



Energy Harbor Nuclear Corp.
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L-20-281

10 CFR 73.5

ATTN: Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

SUBJECT:

Perry Nuclear Power Plant, Unit No. 1
Docket No. 50-440, License No. NPF-58
Request for a One-Time Exemption from 10 CFR 73, Appendix B, Section VI,
Subsection C.3.(l)(1) Regarding Annual Force-on-Force (FOF) Exercises, Due to
COVID 19 Pandemic

Reference: NRC Letter, PERRY NUCLEAR POWER PLANT, UNIT NO. 1 – REQUEST FOR TEMPORARY EXEMPTION FROM CERTAIN REQUIREMENTS OF 10 CFR PART 73, APPENDIX B, “GENERAL CRITERIA FOR SECURITY PERSONNEL” (L-2020-LLE-0034 THROUGH L-2020-LLE-0040 [COVID-19]), dated May 11, 2020

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). On March 9, 2020, the Governor of the State of Ohio declared a state of emergency. In addition, on March 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization and, on March 13, 2020, the President of the United States of America declared the Coronavirus (COVID-19) pandemic a national emergency.

In response to these declarations and in accordance with the Energy Harbor Nuclear Corp. pandemic response plan, Energy Harbor Nuclear Corp. requested and the NRC subsequently approved by letter dated May 11, 2020 (Reference), a temporary exemption from 10 CFR 73, Appendix B, Section VI, Subsection C.3.(l)(1), regarding annual force-on-force (FOF) exercises for Perry Nuclear Power Plant, Unit No. 1 (PNPP). The exemption was necessary because isolation protocols (for example, social distancing, group size limitations, self-quarantining, and so on) restrict activities associated with conducting annual FOF exercises and was necessary to maintain a healthy workforce during the pandemic. The approved temporary exemption expires December 31, 2020.

In the request for exemption Energy Harbor Nuclear Corp. committed to restore compliance with 10 CFR Part 73, Appendix B and the PNPP Training and Qualification Plan at the conclusion of the PHE. The exemption request characterized the duration of the PHE as "not currently known," and therefore Energy Harbor Nuclear Corp. requested 90 days after the PHE is ended, or until December 31, 2020, whichever occurs first to restore compliance with 10 CFR 73, Appendix B and the PNPP Training and Qualification Plan. However, the PHE has not ended and continues to impact the ability of Energy Harbor Nuclear Corp. to conduct annual FOF exercises at PNPP. Because the temporary exemption expires December 31, 2020, Energy Harbor Nuclear Corp. requests a one-time exemption from conducting 2020 annual FOF exercises as required by 10 CFR 73, Appendix B, Section VI, Subsection C.3.(I)(1) at PNPP. This one-time exemption would supersede the previously approved exemption to restore compliance with 10 CFR Part 73, Appendix B and the PNPP Training and Qualification Plan at the conclusion of the PHE. Approval of this exemption will continue to support the isolation protocols necessary to protect essential site personnel. These restrictions are needed to ensure personnel are isolated from COVID-19 and remain capable of maintaining plant security.

The proposed one-time exemption will apply specifically to security personnel that the temporary approved exemption applied.

There are no regulatory commitments contained in this submittal. If there are any questions or if additional information is required, please contact Mr. Phil H. Lashley, Manager - Fleet Licensing at (330) 696-7208.

Sincerely,



Frank R. Payne

Enclosure:
Security 2020 Annual Force-on-Force Exercise One-Time Exemption Request

cc: NRC Region III Administrator
NRC Resident Inspector
NRR Project Manager

1.0 SUMMARY DESCRIPTION

Energy Harbor Nuclear Corp. requests a one-time exemption from conducting 2020 annual force-on-force (FOF) exercises as required by 10 CFR 73, Appendix B, Section VI, Subsection C.3.(l)(1) at Perry Nuclear Power Plant, Unit No. 1 (PNPP). This one-time exemption would supersede the previously approved exemption to restore compliance with 10 CFR Part 73, Appendix B and the PNPP Training and Qualification Plan at the conclusion of the public health emergency (PHE) or prior to December 31, 2020, whichever occurred first. Approval of this exemption will continue to support the isolation protocols necessary to protect essential site personnel. These restrictions are needed to ensure personnel are isolated from COVID-19 and remain capable of maintaining plant security.

2.0 BACKGROUND

By letter dated May 11, 2020, the Nuclear Regulatory Commission (NRC) was approved a temporary exemption from 10 CFR 73, Appendix B, Section VI, Subsection C.3.(l)(1) for Energy Harbor Nuclear Corp. regarding annual FOF exercises (Reference 1). The exemption was in response to the COVID-19 PHE and was necessary because isolation protocols (for example, social distancing, group size limitations, self-quarantining, and so on) restrict activities associated with conducting annual FOF exercises and was necessary to maintain a healthy workforce during the pandemic. The approved temporary exemption expires December 31, 2020.

3.0 EXEMPTION DETAILS

In the request for exemption, Energy Harbor Nuclear Corp. committed to restore compliance with 10 CFR Part 73, Appendix B and the PNPP Training and Qualification Plan at the conclusion of the PHE or prior to December 31, 2020, whichever occurred first. The exemption request characterized the duration of the PHE as "not currently known," and therefore Energy Harbor Nuclear Corp. requested 90 days after the PHE is ended, or December 31, 2020, whichever occurs first to restore compliance with 10 CFR 73, Appendix B and the PNPP Training and Qualification Plan. However, the PHE has not ended and continues to impact Energy Harbor Nuclear Corp. to conduct annual FOF exercises at PNPP. Because the temporary exemption expires December 31, 2020, Energy Harbor Nuclear Corp. requests a one-time exemption from conducting 2020 annual FOF exercises as required by 10 CFR 73, Appendix B, Section VI, Subsection C.3.(l)(1) at PNPP. This one-time exemption would supersede the previously approved exemption to restore compliance with 10 CFR Part 73, Appendix B and the PNPP Training and Qualification Plan at the conclusion of the PHE. Approval of this one-time exemption will continue to support the isolation protocols necessary to protect essential site personnel. These restrictions are needed to ensure personnel are isolated from COVID-19 and remain capable of maintaining plant security.

The proposed one-time exemption will apply specifically to security personnel that the temporary approved exemption applied.

4.0 TECHNICAL JUSTIFICATION OF ACCEPTABILITY

The U.S. Centers for Disease Control (CDC) has issued recommendations advising “social distancing” to prevent the spread of COVID-19 (Reference 2). Energy Harbor Nuclear Corp. has implemented isolation activities at PNPP such as self-quarantining, group size limitations and social distancing to protect required site personnel in accordance with NEI 06-03, *Pandemic Threat Planning, Preparation, and Response Reference Guide* (Reference 3). Ideally this will limit the spread of the virus among the station staff. This required Energy Harbor Nuclear Corp. to request a temporary exemption at PNPP from annual FOF exercises because these isolation protocols restrict certain activities associated with the conduct of annual FOF exercises. Maintaining a healthy workforce is preferable to having a sick workforce that is unavailable during a pandemic.

The proposed one-time exemption will apply specifically to security personnel that the temporary approved exemption applied. Impacted security personnel continue to maintain proficiency with the knowledge, skills, and abilities required to effectively implement the protective strategy to protect the station against the design basis threat as described in 10 CFR 73.1, Purpose and Scope, because Energy Harbor Nuclear Corp. has continued to conduct the following training requalification requirements of Section VI of Appendix B to Part 73 at PNPP.

- Annual firearms familiarization
- Annual daylight qualification course
- Annual night fire qualification course
- Annual tactical qualification course
- On-the-job training
- Annual physical examination
- Annual physical fitness test
- Weapons range activity (4-month periodicity)
- Annual written exam

In addition, and in accordance with the approved temporary exemption, Energy Harbor Nuclear Corp. conducted individual table top discussions during the shift and review of response locations with adherence to social distancing standards, provided officers with shift discussion topics utilizing lessons learned from previous exercises and based on training lesson plans and material objectives, and provided for officer follow up questions and answers relevant to the focus topics with adherence to social distancing standards at PNPP with all impacted security personnel. Therefore, Energy Harbor

Nuclear Corp. continues to maintain a physical protection program at PNPP that provides high assurance that the health and safety of the public will not be inimical to the common defense and security and does not constitute an unreasonable risk to the public health and safety.

5.0 JUSTIFICATION OF EXEMPTION

10 CFR 73.5, Specific exemptions, states that the Nuclear Regulatory Commission (NRC) may grant exemptions from the requirements of the regulations of this part provided three conditions are met. They are:

- (1) The exemptions are authorized by law.
- (2) The exemptions will not endanger life or property or the common defense and security, and
- (3) The exemptions are otherwise in the public interest.

Energy Harbor Nuclear Corp. has evaluated the requested exemption against the criteria of 10 CFR 73.5 and determined the criteria are satisfied as described below.

1. This exemption is authorized by law.

The security training requalification requirements in Appendix B to Part 73 are not required by any statute. The requested exemption is authorized by law in that no law precludes the activities covered by this exemption request. Granting of the request does not result in a violation of the Atomic Energy Act of 1954, as amended.

2. This exemption will not endanger life or property or the common defense and security.

The requested exemption will not endanger life or property or the common defense and security. The requested exemption is a one-time exemption. Energy Harbor Nuclear Corp. had scheduled these requalification activities to comply with the regulation. However, these activities must be exempted for the year 2020 to allow continued implementation of the Energy Harbor Nuclear Corp. pandemic plan mitigation strategies. These strategies serve the public interest by ensuring adequate staff isolation and maintaining staff health to perform their job function actions during the COVID-19 pandemic.

The proposed exemption is related only to the conduct of annual FOF exercises and does not change physical security plans or the defensive strategy. Security personnel impacted by this request were qualified on all required tasks at the time of the PHE. Impacted security personnel continue to maintain proficiency with the knowledge, skills, and abilities required to effectively implement the protective strategy to protect the station against the design basis threat because Energy Harbor Nuclear Corp. has continued to conduct other training requalification requirements at PNPP as identified in section 4.0. In addition, security personnel will continue to be monitored regularly by

supervisory personnel and have implemented controls as identified in the approved temporary exemption. Therefore, granting the requested one-time exemption will not endanger or compromise the common defense or security, or safeguarding PNPP.

3. This exemption is otherwise in the public interest.

The Energy Harbor Nuclear Corp. pandemic response plan is based on NEI 06-03, *Pandemic Threat Planning, Preparation, and Response Reference Guide* (Reference 3), which recommends isolation strategies such as sequestering, use of super crews or minimum staffing as applicable as well as social distancing, group size limitations, and self-quarantining, in the event of a pandemic, to prevent the spread of the virus to the plant. Reference 3 provides other mitigation strategies that serve the public interest during a pandemic by ensuring adequate staff is isolated from the pandemic and remains healthy to perform their job function.

Ensuring PNPP is in operation during the pandemic will help to support the public need for reliable electricity supply to cope with the pandemic. As the US Departments of Homeland Security and Energy have stated in their guidance, the electric grid and nuclear plant operation make up the nation's critical infrastructure similar to the medical, food, communications, and other critical industries. If the plant operation is impacted because it cannot comply with the security training requalification requirements while isolation activities are in effect for essential crew members, the area electrical grid would lose this reliable source of baseload power. In addition, PNPP personnel could face the added transient challenge of shutting down their respective plant and possibly not restarting it until the pandemic passes. This does not serve the public interest in maintaining a safe and reliable supply of electricity.

6.0 CONCLUSION

As demonstrated above, Energy Harbor Nuclear Corp. considers that this one-time exemption request is in accordance with the criteria of 10 CFR 73.5. Specifically, 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. A one-time exemption for the conduct of the 2020 annual FOF exercises at PNPP is required during and recovery from the COVID-19 pandemic.

7.0 ENVIRONMENTAL ASSESSMENT

Energy Harbor Nuclear Corp. is requesting a one-time exemption from the conduct of 2020 annual FOF exercises. Specifically, Energy Harbor Nuclear Corp. is requesting a one-time exemption from the requirements of Section VI.C.3.(I)(1) of Appendix B of Part 73, regarding the conduct of annual FOF exercises. The following information is provided in support of an environmental assessment and finding of no significant impact for the proposed exemption.

Energy Harbor Nuclear Corp. has determined that the exemption involves no significant increase in the amounts, and no significant change in the types, of any effluents that may be released offsite; that there is no significant increase in individual or cumulative public or occupational radiation exposure; that there is no construction impact; and there is no significant increase in the potential for or consequences from a radiological accident. Furthermore, the requirements for which an exemption is being requested involve security 2020 annual FOF exercise requirements. Accordingly, the proposed one-time exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(25). Pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the issuance of this proposed exemption request.

8.0 REFERENCES

1. NRC Letter, PERRY NUCLEAR POWER PLANT, UNIT NO. 1 – REQUEST FOR TEMPORARY EXEMPTION FROM CERTAIN REQUIREMENTS OF 10 CFR PART 73, APPENDIX B, “GENERAL CRITERIA FOR SECURITY PERSONNEL” (L-2020-LLE-0034 THROUGH L-2020-LLE-0040 [COVID 19]), dated May 11, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20119A051).
2. “Interim Guidance for Businesses and Employers,” retrieved from <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>, on March 17, 2020.
3. NEI 06-03, “Pandemic Threat Planning, Preparation, and Response Reference Guide,” Revision 2, February 2020.