



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

June 12, 2020

Mr. Ronald W. Gaston  
Director, Nuclear Licensing  
Entergy Nuclear Operations, Inc.  
1340 Echelon Parkway  
Jackson, MS 39213

SUBJECT: INDIAN POINT NUCLEAR GENERATING UNIT NOS. 2 AND 3 – TEMPORARY EXEMPTION FROM CERTAIN REQUIREMENTS OF 10 CFR PART 73, APPENDIX B, “GENERAL CRITERIA FOR SECURITY PERSONNEL,” SECTION VI (EPID L-2020-LLE-0050 [COVID-19])

Dear Mr. Gaston:

The U.S. Nuclear Regulatory Commission (NRC or the Commission) has approved the below temporary exemption 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 Indian Point Nuclear Generating Unit Nos. 2 and 3 (Indian Point). This action is in response to Entergy’s (the licensee) application dated April 29, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20125A327), as supplemented on May 27, 2020 (ADAMS Accession No. ML20148M389), that requested a temporary exemption from 10 CFR Part 73, Appendix B, Section VI, subsection C.3.(I)(1) regarding the annual force-on-force (FOF) exercises.

The requirements of 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) 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 annual licensee-conducted FOF exercise is to ensure that the site security force maintains its contingency response readiness. Participation in these exercises also supports the requalification of security force members.

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 issued recommendations (e.g., social distancing, limiting assemblies) to limit the spread of COVID-19.

In your application, you stated the following:

- Indian Point implemented its site-specific COVID-19 PHE controls for managing personnel performing security program duties on March 15, 2020.
- Indian Point expects that it will no longer be able to comply with the requirements in subsection C.3.(I)(1) of 10 CFR Part 73, Appendix B, Section VI, regarding the annual FOF exercise on June 30, 2020.
- Entergy will maintain a list of the names of the individuals who will not meet the requirements of 10 CFR Part 73, Appendix B, Section VI, subsection C.3.(I)(1), for the annual FOF exercise. The list will include the dates of the last quarterly drill and annual FOF exercise in which the individual participated.
- Entergy is taking measures to ensure contingency response readiness, despite security personnel not participating in an annual FOF exercise. These measures include the continuing conduct of quarterly tactical response drills, which in turn will include one of the following: a table top exercise, a communication-based exercise, a lessons-learned review of a past exercise, or a walkdown of a previous exercise route of travel.
- Entergy will conduct any missed annual licensee-conducted FOF exercises within 90 days after the PHE ends, or by December 31, 2020, whichever occurs first.

You also stated that Indian Point's site-specific COVID-19 PHE controls are consistent with the conditions outlined in Enclosure C to the NRC staff's April 20, 2020, letter discussing planned activities related to the requirements of 10 CFR Part 73, Appendix B, Section VI, during the PHE (ADAMS Accession No. ML20105A483). You requested that the duration of the exemption be 90 days after the PHE ends, or by December 31, 2020, whichever comes 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 of any interested person or on 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 of 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 the exemption is authorized by law.

In accordance with 10 CFR 73.5, the Commission may grant an exemption from the regulations of 10 CFR Part 73 when the exemption will not endanger life or property or the common defense and security. This exemption will only apply to licensee security personnel who are already satisfactorily qualified on the security requirements of 10 CFR Part 73, Appendix B, Section VI. Based on this fact, and the review of the controls you will implement for the duration of the exemption, including continuing to conduct required quarterly tactical response drills and completing the FOF annual exercise before expiration of this exemption, the NRC staff has

reasonable assurance that the security force at Indian Point 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 exemption 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 of 10 CFR Part 73 when the exemption is in the public interest. Participation in FOF exercises 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 the annual FOF requirement of 10 CFR Part 73, Appendix B, Section VI, subsection C.3.(1)(1), 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 the temporary exemption is in the public interest because it allows the licensee to maintain the required security posture at Indian Point, while enabling the facility to continue to provide electrical power to the Nation.

### **Environmental Considerations**

The NRC staff's approval of this exemption request is categorically excluded under 10 CFR 51.22(c)(25)(vi)(E), and there are no special circumstances present that would preclude reliance on this exclusion. The NRC staff determined that this action applies to granting of an exemption from requirements relating to education, training, experience, qualification, requalification, or other employment suitability requirements. The NRC staff has 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; no significant change in the types or significant increase in the amounts of any effluents that may be released offsite because this exemption does not affect any effluent release limits as provided in the facility licensee's technical specifications or by the regulations of 10 CFR Part 20, "Standards for Protection Against Radiation"; no significant increase in individual or cumulative public or occupational radiation exposure because this exemption does 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; no significant construction impact because this exemption does not involve any changes to a construction permit; and no significant increase in the potential for or consequences from radiological accidents because this exemption does not alter any of the assumptions or limits in the licensee's safety analysis. In addition, the NRC staff has 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 73.5, 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. Therefore, the Commission hereby grants the licensee's request to exempt Indian Point from the requirement for the annual FOF exercise in

subsection C.3.(I)(1) of 10 CFR Part 73, Appendix B, Section VI. This exemption expires 90 days after the end of the PHE, or December 31, 2020, whichever occurs first.

If you have any questions, please contact the Indian Point project manager, Richard V. Guzman, at 301-415-1030 or [Richard.Guzman@nrc.gov](mailto:Richard.Guzman@nrc.gov).

Sincerely,

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

Docket Nos. 50-247 and 50-286

cc: Listserv

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**ADAMS Accession No.: ML20156A057**

OFFICE	NRR/DORL/LPL1/PM	NRR/DORL/LPL1/LA	NSIR/DP/RSB/BC
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NAME	JBielecki	JDanna (JTobin for)	CErlanger
DATE	06/10/2020	06/12/2020	06/12/2020

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