



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

November 24, 2020

Mr. Daniel G. Stoddard
Senior Vice President and
Chief Nuclear Officer
Dominion Nuclear
Innsbrook Technical Center
5000 Dominion Boulevard
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SUBJECT: MILLSTONE POWER STATION, UNIT NOS. 1, 2, AND 3 – TEMPORARY
EXEMPTION FROM THE EXERCISE FREQUENCY REQUIREMENTS OF
10 CFR PART 50, APPENDIX E, SECTIONS IV.F.2.B AND IV.F.2.C
(EPID L-2020-LLE-0145 [COVID-19])

Dear Mr. Stoddard:

The U.S. Nuclear Regulatory Commission (NRC, the Commission) has approved the requested exemption from specific requirements of Appendix E to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, Sections IV.F.2.b and IV.F.2.c, for Millstone Power Station, Unit Nos. 1, 2, and 3 (Millstone). This action is in response to your application dated September 17, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20261H597), which requested exemption from the calendar year (CY) 2020 biennial emergency preparedness (EP) exercise.

Dominion Energy Nuclear Connecticut, Inc. (DENC, the licensee) holds Facility Operating License Nos. DPR-21, DPR-65, and NPF-49, which authorize operation of Millstone Power Station, Unit Nos. 1, 2, and 3, respectively. These licenses are subject to the rules, regulations, and orders of the NRC. The facility consists of a boiling-water reactor undergoing decommissioning and two pressurized-water reactors located in New London County in Waterford, Connecticut.

By letter dated September 17, 2020, DENC submitted a request for temporary exemption from Appendix E to 10 CFR Part 50, Sections IV.F.2.b and IV.F.2.c, regarding the performance of its biennial EP exercise.

The requirements in 10 CFR Part 50, Appendix E, Section IV.F.2.b, state, in part:

Each licensee at each site shall conduct a subsequent exercise of its onsite emergency plan every 2 years. ... The exercise may be included in the full participation biennial exercise required by paragraph 2.c of this section.

The requirements in 10 CFR Part 50, Appendix E, Section IV.F.2.c, state, in part:

Offsite plans for each site shall be exercised biennially with full participation by each offsite authority having a role under the radiological response plan.

In Appendix E to 10 CFR Part 50, the NRC defines the term “full participation,” when used in conjunction with EP exercises for a particular site, to mean appropriate offsite local and State authorities and licensee personnel physically and actively take part in testing their integrated capability to adequately assess and respond to an accident at a commercial nuclear power plant. Full participation includes testing major observable portions of the onsite and offsite emergency plans and mobilization of State, local, and licensee personnel and other resources in sufficient numbers to verify the capability to respond to the accident scenario. While desirable, full participation exercises (i.e., exercises required by 10 CFR Part 50, Appendix E, Sections IV.F.2.b and 2.c) are not required to be performed simultaneously.

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). Subsequently, the Centers for Disease Control and Prevention (CDC) issued recommendations (e.g., social distancing, limiting assemblies) in an attempt to limit the spread of COVID-19.¹

In your application, you provided the following information:

- Based on the need to protect the health and safety of Millstone emergency response organization (ERO) personnel and the State/local emergency offsite response organizations (ORO), and limitations on the availability of these resources due to the COVID-19 PHE, DENC requests that the CY 2020 exercise be postponed.
- The threat of COVID-19 spread has resulted in the inability to safely conduct the biennial EP exercise that was scheduled for June 23, 2020, due to implementation of isolation activities (e.g., social distancing, group size limitations, self-quarantining, etc.). In addition, the States of Connecticut, New York, and Rhode Island have communicated to the licensee and to the Federal Emergency Management Agency (FEMA) that the current COVID-19 pandemic response has impacted their ability to prepare for the exercise and that they would be significantly challenged to participate in the exercise before the end of CY 2020. The OROs continue to maintain readiness to respond to an actual radiological emergency at Millstone.
- This one-time schedular exemption to allow for the conduct of the biennial EP exercise in CY 2021 supports continued implementation of the isolation activities (e.g., social distancing, group size limitations, self-quarantining, etc.) to protect required ERO and ORO personnel in response to the COVID-19 PHE.
- The last biennial EP exercise was conducted on March 20, 2018. Since that time, the licensee has conducted numerous drills, exercises, and other training activities that have exercised its emergency response strategies. State officials participated in the following:
 - During the October of 2019 off-year exercise, the Connecticut Division of Emergency Management & Homeland Security, Connecticut Department of Energy and Environmental Protection, several other state agencies, and local emergency operations centers participated in varying degrees during plume phase activities.

¹ CDC, “How to Protect Yourself and Others,” April 18, 2020 (ADAMS Accession No. ML20125A069)

- In addition, two large scale post-plume phase tabletops and out-of-sequence support activities were conducted, including over 160 participants. FEMA was also in attendance to observe these two tabletop activities.
- The licensee will continue to conduct drills, exercises, and other training activities that exercise its emergency response strategies. The State and local authorities are expected to participate to the extent practical, while also complying with the CDC recommendations to limit the spread of COVID-19.
- The licensee made a reasonable effort to reschedule the biennial EP exercise during 2020 but was unsuccessful. DENC stated that the OROs indicated that rescheduling the specific functions later in CY 2020 was not considered feasible due to the need to protect the health and safety of the State/local emergency responders required to participate in the offsite portion of the exercise. In addition, the States of Connecticut, New York and Rhode Island provided feedback stating that they were not able to reschedule offsite exercise activities until late spring or early summer of CY 2021.
- The date of the postponed biennial EP exercise is greater than 35 months from the month of the previously evaluated biennial EP exercise conducted on March 20, 2018. The NRC staff conducted a Millstone EP Program inspection originally scheduled for May 2021 during the week of September 28, 2020, in order to provide the NRC the opportunity to evaluate the Millstone EP Program during CY 2020. During this time, the NRC staff confirmed that the licensee's EP Program is adequately prepared by inspecting the EP Program using various selected elements of the Reactor Oversight Program EP Inspection Procedures. This exemption would defer the CY 2020 biennial EP exercise to CY 2021. Future biennial EP exercises would continue to be held in even-numbered years.

Pursuant to 10 CFR 50.12, "Specific exemptions," the NRC may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when (1) the exemptions are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security, and (2) special circumstances are present.

The NRC staff determined that the requested exemption is permissible under the Atomic Energy Act of 1954, as amended, and that no other prohibition of law exists to preclude the activities that would be authorized by the exemption. Therefore, the NRC staff finds that the requested exemption is authorized by law.

The regulations in 10 CFR Part 50, Appendix E, Sections IV.F.2.b and IV.F.2.c, concern requirements for licensees to conduct biennial EP exercises at their facilities. No new accident precursors are created by allowing the licensee to postpone the biennial EP exercise from CY 2020 to CY 2021. Thus, the probability and consequences of postulated accidents are not increased. In addition, the requested exemption for a one-time change to the biennial EP exercise schedule has no relation to security issues. Therefore, the NRC staff finds that the

requested exemption will not present an undue risk to the public health and safety and is consistent with the common defense and security.

Special circumstances, per 10 CFR 50.12, that apply to the requested exemption include:

- a. 10 CFR 50.12(a)(2)(ii): “Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.”

The regulation in 10 CFR Part 50, Appendix E, Section, IV.F.2.b requires licensees to conduct an exercise of their site emergency plan biennially. Further, the regulation in 10 CFR Part 50, Appendix E, Section IV.F.2.c, requires offsite plans for each site to be exercised biennially with full participation by each offsite authority having a role under the plan. The underlying purpose of these requirements is to ensure that the emergency organization personnel are familiar with their duties and to identify and correct any weaknesses that may exist in the licensee’s EP Program. The underlying purpose of Section IV.F.2.c is also to test and maintain interfaces among affected State and local authorities and the licensee.

The licensee stated that it has conducted drills, exercises, and other training activities that exercised its emergency response strategies, in coordination with offsite authorities since the last evaluated biennial EP exercise. Based on its review, the NRC staff determined that the licensee’s drills, exercises, and other training activities exercised the principal functional areas of emergency response.

Based on the above, the NRC staff finds that the underlying purposes of these regulations are met by the licensee having conducted these preparedness activities and establishing an acceptable tentative date for the rescheduled biennial EP exercise of June 2021.

- b. 10 CFR 50.12(a)(2)(v): “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.”

DENC has determined that the originally scheduled exercise date does not support continued implementation of the isolation activities (e.g., social distancing, group size limitations, self-quarantining, etc.) to protect required ERO personnel in response to the ongoing COVID-19 PHE. These activities are needed to ensure that ERO personnel are isolated from COVID-19 and remain capable of executing the functions of the ERO, as described in the Millstone Emergency Plan. A tentative date of June 2021 has been proposed.

The States of Connecticut, New York, and Rhode island have communicated to the licensee and to FEMA that the current COVID-19 pandemic response has impacted their ability to prepare for the exercise and that they would be significantly challenged to participate in the exercise before the end of CY 2020. In addition, participation could place Millstone ERO personnel and State/local emergency responders who are considered essential workers at risk. In coordination with the OROs, an agreement was reached that the Millstone exercise could be supported in June of 2021. The date was also discussed verbally with the NRC Region I EP and the FEMA Region I National Preparedness Divisions to ensure the exercise could be supported by the regulators who

will be involved, and these parties confirmed they would be able to participate in June of 2021.

The States of Connecticut, New York and Rhode Island will continue to work with FEMA in support of further relief for offsite participation as appropriate under FEMA's requirements in 44 CFR 350.9. as part of FEMA's determination of the continued adequacy of offsite radiological emergency plans and preparedness.

Therefore, the NRC staff finds that the requested exemption to conduct the biennial EP exercise in CY 2021, instead of CY 2020, would provide only temporary relief from the applicable regulation and that the licensee has made good faith efforts to comply with the regulation.

Based on the above, the NRC staff finds that the special circumstances of 10 CFR 50.12(a)(2)(ii) and 10 CFR 50.12(a)(2)(v) are present.

NRC approval of the requested exemption is categorically excluded under 10 CFR 51.22(c)(25), and there are no extraordinary 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 exemption is sought involve education, training, experience, qualification, requalification, or other employment suitability requirements.

The NRC staff also determined that approval of this exemption involves no significant hazards consideration because it does not authorize any physical changes to the facility or any of its safety systems, change any of the assumptions or limits used in the 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 this exemption does not affect any effluent release limits as provided in the 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 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. There is no significant construction impact because this exemption does not involve any changes to a construction permit. There is no significant increase in the potential for or consequences from radiological accidents because the exemption does not alter any of the assumptions or limits in the 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 the requested exemption.

Granting the requested exemption does not impact NRC findings of reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency at Millstone. In the statement of considerations for the standards to be applied when considering whether to grant exemptions ("Specific Exemptions; Clarification of Standards, Final Rule," 50 FR 50764, dated December 12, 1985), the Commission stated:

While compliance with all NRC regulations provides reasonable assurance of adequate protection of the public health and safety, the converse is not correct, that failure to comply with one regulation or another is an indication of the absence of adequate protection, at least in a situation where the Commission

has reviewed the noncompliance and found that it does not pose an “undue risk” to the public health and safety. Furthermore, the Commission has never defined the concept of “defense-in-depth” to preclude the granting of an exemption from a regulation as long as the applicable exemption criteria are met. In fact, the Commission has recognized that its regulations may provide for the possibility of exemptions when an appropriately high level of safety is in fact achieved and the public interest is served.

The NRC staff has determined that in accordance with 10 CFR 50.12, 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, and that special circumstances are present. Therefore, the NRC hereby grants the licensee’s request for a one-time schedular exemption from the requirements for the biennial EP exercise in 10 CFR Part 50, Appendix E, Sections IV.F.2.b and IV.F.2.c.

This exemption expires on December 31, 2021.

If you have any questions, please contact the Millstone project manager, Richard Guzman, at 301-415-1030 or by e-mail to Richard.Guzman@nrc.gov.

Sincerely,

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

Docket Nos. 50-245, 50-336, and 50-423

cc: Listserv

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