



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

June 18, 2020

Mr. G. T. Powell
President and Chief Executive Officer
STP Nuclear Operating Company
South Texas Project
P.O. Box 289
Wadsworth, TX 77483

SUBJECT: SOUTH TEXAS PROJECT, UNITS 1 AND 2 – TEMPORARY EXEMPTION FROM CERTAIN REQUIREMENTS OF 10 CFR PART 73, APPENDIX B, “GENERAL CRITERIA FOR SECURITY PERSONNEL,” SECTION VI (EPID L-2020-LLE-0076 [COVID-19])

Dear Mr. Powell:

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 South Texas Project (STP) Units 1 and 2. This action is in response to the STP Nuclear Operating Company (STPNOC) application dated May 21, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20142A520), that requested temporary exemptions for STP from 10 CFR Part 73, Appendix B, Section VI, subsections B.4.(a), B.5.(a), C.2.(a), C.2.(b), C.3.(I)(1), D.2.(a), E.1.(c), F.5.(a), and E.1.(f).

The requirements in 10 CFR Part 73, Appendix B, Section VI, subsection B.4.(a) state:

Armed members of the security organization shall be subject to a medical examination by a licensed physician, to determine the individual’s fitness to participate in physical fitness tests.

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

At least annually, armed and unarmed individuals shall be required to demonstrate the capability to meet the physical requirements of this appendix and the licensee training and qualification plan.

The purpose of the medical examination required by 10 CFR Part 73, Appendix B, Section VI, subsection B.4.(a) is to have a licensed physician determine that an individual armed member of the licensee security organization is physically fit and can participate in the physical fitness test required by subsection B.5.(a). The purpose of the physical requalification required by subsection B.5.(a) is to ensure armed and unarmed members of the licensee’s security organization are capable of performing their assigned duties necessary for implementing the licensee’s Commission-approved security plans, protective strategy, and implementing procedures.

The requirements in 10 CFR Part 73, Appendix B, Section VI, subsections C.2.(a) and (b) require licensees to conduct on-the-job training (OJT) and state:

(a) The licensee training and qualification program must include on-the-job training performance standards and criteria to ensure that each individual demonstrates the requisite knowledge, skills, and abilities needed to effectively carry-out assigned duties and responsibilities in accordance with the Commission-approved security plans, licensee protective strategy, and implementing procedures, before the individual is assigned the duty or responsibility.

(b) In addition to meeting the requirement stated in paragraph C.2.(a) of this appendix, before assignment, individuals (e.g., response team leaders, alarm station operators, armed responders, and armed security officers designated as a component of the protective strategy) assigned duties and responsibilities to implement the Safeguards Contingency Plan shall complete a minimum of 40 hours of on-the-job training to demonstrate their ability to effectively apply the knowledge, skills, and abilities required to effectively perform assigned contingency duties and responsibilities in accordance with the approved safeguards contingency plan, other security plans, licensee protective strategy, and implementing procedures. On-the-job training must be documented by a qualified training instructor and attested to by a security supervisor.

The purpose of OJT is to ensure that individuals have 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 C.3.(l)(1) state:

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 its May 21, 2020, application, STPNOC stated the following:

- STPNOC implemented isolation restrictions for site personnel on March 17, 2020.
- The temporary exemptions support the isolation restrictions (e.g., social distancing, group size limitations, self-quarantining, etc.) necessary to protect required site personnel in response to the 2020 COVID-19 PHE.
- The exemptions are needed to ensure personnel are isolated from the COVID-19 PHE and remain capable of maintaining plant security.
- STPNOC will maintain a list of the names of the individuals who will not meet the requalification requirements subject to the exemptions. The list will include the

dates of the last qualification, except for the OJT exemption. For the OJT exemption STPNOC will include the dates of initial qualification.

- Regarding subsection B.4.(a), and subsection B.5.(a) (Medical examinations and physical requirements), STPNOC has established measures to ensure security personnel self-report any condition that could impact their ability to perform duties as a member of the security organization.
- Regarding subsection C.2.(a) and (b) (40 hours OJT), STPNOC has conducted a needs analysis and determined that the individuals covered by the OJT exemption have the requisite knowledge, skills, and abilities to perform the duties assigned. STPNOC further stated the following:
 - The OJT exemption only applies to individuals who have completed the qualification requirements in 10 CFR Part 73, Appendix B, Section VI, subsection C.1., “Duty training and qualification requirements,” and have been previously qualified within STP security organization; and
 - STP security management will continue to evaluate security personnel performance in the plant to identify and correct performance issues in a timely manner.
- Regarding subsection C.3.(l)(1) (Quarterly tactical response drills and annual force-on-force exercises), STPNOC will ensure contingency response readiness of security personnel not participating in a quarterly drill or annual FOF exercise, or both, by conducting the following scenario-based evolution(s): a table-top exercise; a lessons-learned review of past exercise; and will complete the annual FOF exercise when isolation restrictions are ended.
- Regarding subsection D.2.(a) (Annual requalification), subsection E.1.(c) (Annual firearms familiarization), and subsection F.5.(a) (Annual weapons requalification), STPNOC will conduct discussions regarding critical tasks necessary for performance of security duties as assigned, and individual discussions regarding the fundamentals of marksmanship.
- Regarding subsection E.1.(f) (Weapons range activities on a nominal 4-month periodicity), STPNOC cannot complete the weapons range activities due to STPNOC Pandemic response and CDC requirements that prohibit the ability to work within close range of the instructors and security force members on the range; STPNOC will conduct discussions with security personnel that will outline the objectives of the weapons range activity that will not be conducted due to COVID-19 PHE;
- STPNOC will begin implementing COVID-19 PHE controls for managing personnel performing security program duties associated with 10 CFR Part 73, Appendix B, Section VI, subsections B.4.(a), B.5.(a), C.2.(a), and C.2.(b), upon NRC approval;
- STPNOC will begin implementing COVID-19 PHE controls for managing personnel performing security program duties associated with 10 CFR Part 73, Appendix B, Section VI, subsection C.3.(l)(1) at 00:00 Central Daylight Time (CDT) on June 12, 2020;

- STPNOC will begin implementing COVID-19 PHE controls for managing personnel performing security program duties associated with 10 CFR Part 73, Appendix B, Section VI, subsections D.2.(a), E.1.(c), and F.5.(a) at 00:00 CDT on September 2, 2020; and
- STPNOC will begin implementing COVID-19 PHE controls for managing personnel performing security program duties associated with 10 CFR Part 73, Appendix B, Section VI, subsection E.1.(f). at 00:00 CDT on July 20, 2020.

These temporary exemptions are specific to STP security personnel who have previously demonstrated proficiency and are currently qualified in accordance with the requirements of 10 CFR Part 73, Appendix B, Section VI. STPNOC also stated that because of the rigorous nature of STPNOC's nuclear security personnel training programs, which consist of regularly scheduled training activities to include weapons training, contingency response drills and exercises, along with STP security personnel's performance of day-to-day job activities (e.g., detection and assessment, patrols, searches, and defensive operations), it is reasonable to conclude that security personnel will continue to maintain their proficiency even though the requalification periodicity is temporarily exceeded. Additionally, STPNOC stated that the site-specific COVID-19 PHE controls listed above will be implemented at STP to ensure impacted security personnel maintain the knowledge, skills, and abilities required to effectively perform assigned duties and responsibilities. STPNOC requested that the duration of the exemption be in effect for 90 days after the PHE is ended, or until December 31, 2020, whichever occurs first, consistent with 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).

Pursuant to 10 CFR 73.5, "Specific exemptions," the Commission may, upon application of 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 STP security personnel who are already satisfactorily qualified on the security requirements in 10 CFR Part 73, Appendix B, Section VI. Based on this fact, and its review of the controls STPNOC will implement for the duration of the exemption, the NRC staff has reasonable assurance that the security force at STP will maintain its proficiency and readiness to implement the licensee's protective strategy and adequately protect the site. The controls include the self-reporting of any condition that could impact the ability to perform security duties; the conduct of a table-top exercise and a lessons-learned review of past exercises; the completion of annual FOF exercises when isolation restrictions have ended; and discussions regarding marksmanship, critical tasks necessary for performance of assigned security duties, and the objectives of weapons range activities. 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 medical examinations, OJT, tactical response drills, licensee FOF exercises and annual requalification, including weapons familiarization and range activities, requires significant staff support and thus places site security personnel and other staff 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 B.4.(a), B.5.(a), C.2.(a), C.2.(b), 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 facilitates the licensee implementation of practices recommended by the CDC to help limit the spread of the COVID-19 virus.

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 STPNOC's request to exempt STP from the requirements for security personnel in subsections B.4.(a), B.5.(a), C.2.(a), C.2.(b), C.3.(l)(1), D.2.(a), E.1.(c), F.5.(a), and E.1.(f) 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, Dennis Galvin, at 301-415-6256 or Dennis.Galvin@nrc.gov.

Sincerely,

Craig G. Erlanger, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-498 and 50-499

cc: Listserv

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