



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

November 6, 2020

Mr. Kevin Cimorelli
Site Vice President
Susquehanna Nuclear, LLC
769 Salem Boulevard
Berwick, PA 18603

SUBJECT: SUSQUEHANNA STEAM ELECTRIC STATION, UNITS 1 AND 2 –
TEMPORARY EXEMPTION FROM BIENNIAL EMERGENCY PREPAREDNESS
EXERCISE FREQUENCY REQUIREMENTS OF 10 CFR PART 50,
APPENDIX E, SECTION IV.F.2.C (EPID L-2020-LLE-0153 [COVID-19])

Dear Mr. Cimorelli:

The U.S. Nuclear Regulatory Commission (NRC, the Commission) has approved the below temporary exemption from specific requirements of Appendix E to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, Section IV.F.2.c, for Susquehanna Steam Electric Station (Susquehanna), Units 1 and 2. This action is in response to your application dated September 28, 2020, as supplemented by letter from the Pennsylvania Emergency Management Agency (PEMA) dated October 9, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML20272A020 and ML20283A772, respectively), that requested a one-time exemption from the requirements in 10 CFR Part 50, Appendix E, Section IV.F.2.c, to exclude the participation of the offsite response organizations (OROs) in the biennial emergency preparedness (EP) exercise for calendar year (CY) 2020.

Susquehanna Nuclear, LLC (the licensee) holds Renewed Facility Operating License Nos. NPF-14 and NPF-22, which authorize operation of Susquehanna, Units 1 and 2, respectively. These licenses are subject to the rules, regulations, and orders of the Commission. The facility consists of two boiling-water reactors located in Luzerne County, Pennsylvania.

By letter dated September 28, 2020, the licensee submitted a request for temporary exemption from Appendix E to 10 CFR Part 50, Section IV.F.2.c, regarding the performance of the CY 2020 biennial EP exercise for responsible OROs.

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.

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:

- The requested exemption supports the continued implementation of the isolation activities (e.g., social distancing, group size limitations, self-quarantining) to protect required ORO personnel in response to the COVID-19 PHE. These activities are needed to ensure that supporting State and local government personnel are isolated from the COVID-19 virus and remain capable of executing the functions of the emergency response organization, as described in the Susquehanna Emergency Plan, as well as other non-nuclear health and safety functions for the benefit of the public. In June 2020, the OROs notified PEMA of their concerns with supporting the biennial EP exercise and maintaining protection of offsite staff during the current COVID-19 PHE response. Based on these concerns, the needed response to the PHE, and the uncertainty of the future in this matter, seeking a one-time exemption regarding the ORO participation in the CY 2020 biennial EP exercise was determined to be the most appropriate action.
- The threat of COVID-19 spread resulted in the inability to safely conduct, with ORO participation, the biennial EP exercise held on October 20, 2020, due to implementation of isolation activities (e.g., social distancing, group size limitations, self-quarantining, etc.). In addition, the Commonwealth of Pennsylvania and the Counties of Columbia and Luzerne, which are in the plume exposure EP zone, informed the licensee that the current COVID-19 PHE response impacted their ability to prepare for the scheduled exercise and that they would be challenged to participate in the exercise by putting an undue burden on staff and volunteers. Columbia and Luzerne Counties and the Commonwealth of Pennsylvania will maintain their current emergency plans and remain able to respond to an emergency. The exemption would not hinder the ability of Susquehanna, Units 1 and 2; Columbia and Luzerne Counties; and the Commonwealth of Pennsylvania to respond should an actual emergency occur.
- This one-time schedular exemption to not conduct the ORO participation portion of the biennial EP exercise in CY 2020 supports continued implementation of the isolation activities (e.g., social distancing, group size limitations, self-quarantining, etc.) to protect required emergency response organization and ORO personnel in response to the COVID-19 PHE.
- The last biennial EP exercise was conducted on October 16, 2018. Since that time, the licensee has conducted drills, exercises, and other training activities that have exercised its emergency response strategies, in coordination with offsite authorities. These activities included, in part, a full participation exercise on August 28, 2019, and limited participation (i.e., taking Emergency Offsite Notification Reports) exercises on June 25, July 9, August 13, September 4, and October 29, 2019, and July 28, 2020.

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

- The licensee will continue to conduct drills and exercises as evidenced by its conduct of the onsite participation portion of the CY 2020 biennial EP exercise required under Appendix E to 10 CFR Part 50, Section IV.F.2.c on October 20, 2020.
- The licensee made a reasonable effort to reschedule ORO participation in the biennial EP exercise during CY 2020 with the respective OROs but was unsuccessful. As addressed in ORO letters included in the exemption request, it was agreed that it was not feasible to schedule ORO participation in the exercise in CY 2020 or in CY 2021 due to uncertainty of COVID-19 isolation actions and conflicts with other NRC inspections.
- The licensee also noted that the ORO will maintain its current emergency plans and remain able to respond to an emergency during the COVID-19 PHE. The exemption from ORO participation in the CY 2020 biennial EP exercise does not obviate the ability to respond should an actual emergency occur. Specifically, the letters from PEMA and Columbia and Luzerne Counties state that they remain committed to maintaining their radiological emergency plans and that they are fully prepared for and can handle any emergency throughout the COVID-19 PHE, including an actual incident at Susquehanna.

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, 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 offsite participation portion of the biennial EP exercise from CY 2020 until CY 2022. 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.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 NRC recognizes that even if a licensee were to be exempted from the requirement to conduct an offsite biennial exercise in CY 2020, in the event of an actual radiological emergency, offsite authorities would respond. Offsite authorities in all states are currently demonstrating response capabilities, including making decisions on protective actions for the public, in response to the COVID-19 PHE.² Additionally, the NRC continues to monitor U.S. nuclear power plants to ensure that they operate safely during the COVID-19 PHE and that defense in depth is maintained to prevent accidents from happening and to mitigate their consequences.

The NRC has consulted with the Federal Emergency Management Agency (FEMA) on the readiness of OROs and the use of this information to inform the NRC decision to grant exemptions, per the NRC/FEMA Memorandum of Understanding.³ FEMA has recently performed assessments of all offsite emergency response plan capabilities and has concluded that offsite radiological EP remains adequate to provide reasonable assurance that appropriate measures can and will be taken to protect the health and safety of the public in a radiological emergency during the COVID-19 PHE.⁴ FEMA monitors response and preparedness capabilities of the OROs to ensure that the response to the current PHE does not adversely impact their ability to protect the public health and safety in the event of a radiological emergency at a commercial nuclear power plant. Exercises are just one of the many methods by which FEMA assesses and validates the adequacy of ORO plans and ability to implement those plans. In accordance with current FEMA program guidance,⁵ FEMA has alternative means of conducting these assessments.

Based on the above, granting a request for exemption from the offsite participation portion of the 10 CFR Part 50, Appendix E, Section IV.F.2.c requirement for biennial EP exercises in CY 2020, with the next performance of the exercise with offsite participation to be no later than the end of CY 2022, would allow State and local governments to continue to focus their essential response efforts on the COVID-19 PHE. This exemption would apply only to the requirements of 10 CFR Part 50, Appendix E, Section IV.F.2.c, and would not address 44 CFR Part 350. An exemption from Section IV.F.2.c would not prevent a State or local authority, at its discretion, from demonstrating key skills in drills and exercises for the 8-year exercise cycle or prevent a State or local authority from conducting the exercise in CY 2020 or CY 2021.

The licensee stated that it has conducted drills, exercises, and other training activities that have exercised its emergency response strategies since the last evaluated biennial EP exercise and that State and local OROs have participated.

² COVID-19 Resources for State Leaders, Executive Orders – By State, accessed August 12, 2020, <https://web.csg.org/covid19/executive-orders/>

³ "Memorandum of Understanding (MOU) Between the Department of Homeland Security/Federal Emergency Management Agency and Nuclear Regulatory Commission Regarding Radiological Response, Planning and Preparedness," December 7, 2015 (ADAMS Accession No. ML15344A371)

⁴ FEMA Preparedness Assessments (ADAMS Accession Nos. ML20164A275, ML20174A603, ML20141L795, ML20170B043, ML20170B171, ML20167A175, ML20164A038, ML20154K696, ML20154K617, ML20150A110, and ML20162A056)

⁵ Program Manual, Radiological Emergency Preparedness, FEMA P-1028, December 2019, accessed August 12, 2020, https://www.fema.gov/media-library-data/1577108409695-4e49a0a56c8c62695dcc301272a1eda7/FEMA_REP_Program_Manual_Dec_2019.pdf

Therefore, the NRC staff finds that the underlying purposes of 10 CFR Part 50, Appendix E, Section, IV.F.2.c, are met with the rescheduled biennial EP exercise with offsite participation to occur in CY 2022.

- 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.”

Both PEMA and the plume exposure pathway emergency planning zone counties have informed the licensee that they support the request for a one-time exemption to exclude the participation of the OROs in the biennial EP exercise for CY 2020.

PEMA 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.

Therefore, granting the requested exemption from the 10 CFR Part 50, Appendix E, Section IV.F.2.c, requirement for offsite participation in the CY 2020 biennial EP exercise for Susquehanna, Units 1 and 2, with the next performance of the exercise with offsite participation to be no later than the end of CY 2022, would provide only temporary relief from the applicable regulation and 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, does not change any of the assumptions or limits used in the licensee’s safety analyses, and does not 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 Susquehanna, Units 1 and 2. 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 offsite participation portion of the biennial EP exercise in 10 CFR Part 50, Appendix E, Section IV.F.2.c.

This exemption expires on December 31, 2022, or when the offsite biennial EP exercise is performed in CY 2022, whichever occurs first.

If you have any questions, please contact the Susquehanna project manager, Sujata Goetz, at 301-415-8004 or by e-mail to Sujata.Goetz@nrc.gov.

Sincerely,

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

Docket Nos. 50-387 and 50-388

cc: Listserv

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 TEMPORARY EXEMPTION FROM BIENNIAL EMERGENCY PREPAREDNESS
 EXERCISE FREQUENCY REQUIREMENTS OF 10 CFR PART 50,
 APPENDIX E, “EMERGENCY PLANNING AND PREPAREDNESS FOR
 PRODUCTION AND UTILIZATION FACILITIES,” SECTION IV.F
 (EPID L-2020-LLE-0153 [COVID-19]) DATED NOVEMBER 6, 2020

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