy pandemic response plan implemented at IPEC is consistent with the pandemic guidance published by the CDC (Reference) which recommends isolation strategies such as social distancing, group size limitations and self-quarantining. These strategies ensure adequate staff is isolated from the pandemic and remains healthy to perform their job function.

Maintaining IPEC in operation during the pandemic will help meet the public need for a reliable electricity supply that is necessary to cope with the pandemic. As the U.S. Departments of Homeland Security and Energy have stated in their guidance, the electric grid and nuclear plant operation make up the nation's critical infrastructure, similar to the medical, food, communications, and other critical industries. If the plant operation is impacted because it cannot comply with the annual physical examination requirement for fire brigade members while isolation activities are in effect, the area electrical grid would lose this reliable source of baseload power. In addition, IPEC personnel could face the added transient challenge of shutting down the plant and possibly not restarting it until the pandemic passes. This would not serve the public interest in maintaining a safe and reliable supply of electricity.

### 4. Special Circumstances: 10 CFR 50.12(a)(2)(v) - Temporary Relief and Good Faith Efforts to Comply

The requested exemption is a temporary 90-day extension for completion of annual physical examinations of fire brigade members. Entergy had originally scheduled these annual physical examinations to be completed within the required frequency, and thus comply with the regulation. However, these annual physical examinations must be rescheduled to allow implementation of the Entergy pandemic plan mitigation strategies. Prior to the implementation of isolation activities in response to COVID-19 pandemic conditions, Entergy had successfully scheduled and completed annual fire brigade physical examinations within the specified frequency.

## **5. Conclusion**

As demonstrated above, this exemption request is in accordance with the criteria of 10 CFR 50.12. Specifically, the requested 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. In addition, the requested exemption provides temporary relief during the COVID-19 pandemic, and Entergy has made good faith efforts to comply with the regulation.

## **6. Environmental Assessment**

Due to the impact of isolation activities in response to the COVID-19 pandemic, Entergy is requesting a temporary 90-day exemption from the identified requirement in 10 CFR 50, Appendix R, Section III.H, for IPEC. Specifically, Entergy is requesting a temporary 90-day exemption from the requirement to conduct annual physical examinations specified in 10 CFR 50, Appendix R, Section III.H for 15 fire brigade members at IPEC. The following information is provided in support of an environmental assessment and finding of no significant impact for the proposed exemption.

Entergy has determined that the exemption involves no significant increase in the amounts, and no significant change in the types, of any effluents that may be released offsite; that there is no significant increase in individual or cumulative public or occupational radiation exposure; that there is no construction impact; and there is no significant increase in the potential for or consequences from a radiological accident. The requirements for which an exemption is being requested involve annual physical examination requirements for fire brigade members. Accordingly, the proposed exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(25). In accordance with 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the issuance of this proposed exemption.

## **7. Reference**

"Interim Guidance for Businesses and Employers," <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>, accessed on March 17, 2020.