



Conference of Radiation Control Program Directors, Inc.

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October 22, 2020

Christopher Grisafe, Associate Administrator, Resilience
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There is currently an outbreak of respiratory disease caused by a novel coronavirus, “Coronavirus Disease 2019” (COVID-19). On January 31, 2020, the U.S. Department of Health and Human Services (HHS) issued a declaration of a public health emergency (PHE) related to COVID-19 and mobilized the Operating Divisions of HHS. On March 13, 2020, President Trump declared a national emergency in response to COVID-19 and major disaster declarations have been declared in all states. In the last six months the response to COVID-19 has been to cancel large gatherings and to implement social distancing in public settings. Emergency Exercises conducted in support of the requirements for licensing of large light water reactors have traditionally involved large numbers of participants in close proximity. A number of these offsite participants have been, and continue to be, engaged in the response to COVID-19.

For these reasons, CRCPD has sent letters to FEMA and the NRC (copies attached) recommending the cancellation of these exercises until after the PHE is terminated and response staff have time to incorporate the lessons learned from this real-life emergency. In response to these letters the NRC held a public meeting on exemptions from radiological emergency exercises in June; and on September 11, 2020, the NRC issued Temporary Staff Guidance No. TSG-NSIR-2020-01, COVID-19 RELATED EXEMPTIONS FROM NRC REGULATIONS-EMERGENCY PREPAREDNESS EXERCISES. In this guidance, the licensees requesting the exemption from NRC coordinate with state and local offsite response organizations (OROs) both to determine if the PHE is impacting their ability to conduct exercises as well as ensuring that they remain capable of responding to emergencies per their radiological emergency preparedness (REP) plan. In addition, FEMA has previously conducted a capabilities assessment and determined that state and local OROs remain capable of responding to emergencies. Recently, the NRC responded to our July 24, 2020 letter, and FEMA, responded to our April letter, but the response did not sufficiently address our concern. In addition, during a September 24, 2020 NRC government-to-government meeting, it was identified by several participants that FEMA and NRC appear to have different interpretations of whether offsite authorities need to conduct a biennial exercise if the NRC has granted an exemption.

Specifically, the CRCPD is writing to FEMA as currently once the NRC approves an exemption from a biennial offsite exercise as required by 10 CFR 50 Appendix E, Section IV.F.2.c, FEMA has not clearly stated what requirements remain for the biennial exercise. It appears that FEMA’s interpretation of 44 CFR 350.9.c, is that OROs are still required to participate in biennial exercises. At issue is the requirement to conduct an offsite biennial exercise and whether the exercise is needed to fulfill the requirements under the REP program. NRC’s statements on the record, and in their September letter, clearly indicate that the biennial exercise is not needed for the REP program once the NRC approves the licensee’s exemption request for section IV.F.2.c.

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From a historical perspective, offsite emergency preparedness has been a FEMA responsibility since December 12, 1979 when a presidential directive was issued. Shortly thereafter, in January of 1980, a Memorandum of Understanding (MOU) between FEMA and NRC was issued which clarified the roles and responsibilities of the two agencies. The latest version of this MOU was issued in December of 2015. It clearly states that FEMA will take the lead in reviewing offsite emergency plans and preparedness for adequacy. It also clearly states that the NRC will review any FEMA findings and determinations as to whether these offsite plans and preparedness are adequate. This MOU states that both FEMA and the NRC will conduct joint exercises and determine exercise requirements for licensees and state and local governments. As previously stated once the NRC approves the licensee's exemption under Section IV.F.2.c, then FEMA is absolved under the REP program to provide any findings for exercises as long as the exemption is in effect. The MOU also establishes a Joint FEMA/NRC Steering Committee on Emergency Preparedness to ensure that cooperation exists in radiological emergency response planning. Under the MOU it would seem that FEMA and NRC need to reach agreement on the necessity to conduct offsite biennial exercises when an exemption is approved by the NRC under section IV.F.2.c. FEMA personnel have stated in recent meetings that offsite exercises should be conducted. CRCPD, representing a number of radiological response professionals and working closely with our state emergency directors, is concerned that FEMA and NRC are sending conflicting messages. NRC's position appears to be that COVID-19 is a sufficient emergency to request an exemption of the licensee's requirement to conduct a biennial exercise. On the other hand, FEMA is stating that they do not believe that COVID-19 is a sufficient level of emergency to suspend exercises even when the NRC states, in essence, that they are not needed for the REP program and, by extension, for demonstration of reasonable assurance. CRCPD remains concerned, as stated previously in our letter to FEMA, that there does not seem to be appropriate sensitivity to the impact the current PHE poses for state and local emergency responders.

In summary there continues to be an outbreak of respiratory disease caused by a novel coronavirus, "Coronavirus Disease 2019" (COVID-19). CRCPD continues to believe that at this time the health risks of large gatherings such as radiological emergency exercises exceed the benefit given the exemplary record established by OROs in over 40 years of successful exercises. While regulatory relief for these exercises through the NRC's exemption process is appreciated, FEMA and NRC need to reach agreement on what an exemption under section IV.F.2.c of Appendix E to 10 CFR 50 ultimately means in regard to the need to conduct exercises by OROs.

Sincerely,



Kimberly Steves
CRCPD Chairperson

CC: Chad Gorman, Assistant Administrator, National Preparedness Directorate
FEMA