



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

June 29, 2020

Mr. Bryan C. Hanson
Senior Vice President
Exelon Generation Company, LLC
President and Chief Nuclear Officer
Exelon Generation Company, LLC
4300 Winfield Road
Warrenville, IL 60555

SUBJECT: JAMES A. FITZPATRICK NUCLEAR POWER PLANT – EXEMPTION FROM CERTAIN REQUIREMENTS OF 10 CFR PART 73, APPENDIX B, “GENERAL CRITERIA FOR SECURITY PERSONNEL” (EPID L-2020-LLE-0094 [COVID-19])

Dear Mr. Hanson:

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 James A. FitzPatrick Nuclear Power Plant (FitzPatrick). This action is in response to Exelon Generation Company, LLC’s (Exelon or the licensee) application dated May 29, 2020, as supplemented by letter dated June 4, 2020 (Agencywide Documents Access and Management System Accession Nos. ML20153A381 and ML20156A152, respectively (non-public, withheld under 10 CFR 2.390)), that requested a temporary exemption from the licensee-conducted annual force-on-force (FOF) exercise requirement in 10 CFR Part 73, Appendix B, Section VI, subsection C.3.(l)(1).

The requirements in 10 CFR Part 73, Appendix B, Section VI, subsection C.3.(l)(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 the annual FOF exercise 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.

Exelon's May 29, 2020, application and June 4, 2020, supplement states the following:

- This temporary exemption supports isolation restrictions (e.g., social distancing, group size limitations, self-quarantining, use of personal protective equipment, etc.) necessary to protect required site personnel in response to the 2020 COVID-19 virus.
- These restrictions are needed to ensure personnel are isolated from the COVID-19 virus and remain capable of maintaining plant security.
- FitzPatrick began implementing isolation restrictions after the Governor of New York State issued a disaster declaration on March 7, 2020.
- FitzPatrick will maintain a list of the names of the individuals who will not meet the requalification requirements and will include the dates of their last qualification.
- FitzPatrick will ensure contingency response readiness of security personnel not participating in an annual FOF exercise by conducting a lessons-learned review of a past exercise.
- FitzPatrick will continue performing the quarterly tactical response drills/exercises and is not requesting an exemption from these requirements at this time.
- FitzPatrick will complete the FOF exercise within the time period in this request when isolation restrictions are ended.
- FitzPatrick is scheduling tentative dates for completing any missed annual FOF drills/exercises within the time period of this request.
- FitzPatrick will begin implementing COVID-19 PHE controls for managing personnel performing security program duties upon NRC approval of its exemption request.

This temporary exemption will apply to FitzPatrick security personnel who have previously been and currently are qualified in accordance with the requirements in 10 CFR Part 73, Appendix B, Section VI. Exelon also stated that given the rigorous nature of the FitzPatrick nuclear security personnel training programs, which consist of regularly scheduled training activities to include weapons training, contingency response drills and exercises, and demonstrated acceptable 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, Exelon requested that the duration of the exemption be 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 on its own initiative, grant exemptions from 10 CFR Part 73 when the

exemptions are authorized by law and 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 the exemption is 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. This exemption will only apply to licensee 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 Exelon will implement for the duration of the exemption, including continuing to conduct required quarterly tactical response drills, a lessons-learned review of a past exercise, and completing the annual FOF exercise within the time period for this exemption, the NRC staff has reasonable assurance that the security force at FitzPatrick will maintain its proficiency and its 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 in 10 CFR Part 73 when the exemption is in the public interest. Participation in tactical drills and 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 in 10 CFR Part 73, Appendix B, Section VI, subsection C.3.(I)(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 FitzPatrick, 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 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 temporarily exempt FitzPatrick from the annual FOF exercise requalification requirement of security personnel in subsection C.3.(l)(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 FitzPatrick project manager, Justin Poole, at 301-415-2048 or Justin.Poole@nrc.gov.

Sincerely,

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

Docket No. 50-333

cc: Listserv

SUBJECT: JAMES A. FITZPATRICK NUCLEAR POWER PLANT – EXEMPTION REQUEST FROM CERTAIN REQUIREMENTS OF 10 CFR PART 73, APPENDIX B, “GENERAL CRITERIA FOR SECURITY PERSONNEL” (EPID L-2020-LLE-0094 [COVID-19]) DATED JUNE 29, 2020

DISTRIBUTION:

PUBLIC

PM File Copy

RidsACRS_MailCTR Resource

RidsNrrDorLpl1 Resource

RidsNrrLALRonewicz Resource

RidsNrrPMFitzPatrick Resource

RidsRgn1MailCenter Resource

OLopez-Santiago, OEDO

SLee, NRR

ABowers, NSIR

JPetrucci, NSIR

ADAMS Accession No.: ML20164A210

OFFICE	NRR/DORL/LPL1/PM	NRR/DORL/LPL1/LA	NSIR/DPCP/RSB/BC
NAME	JPoole (SLee for)	LRonewicz	ABowers
DATE	06/12/2020	06/12/2020	6/11/2020
OFFICE	OGC – NLO	NRR/DORL/LPL1/BC	NRR/DORL/D
NAME	NStAmour	JDanna	CErlanger
DATE	06/16/2020	06/29/2020	06/29/2020

OFFICIAL RECORD COPY