



**Nebraska Public Power District**

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10 CFR 73.5

NLS2020064  
October 27, 2020

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

Subject: Request for a One-Time Exemption from 10 CFR 73, Appendix B, Section VI, Subsection C.3.(1)(1) Regarding Annual Force-on-Force (FOF) Exercises, Due to COVID 19 Pandemic  
Cooper Nuclear Station, Docket No. 50-298, License No. DPR-46

- References:
1. Letter from Craig Erlanger, Nuclear Regulatory Commission to John Dent, Jr., Nebraska Public Power District, "Cooper Nuclear Station - Temporary Exemption from Certain Requirements of 10 CFR Part 73, Appendix B, "General Criteria for Security Personnel," Section VI (EPID L-2020-LLE-0110 [COVID-19])," dated August 24, 2020
  2. Letter from Ho K. Nieh, Nuclear Regulatory Commission, to Dr. Jennifer L. Uhle, Nuclear Energy Institute, "Updated Guidance for Licensees that Request Exemptions from the Calendar Year 2020 Annual Licensee-Conducted Force on Force Requirement in Part 73, Appendix B, Section VI During the Coronavirus Disease 2019 Public Health Emergency," dated October 13, 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 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization and, on March 13, 2020, President Donald Trump declared the Coronavirus pandemic a national emergency. In addition, the State of Nebraska began issuing Directed Health Measures for counties within the State beginning on March 19, 2020.

In response to these declarations and in accordance with the Nebraska Public Power District (NPPD) Pandemic Response plan, by letter dated August 24, 2020 (Reference 1), a temporary exemption from 10 CFR 73, Appendix B, Section VI, Subsection C.3.(1)(1), regarding annual force-on-force (FOF) exercises, was approved for Cooper Nuclear Station. The exemption was necessary because isolation protocols (e.g., social distancing, group size limitations, self-quarantining, etc.) 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.

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In the request for exemption, NPPD committed to:

- Maintaining a list of the names of the individuals who will not meet the requalification requirements and will include the dates of the last qualification
- Ensuring contingency response readiness of security personnel not participating in an annual FOF exercise by conducting the following scenario-based evolutions during quarterly tactical response drills:
  - A tabletop exercise,
  - A lessons-learned review of past exercises,
  - Conducting any missed annual licensee conducted FOF exercises within 90 days after the PHE ends or by December 31, 2020, whichever occurs first.

At the time of submittal for the exemption request, the duration of the PHE was discussed as “not currently known,” and therefore a commitment was added to complete the exercises within 90 days after the PHE ends or by December 31, 2020, whichever occurs first. However, the PHE has not ended and continues to impact Cooper Nuclear Station’s ability to conduct annual FOF exercises. Because the temporary exemption expires December 31, 2020, NPPD requests a one-time exemption from conducting 2020 annual FOF exercises as required by 10 CFR 73, Appendix B, Section VI, Subsection C.3.(1)(1). This one-time exemption would supersede the commitment in the previously approved exemption to conduct any missed annual licensee conducted FOF exercises within 90 days after the PHE ends or by December 31, 2020, whichever occurs first. Justification for the issuance of an exemption is provided in the Attachment to this letter and is based on the guidance provided in Reference 2.

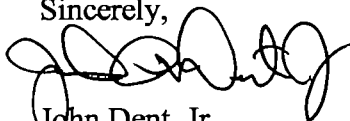
Approval of this exemption will continue to support the isolation protocols necessary to protect essential site personnel. These restrictions are needed to ensure personnel are isolated from the COVID-19 disease and remain capable of maintaining plant security.

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

There are no new regulatory commitments contained in this request.

If there are any questions, or if additional information is needed, please contact Linda Dewhirst, Regulatory Affairs and Compliance Manager, at (402) 825-5416.

Sincerely,



John Dent, Jr.  
Vice President and  
Chief Nuclear Officer

/dv

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

cc: Regional Administrator w/attachment  
USNRC - Region IV

Cooper Project Manager w/attachment  
USNRC - NRR Plant Licensing Branch IV

Senior Resident Inspector w/attachment  
USNRC - CNS

Nebraska Health and Human Services w/attachment  
Department of Regulation and Licensure

NPG Distribution w/attachment

CNS Records w/attachment

## **Attachment**

### **Security 2020 Annual Force-on-Force Exercise One-Time Exemption Request**

#### **1.0 SUMMARY DESCRIPTION**

Nebraska Public Power District (NPPD) 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.(1)(1). This one-time exemption would supersede the commitment in the previously approved exemption (Reference 1) to conduct any missed annual licensee conducted FOF exercises within 90 days after the public health emergency (PHE) ends or by December 31, 2020, whichever occurs 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 the Coronavirus Disease 2019 (COVID-19) and remain capable of maintaining plant security.

#### **2.0 BACKGROUND**

By letter dated August 24, 2020, NPPD was approved a temporary exemption from 10 CFR 73, Appendix B, Section VI, Subsection C.3.(1)(1) regarding annual FOF exercises (Reference 1). The exemption was in response to the COVID-19 PHE and was necessary because isolation protocols (e.g., social distancing, group size limitations, self-quarantining, etc.) 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, NPPD committed to:

- Maintaining a list of the names of the individuals who will not meet the requalification requirements and will include the dates of the last qualification
- Ensuring contingency response readiness of security personnel not participating in an annual FOF exercise by conducting the following scenario-based evolution(s) during quarterly tactical response drills:
  - A tabletop exercise,
  - A lessons-learned review of past exercises,
  - Conducting any missed annual licensee conducted FOF exercises within 90 days after the PHE ends or by December 31, 2020, whichever occurs first.

At the time of submittal for the exemption request, the duration of the PHE was discussed as “not currently known,” and therefore a commitment was added to complete the exercises within 90 days after the PHE ends or by December 31, 2020, whichever occurs first. However, the PHE has not ended and continues to impact Cooper Nuclear Station’s (CNS) ability to conduct annual FOF exercises. Because the temporary exemption expires December 31, 2020, NPPD requests a

one-time exemption from conducting 2020 annual FOF exercises as required by 10 CFR 73, Appendix B, Section VI, Subsection C.3.(1)(1). This one-time exemption would supersede the commitment in the previously approved exemption to conduct any missed annual licensee conducted FOF exercises within 90 days after the PHE ends or by December 31, 2020, whichever occurs first.

The PHE is still in effect and will be for an unknown period of time. It is also unknown when vaccinations will be available to the general public or what impact the virus will have this winter. The number of COVID-19 cases in the State of Nebraska and in the local health district are on an upward trend. Because of this upward trend, the Nebraska Department of Health and Human Services has raised the Directed Health Measures from a level 4 to a level 3 which increases the level of protective measures required across the State. NPPD has not relaxed their requirements for social distancing, minimizing group size, self-quarantining, etc., since the onset of the PHE.

Security has been fluctuating between 5 and 11 officers off duty in COVID-19 protocols due to either being symptomatic or having been in contact with a symptomatic or confirmed positive COVID-19 individual. Adjustments to shift rotations, face coverings, social distancing and other protective measures are being used to minimize potential COVID-19 exposure risks. This is especially important in space limited areas, such as, bullet resistant enclosures. To further limit risk, CNS Security has suspended in-person shift turnover meetings to support social distancing and to eliminate officers being in a meeting room together.

The annual FOF exercises require three security teams to be onsite and within close proximity during briefings, conduct of the drills and critiques. The bullet resistant enclosures don't lend themselves to adequate social distancing for the on-duty officer, drill play officer and the controller.

Approval of this exemption is needed to support the isolation protocols necessary to protect essential site personnel. 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 has issued recommendations advising "social distancing" to prevent the spread of the COVID-19 disease (Reference 2). CNS has implemented isolation activities such as self-quarantining, group size limitations and social distancing to protect required site personnel in accordance with Nuclear Energy Institute (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 NPPD to request a temporary exemption 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 CNS has continued to conduct the following training requalification requirements of Section VI, of Appendix B, to Part 73.

- Quarterly tactical response drills (tabletop drills and timeline drills, but no limited-scope tactical response drills)
- 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, CNS conducted tabletop exercises and reviewed lessons-learned of past exercises with all impacted security personnel. Therefore, CNS continues to maintain a physical protection program 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 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.

NPPD 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. NPPD 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 NPPD pandemic plan mitigation strategies. These strategies serve the public interest by ensuring adequate staff isolation and maintaining staff health to perform their job functions 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 CNS has continued to conduct other training requalification requirements as identified in Section 3.0. 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 CNS.

3. This exemption is otherwise in the public interest

NPPD 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 an event of a pandemic, to prevent the spread of the virus to the plant. NEI 06-03 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 CNS is in operation during the pandemic will help to support the public need for reliable electricity supply to cope with the pandemic. As the U.S. 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, CNS personnel could face the added transient challenge of shutting down the 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, NPPD considers that this one-time exemption request to be 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 2020 annual FOF exercises at CNS is required during, and recovery from, the COVID-19 Pandemic.

## **7.0 ENVIRONMENTAL ASSESSMENT**

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

NPPD 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. Letter from Craig Erlanger, Nuclear Regulatory Commission to John Dent, Jr., Nebraska Public Power District, "Cooper Nuclear Station - Temporary Exemption from Certain Requirements of 10 CFR Part 73, Appendix B, "General Criteria for Security Personnel," Section VI (EPID L-2020-LLE-0110 [COVID-19])," dated August 24, 2020.
2. "Interim Guidance for Businesses and Employers Responding to Coronavirus Disease 2019 (COVID-19), May 2020," retrieved from <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>, as updated May 6, 2020.
3. NEI 06-03, "Pandemic Threat Planning, Preparation, and Response Reference Guide," Revision 2, dated February 2020.