



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

November 9, 2020

Mr. Christopher P. Domingos
Site Vice President
Northern States Power Company - Minnesota
Prairie Island Nuclear Generating Plant
1717 Wakonade Drive East
Welch, MN 55089

SUBJECT: PRAIRIE ISLAND NUCLEAR GENERATING PLANT, UNITS 1 AND 2 –
TEMPORARY EXEMPTION FROM REQUIREMENTS OF 10 CFR PART 50,
APPENDIX E, SECTIONS IV.F.2.B AND IV.F.2.C (EPID L-2020-LLE-0162
[COVID-19])

Dear Mr. Domingos:

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, Sections IV.F.2.b and IV.F.2.c for Prairie Island Nuclear Generating Plant, Units 1 and 2 (Prairie Island). This action is in response to your application dated October 7, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20281A665), that requested:

- a one-time exemption from the requirements in 10 CFR Part 50, Appendix E, Section IV.F.2.b to postpone conducting the calendar year (CY) 2020 biennial onsite emergency preparedness (EP) exercise until CY 2021, and
- a one-time exemption from the requirements in 10 CFR Part 50, Appendix E, Section IV.F.2.c for conducting the CY 2020 biennial offsite EP exercise.

Northern States Power Company (NSPM, the licensee) holds Renewed Facility Operating License Nos. DPR-42 and DPR-60, which authorize operation of Prairie Island. These licenses are subject to the rules, regulations, and orders of the Commission.

The facility consists of two pressurized-water reactors located in Goodhue County, Minnesota.

By letter dated October 7, 2020, the licensee 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 CY 2020 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 State and local 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 are not required to be performed simultaneously (i.e., exercises required by 10 CFR Part 50, Appendix E, Sections IV.F.2.b and 2.c).

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 licensee has implemented its pandemic response plan, which includes isolation activities such as mandatory work-from-home, self-quarantining, social distancing, and travel restrictions. Similar isolation activities are being practiced by State, county, and local offsite personnel. These isolation activities are intended to protect both onsite emergency response organization (ERO) and offsite response organization (ORO) personnel to ensure that they are available for an actual radiological emergency at Prairie Island. The requested one-time exemption supports the continued implementation of these isolation activities.
- The threat of COVID-19 spread has resulted in the inability to safely conduct the biennial EP exercise that was scheduled for December 1, 2020 due to implementation of isolation activities (e.g., social distancing, group size limitations, self-quarantining, etc.). Further, the State of Minnesota, with concurrence from Goodhue County (the county in which Prairie Island is located) and Dakota County, and the State of Wisconsin, with concurrence from Pierce County, have informed the licensee that they have concerns with supporting the biennial EP exercise in 2020 in the interest of protecting State and local staff, and Federal evaluators.
- This one-time schedular exemption to allow for the conduct of the CY 2020 biennial onsite EP exercise in CY 2021 and to not conduct the CY 2020 biennial offsite EP exercise supports the 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.

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

- The last biennial EP exercise was conducted on July 17, 2018. Since that time, the licensee has conducted drills and other training activities that have exercised its emergency response strategies. State and local OROs participated in the following:
 - April 2019 – Limited State and local participation;
 - July 2019 – Limited State and local participation; and
 - March 4, 2020 – Officials from the Minnesota Planning and Assessment Center, the Wisconsin State Radiological Center, and Prairie Island Radiological Protection staff conducted a planning workshop designed for those personnel to discuss and coordinate the tasks they need to accomplish during a radiological emergency.
- The licensee will continue to conduct drills and other training activities that exercise its emergency response strategies.
- The licensee made a reasonable effort to reschedule the biennial EP exercise during CY 2020, but was unsuccessful. The licensee initially rescheduled the exercise date from July 21, 2020, to December 1, 2020; however, due to the ongoing PHE and uncertainty of the future in this matter, this date is no longer feasible. The licensee has coordinated with NRC Region III and rescheduled the CY 2020 biennial onsite EP exercise to June 8, 2021. As noted in attachments to the licensee's letter dated October 7, 2020:

The State of Minnesota has been working with the Federal Emergency Management Agency (FEMA) to ensure that all exercise criterion for the 2020 Prairie Island Exercise have been demonstrated and has also scheduled a number of tabletop discussions to demonstrate the remaining criterion.

The Wisconsin Emergency Management, the Wisconsin Department of Health Services Radiation Protection Section, and Pierce County Emergency Management are committed to maintaining a high level of readiness through continued collaboration and frequent consultation with FEMA.

- The date of the rescheduled biennial onsite EP exercise (i.e., June 8, 2021) falls within 35 months from the month of the previously evaluated biennial EP exercise conducted on July 17, 2018. However, a potential exists that this exercise would need to be rescheduled beyond the 35 months. Therefore, the licensee continues to coordinate with NRC Region III to ensure that the Prairie Island exercise is conducted no later than December 31, 2021. If the date of the rescheduled biennial onsite EP exercise is ultimately greater than 35 months from the month of the previously evaluated biennial EP exercise, then the staff will confirm 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. Therefore, this exemption would postpone the CY 2020 biennial onsite EP exercise to CY 2021. Future biennial EP exercises would continue to be held in even-numbered years.
- The OROs continue to maintain readiness to respond to an actual radiological emergency at Prairie Island. The OROs agree with the licensee's request for an exemption.

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 CY 2020 biennial onsite EP exercise to CY 2021 and to not conduct the CY 2020 biennial offsite EP exercise. Thus, the probability and consequences of postulated accidents are not increased. In addition, the requested exemption 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 to allow the licensee to postpone the CY 2020 biennial onsite EP exercise to CY 2021 and to not conduct the CY 2020 biennial offsite EP exercise 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 training drills exercising the principle functional areas of emergency response since the last evaluated biennial EP exercise with no performance issues and has conducted other training activities that exercised Prairie Island emergency response strategies, in coordination with offsite authorities, and will continue to conduct drills and other training activities that exercise its emergency response strategies. In addition, the licensee stated that it understands that approval of the exemption request to postpone the CY 2020 biennial onsite EP exercise to CY 2021 and to not conduct the CY 2020 biennial offsite EP exercise will not impact the future biennial exercise schedule and that the exercises will continue to be held in even years.

Based on the above, the NRC staff finds that the underlying purposes of these regulations are met, in part, by the licensee having conducted, and continuing to conduct, preparedness activities and establishing a date for the rescheduled biennial

onsite EP exercise of June 8, 2021 (but no later than December 31, 2021), with the biennial offsite EP exercise to occur in CY 2022.

Additionally, with respect to the exemption request to not conduct the CY 2020 biennial offsite EP exercise, the NRC recognizes that 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 Moreover, the NRC continues to regulate 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 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 OROs' 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 the request for exemption from the 10 CFR Part 50, Appendix E, Section IV.F.2.c requirement for biennial offsite EP exercises in CY 2020, with the next performance of the exercise to be no later than the end of CY 2022, would allow State, counties, 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.

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

- 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.”

The licensee has determined that the originally scheduled exercise date (previously postponed from July to December 2020) 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 Prairie Island Emergency Plan. A tentative date of June 8, 2021 (but no later than December 31, 2021), has been established for the conduct of the CY 2020 biennial onsite EP exercise.

On April 14, 2020, the licensee conducted a teleconference regarding the scheduled CY 2020 biennial offsite EP exercise with representatives from Minnesota Homeland Security and Emergency Management (HSEM), Wisconsin Emergency Management (WEM), Goodhue County, Dakota County, and Pierce County. During this call, these OROs determined that conduct of this exercise may pose undue risk to public health and safety, specifically, their staff, State and local partners, and Federal evaluators. In addition, the licensee has implemented isolation activities (e.g., social distancing, group size limitations, self-quarantining, etc.) to protect required ERO personnel in response to COVID-19. For these reasons, the July 21, 2020, exercise was rescheduled to December 1, 2020; however, due to the ongoing COVID-19 PHE and uncertainty of the future in this matter, this date is no longer feasible. The States of Minnesota and Wisconsin 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 allow the licensee to postpone the CY 2020 biennial onsite EP exercise to CY 2021 and to not conduct the CY 2020 biennial offsite EP exercise, with the next performance of the exercise to be no later than the end of CY 2022, would provide only temporary relief from the applicable regulations and that the licensee has made good faith efforts to comply with the regulations.

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 Prairie Island. 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 *Federal Register* 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 onsite EP exercise in 10 CFR Part 50, Appendix E, Section IV.F.2.b, and from the requirements for the biennial offsite EP exercise in 10 CFR Part 50, Appendix E, Section IV.F.2.c to postpone conducting the CY 2020 biennial onsite EP exercise until CY 2021 and to not conduct the CY 2020 biennial offsite EP exercise.

The exemption with respect to the biennial onsite EP exercise requirement expires on December 31, 2021; the exemption with respect to the biennial offsite EP exercise requirement expires on December 31, 2022, or when the biennial offsite EP exercise is performed in CY 2022, whichever occurs first.

C. Domingos

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If you have any questions, please contact Robert Kuntz, Senior Project Manager at 301-415-3733 or at Robert.Kuntz@nrc.gov.

Sincerely

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

Docket Nos. 50-282 and 50-306

cc: Listserv

SUBJECT: PRAIRIE ISLAND NUCLEAR GENERATING PLANT, UNITS 1 AND 2 –
 TEMPORARY EXEMPTION FROM REQUIREMENTS OF 10 CFR PART 50,
 APPENDIX E, SECTIONS IV.F.2.B AND IV.F.2.C (EPID L-2020-LLE-0162
 [COVID-19]) DATED NOVEMBER 9, 2020

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