



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

May 26, 2020

Mr. Don Moul  
Vice President, Nuclear Division and  
Chief Nuclear Officer  
NextEra Energy Duane Arnold, LLC  
Mail Stop: NT3/JW  
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SUBJECT: DUANE ARNOLD ENERGY CENTER – EXEMPTION REQUEST FROM CERTAIN REQUIREMENTS OF 10 CFR PART 73, APPENDIX B, “GENERAL CRITERIA FOR SECURITY PERSONNEL,” SECTION VI (EPID L-2020-LLE-0042 TO L-2020-LLE-0045 AND L-2020-LLE-0051 [COVID-19])

Dear Mr. Moul:

The U.S. Nuclear Regulatory Commission (NRC or the Commission) has approved temporary exemptions from specific requirements of Title 10 of the *Code of Federal Regulations* (10 CFR), Part 73, Appendix B, Section VI, “Nuclear Power Reactor Training and Qualification Plan for Personnel Performing Security Program Duties,” for the Duane Arnold Energy Center (DAEC). This action is in response to the NextEra Energy Duane Arnold, LLC (NEDA) application dated May 1, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20122A130), as supplemented by letter dated May 20, 2020 (ADAMS Accession No. ML20141L497), that requested temporary exemptions for DAEC from 10 CFR 73, Appendix B, Section VI, subsections C.3.(I)(1), D.2.(a), E.1.(c), F.5.(a), and E.1.(f). The May 1, 2020, application contains security-related information and is being withheld from public disclosure pursuant to 10 CFR 2.390.

The requirements in 10 CFR Part 73, Appendix B, Section VI, subsection C.3.(I)(1) state, in part:

Each member of each shift who is assigned duties and responsibilities required to implement the safeguards contingency plan and licensee protective strategy participates in at least one (1) tactical response drill on a quarterly basis and one (1) force-on-force exercise on an annual basis. Force-on-force exercises conducted to satisfy the NRC triennial evaluation requirement can be used to satisfy the annual force-on-force requirement for the personnel that participate in the capacity of the security response organization.

The purpose of the quarterly tactical drills and the annual licensee-conducted force-on-force (FOF) exercise is to ensure that the site security force maintains its contingency response readiness. Participation in these drills and exercises also supports the requalification of security force members.

The requirements in 10 CFR Part 73, Appendix B, Section VI, subsection D.2.(a) state:

Armed and unarmed individuals shall be requalified at least annually in accordance with the requirements of this appendix and the Commission-approved training and qualification plan.

Individuals must also be requalified to meet the requirements of 10 CFR Part 73, Appendix B, Section VI, subsections E.1.(c) annual firearms familiarization and F.5.(a) annual weapons requalification.

The requirements in 10 CFR Part 73, Appendix B, Section VI, subsection E.1.(c) state:

The licensee shall conduct annual firearms familiarization training in accordance with the Commission-approved training and qualification plan.

The requirements in 10 CFR Part 73, Appendix B, Section VI, subsection F.5.(a) state:

Armed members of the security organization shall be re-qualified for each assigned weapon at least annually in accordance with Commission requirements and the Commission-approved training and qualification plan, and the results documented and retained as a record.

The purpose of the annual requalification requirements is to ensure the licensee's armed and unarmed individuals possess the requisite knowledge, skills, and abilities to effectively perform assigned duties in accordance with the licensee's Commission-approved security plans, protective strategy, and implementing procedures.

The requirements in 10 CFR Part 73, Appendix B, Section VI, subsection E.1.(f) state:

Armed members of the security organization shall participate in weapons range activities on a nominal four (4) month periodicity. Performance may be conducted up to five (5) weeks before, to five (5) weeks after, the scheduled date. The next scheduled date must be four (4) months from the originally scheduled date.

The purpose of the weapons range activity is to ensure that armed individuals in the licensee's security organization maintain weapons proficiency in support of the licensee's physical protection program.

On January 31, 2020, the U.S. Department of Health and Human Services declared a Coronavirus Disease 2019 (COVID-19) public health emergency (PHE) for the United States. Subsequently, the Centers for Disease Control and Prevention (CDC) issued recommendations (e.g., social distancing, limiting assemblies) to limit the spread of COVID-19.

In your May 1, 2020, application, you stated the following:

- This temporary exemption supports the isolation restrictions (e.g., social distancing, group size limitations, self-quarantining, etc.) necessary to protect required site personnel in response to the COVID-19 virus.

- These restrictions are needed to ensure personnel are isolated from the COVID-19 virus and remain capable of maintaining plant security.
- NEDA will maintain a list of the names of individuals who will not meet the requalification requirements and will include the dates of last requalification; ensure contingency response readiness of security personnel by conducting a communication-based exercise; and will complete the FOF exercise when isolation restrictions are ended.
- NEDA will conduct discussions regarding critical tasks necessary for performance of security duties as assigned and individual discussions regarding the fundamentals of marksmanship.
- NEDA cannot complete the weapons range activities due to Fleet requirements for group range activities including safety briefs, dry fire, malfunction drills, range walk-downs, etc., which do not lend themselves to the concept of social distancing, or limiting unnecessary interactions that may contribute to the spread of the COVID-19 virus.
- NEDA will conduct discussions that outline the objectives of the weapons range activities that will not be conducted due to COVID-19 PHE.
- NEDA will begin COVID-19 PHE controls upon the NRC's approval of the temporary exemption.

These temporary exemptions requested by NEDA are specific to DAEC security personnel who have previously demonstrated proficiency and are now currently qualified in accordance with the requirements of 10 CFR Part 73, Appendix B, Section VI. You stated that because of the rigorous nature of NEDA's nuclear security personnel training programs, along with DAEC security personnel's performance of day-to-day job activities, it is reasonable to conclude that security personnel will continue to maintain their proficiency even though the requalification periodicity is temporarily exceeded. You stated that you will implement the site-specific training requalification controls noted above, consistent with those outlined in the NRC staff's April 20, 2020, letter discussing planned activities related to the requirements for 10 CFR Part 73, Appendix B, Section VI, during the PHE (ADAMS Accession No. ML20105A483). You requested that the duration of the exemptions be 90 days after the PHE is ended, or until December 31, 2020, whichever occurs first, also consistent with the NRC staff's April 20, 2020, letter.

Pursuant to 10 CFR 73.5, "Specific exemptions," the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 73 when the exemptions are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest.

In accordance with 10 CFR 73.5, the Commission may grant an exemption from the regulations in 10 CFR Part 73 that is authorized by law. The NRC staff has reviewed the exemption request and finds that granting the proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or other laws. Therefore, the NRC staff finds that these exemptions are authorized by law.

In accordance with 10 CFR 73.5, the Commission may grant an exemption from the regulations in 10 CFR Part 73 when the exemption will not endanger life or property or the common defense and security. These temporary exemptions will only apply to DAEC security personnel who are

already satisfactorily qualified on the security requirements in 10 CFR Part 73, Appendix B, Section VI. In addition, you identified numerous controls, consistent with the NRC staff's April 20, 2020, letter, that provide mechanisms to maintain proficiency and readiness. These include, for example, communication-based exercises, discussions regarding critical tasks necessary for performance of assigned duties, individual discussions regarding the fundamentals of marksmanship, as well as discussions that outline the objectives of weapons range activities. Moreover, DAEC security personnel's performance is conducted and demonstrated in their daily job activities (e.g., detection and assessment, patrols, searches, and defensive operations). Accordingly, considering the limited scope of the exemption to already qualified security personnel, the controls that will be implemented throughout the duration of the temporary exemption, and continuous, on-the-job demonstrations of performance that will continue to be available, the NRC staff has reasonable assurance that the security force at DAEC will maintain its proficiency and readiness to implement the licensee's protective strategy and adequately protect the site. Therefore, the NRC staff concludes that the proposed exemptions would not endanger life or property or the common defense and security.

In accordance with 10 CFR 73.5, the Commission may grant an exemption from the regulations in 10 CFR Part 73 when the exemption is in the public interest. Participation in tactical response drills, licensee FOF exercises and annual requalification, including weapons familiarization and range activities, requires significant staff support and places site security personnel in close proximity to one another. Such proximity has the potential to increase the likelihood of security personnel being exposed to the COVID-19 virus. The NRC staff finds that the temporary exemption from requirements in 10 CFR Part 73, Appendix B, Section VI, subsections C.3.(l)(1), D.2.(a), E.1.(c), F.5.(a), and E.1.(f), would facilitate the licensee's efforts to maintain a healthy workforce capable of operating the plant safely and implementing the site's protective strategy by isolating security personnel from potential exposure to the COVID-19 virus. The NRC staff concludes that granting these temporary exemptions is in the public interest because it allows the licensee to maintain the required security posture at DAEC, while enabling the facility to continue to provide electrical power to the Nation.

### **Environmental Considerations**

NRC approval of this exemption request is categorically excluded under 10 CFR 51.22(c)(25), and there are no special circumstances present that would preclude reliance on this exclusion. The NRC staff determined, per 10 CFR 51.22(c)(25)(vi)(E), that the requirements from which the exemptions are sought involve education, training, experience, qualification, requalification, or other employment suitability requirements. The NRC staff also determined that approval of this exemption request involves no significant hazards consideration because it does not authorize any physical changes to the facility or any of its safety systems, nor does it change any of the assumptions or limits used in the facility licensee's safety analyses or introduce any new failure modes. There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite because these exemptions do not affect any effluent release limits as provided in the facility licensee's technical specifications or by the regulations in 10 CFR Part 20, "Standards for Protection Against Radiation." There is no significant increase in individual or cumulative public or occupational radiation exposure because these exemptions do not affect limits on the release of any radioactive material or the limits provided in 10 CFR Part 20 for radiation exposure to workers or members of the public. There is no significant construction impact because these exemptions do not involve any changes to a construction permit; and no significant increase in the potential for or consequences from radiological accidents because these exemptions do not alter any of the assumptions or limits in the facility licensee's safety analysis. In addition, the NRC staff

determined that there would be no significant impacts to biota, water resources, historic properties, cultural resources, or socioeconomic conditions in the region. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption request.

### **Conclusions**

Accordingly, the NRC has determined that, pursuant to 10 CFR Part 73.5, these exemptions are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest. Therefore, the Commission hereby grants NEDA's request to exempt DAEC from the requirements for periodic requalification of security personnel in subsections C.3.(l)(1), D.2.(a), E.1.(c), E.1.(f), and F.5.(a) of 10 CFR Part 73, Appendix B, Section VI.

These exemptions expire 90 days after the end of the PHE, or December 31, 2020, whichever occurs first.

If you have any questions, please contact the plant project manager, Mahesh Chawla, at 301-415-8371 or [Mahesh.chawla@nrc.gov](mailto:Mahesh.chawla@nrc.gov).

Sincerely,

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

Docket No. 50-331

cc: Listserv

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**ADAMS Accession No.: ML20139A006****\*via email**

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