



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

December 14, 2020

Mr. Rod L. Penfield  
Site Vice President  
Energy Harbor Nuclear Corp.  
Perry Nuclear Power Plant  
P.O. Box 97, Mail Stop A-PY-A290  
Perry, OH 44081-0097

SUBJECT: PERRY NUCLEAR POWER PLANT, UNIT NO. 1 – EXEMPTION FROM ANNUAL FORCE-ON-FORCE EXERCISE REQUIREMENT OF 10 CFR PART 73, APPENDIX B, “GENERAL CRITERIA FOR SECURITY PERSONNEL,” SECTION VI.C.3(I)(1) (EPID L-2020-LLE-0176 [COVID-19])

Dear Mr. Penfield:

The U.S. Nuclear Regulatory Commission (NRC, the Commission) has approved the requested exemption from a specific requirement of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, Appendix B, Section VI, “Nuclear Power Reactor Training and Qualification Plan for Personnel Performing Security Program Duties,” for Perry Nuclear Power Plant, Unit No. 1 (PNPP) for calendar year (CY) 2020. This action is in response to Energy Harbor Nuclear Corp.’s (EHNC, or the licensee) application dated October 29, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20304A191), as supplemented by letter dated November 25, 2020 (ADAMS Accession No. ML20335A531), that requested an exemption from 10 CFR Part 73, Appendix B, Section VI, subsection C.3.(I)(1), regarding annual force-on-force (FOF) exercises for CY 2020 at PNPP.

The requirements in 10 CFR Part 73, Appendix B, Section VI, subsection C.3.(I)(1), state, in part:

Each member of each shift who is assigned duties and responsibilities required to implement the safeguards contingency plan and licensee protective strategy participates in at least . . . one (1) force-on-force exercise on an annual basis. Force-on-force exercises conducted to satisfy the NRC triennial evaluation requirement can be used to satisfy the annual force-on-force requirement for the personnel that participate in the capacity of the security response organization.

The purpose of the annual licensee-conducted FOF exercises is to ensure that the site security force maintains its contingency response readiness. Participation in these exercises also supports the requalification of security force members.

On January 31, 2020, the U.S. Department of Health and Human Services declared a Coronavirus Disease 2019 (COVID-19) public health emergency (PHE) for the United States. Subsequently, the Centers for Disease Control and Prevention issued recommendations (e.g., social distancing, limiting assemblies) to limit the spread of COVID-19. On May 11, 2020 (ADAMS Accession No. ML20119A051), the NRC granted EHNC’s previous request for

temporary exemption from 10 CFR Part 73, Appendix B, Section VI, subsection C.3.(l)(1). That exemption is set to expire on December 31, 2020. As such, the licensee is required to conduct any missed annual licensee-conducted FOF exercises by December 31, 2020.

The licensee's application dated October 29, 2020, states, in part, the following:

- The PHE has not ended and continues to impact the ability of EHNC to conduct annual FOF exercises at PNPP.
- This exemption supports ongoing isolation restrictions (e.g., social distancing, group size limitations, self-quarantining, etc.) that are necessary to protect required site personnel in response to the COVID-19 virus.
- This exemption is needed to ensure personnel are isolated from the COVID-19 virus and remain capable of maintaining plant security.
- 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 EHNC has continued to conduct the following training requalification requirements of 10 CFR Part 73, Appendix B, Section VI, 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
- EHNC 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.

The licensee's November 25, 2020, letter states, in part:

The PNPP pandemic plan has impacted the station's ability to perform annual FOF exercises safely due to the following:

- Site personnel have tested positive for the virus and additional personnel have been quarantined since inception of the pandemic at various levels within the organization.
- The rate of infection has increased in the state of Ohio as well as in Lake County where PNPP is located.

- Pandemic protocols impact exercise play. Participants in the exercise must be within six feet of each other for prolonged periods of time. Area monitor and controller personnel have been reduced due to the PHE.

Not conducting annual FOF exercises due to the reasons listed in this request are consistent with the requirement of Appendix B to Part 73, Section VI, C.3.(1)(5); "Tactical response drills and force-on-force exercises are conducted safely and in accordance with site safety plans."

This exemption is specific to CY 2020 and PNPP security personnel who have previously demonstrated proficiency and are currently qualified in accordance with the requirements of 10 CFR Part 73, Appendix B, Section VI. The licensee stated that the proposed exemption does not change physical security plans or the defensive strategy; 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 EHNC has continued to conduct other security training requalification requirements; and security personnel will continue to be monitored regularly by supervisory personnel and have implemented controls as identified in the approved temporary exemption granted on May 11, 2020. Therefore, granting the requested exemption will not endanger or compromise the common defense or security or safeguarding of PNPP. Additionally, the October 29, 2020, request identified the site-specific actions listed above that continue to occur at PNPP to maintain contingency response readiness, consistent with the NRC staff's October 13, 2020, letter (ADAMS Accession No. ML20273A117).

Pursuant to 10 CFR 73.5, "Specific exemptions," the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 73 when the exemptions are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest.

In accordance with 10 CFR 73.5, the Commission may grant an exemption from the regulations in 10 CFR Part 73 that is authorized by law. The NRC staff has reviewed the exemption request and finds that granting the proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or other laws. Therefore, the NRC staff finds that the exemption is authorized by law.

In accordance with 10 CFR 73.5, the Commission may grant an exemption from the regulations in 10 CFR Part 73 when the exemption will not endanger life or property or the common defense and security. This exemption will only apply to licensee security personnel who are already satisfactorily qualified on the security requirements in 10 CFR Part 73, Appendix B, Section VI. Based on this fact, and its review of the controls that the licensee will continue to conduct for the duration of the exemption, including continuing to conduct quarterly tactical response drills and other security requalification requirements, the NRC staff has reasonable assurance that the security force at PNPP will maintain its proficiency and readiness to implement the licensee's protective strategy and adequately protect the site. Therefore, the NRC staff concludes that the proposed exemption would not endanger life or property or the common defense and security.

In accordance with 10 CFR 73.5, the Commission may grant an exemption from the regulations in 10 CFR Part 73 when the exemption is in the public interest. The NRC staff finds that the exemption from the annual FOF exercise requirement in 10 CFR Part 73, Appendix B, Section VI, subsection C.3.(1)(1), for CY 2020 would facilitate the licensee's efforts to maintain a healthy workforce capable of operating the plant safely and implementing the site's protective

strategy by isolating security personnel from potential exposure to the COVID-19 virus. The NRC staff concludes that granting the exemption for CY 2020 is in the public interest because it allows the licensee to maintain the required security posture at PNPP, while enabling the facility to continue to provide electrical power to the Nation.

### **Environmental Considerations**

NRC approval of this exemption request is categorically excluded under 10 CFR 51.22(c)(25), and there are no special 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 this exemption is sought involve education, training, experience, qualification, requalification, or other employment suitability requirements. The NRC staff also determined that approval of this exemption request involves no significant hazards consideration because it does not authorize any physical changes to the facility or any of its safety systems, nor does it change any of the assumptions or limits used in the facility 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 facility 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; and no significant increase in the potential for or consequences from radiological accidents because this exemption does not alter any of the assumptions or limits in the facility 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 this exemption request.

### **Conclusions**

Accordingly, the NRC has determined that pursuant to 10 CFR 73.5, the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the NRC hereby grants the licensee's request to exempt PNPP from the annual FOF exercise requalification requirement of security personnel in subsection C.3.(I)(1) of 10 CFR Part 73, Appendix B, Section VI. This exemption applies only to those FOF exercises required during CY 2020.

R. Penfield

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If you have any questions, please contact the PNPP project manager, Scott P. Wall, at 301-415-2855 or via e-mail at [Scott.Wall@nrc.gov](mailto:Scott.Wall@nrc.gov).

Sincerely,

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

Docket No. 50-440

cc: Listserv

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**ADAMS Accession No.: ML20309A135**

**\*via email**

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