



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

December 7, 2020

Mr. Eric Carr
President and Chief Nuclear Officer
PSEG Nuclear LLC - N09
P.O. Box 236
Hancocks Bridge, NJ 08038

SUBJECT: HOPE CREEK GENERATING STATION AND SALEM NUCLEAR GENERATING STATION, UNIT NOS. 1 AND 2 – TEMPORARY EXEMPTION FROM THE EXERCISE FREQUENCY REQUIREMENTS OF 10 CFR PART 50, APPENDIX E, SECTIONS IV.F.2.B AND IV.F.2.C (EPID L-2020-LLE-0164 [COVID-19])

Dear Mr. Carr:

The U.S. Nuclear Regulatory Commission (NRC, the Commission) has approved the requested exemption from specific requirements of Appendix E, "Emergency Planning and Preparedness for Production and Utilization Facilities," to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, Sections IV.F.2.b and IV.F.2.c, for the Hope Creek Generating Station (Hope Creek) and Salem Nuclear Generating Station (Salem), Unit Nos. 1 and 2. This action is in response to your application dated October 13, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20287A628), which requested a one-time schedular exemption to postpone the calendar year (CY) 2020 full participation biennial emergency preparedness (EP) exercise until CY 2021.

PSEG Nuclear LLC (PSEG, the licensee) holds Renewed Facility Operating License No. NPF-57, which authorizes operation of Hope Creek. PSEG also holds Renewed Facility Operating License Nos. DPR-70 and DPR-75, which authorize operation of Salem, Unit Nos. 1 and 2, respectively. These licenses are subject to the rules, regulations, and orders of the Commission. Hope Creek consists of a boiling-water reactor, and Salem consists of two pressurized-water reactors. Both facilities are located in Salem County, New Jersey.

By letter dated October 13, 2020, PSEG 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 full participation biennial EP exercises at Hope Creek and Salem.

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 local and State 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 (i.e., exercises required by 10 CFR Part 50, Appendix E, Sections IV.F.2.b and 2.c) are not required to be performed simultaneously.

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:

- This temporary exemption request supports continued implementation of the isolation activities (e.g., social distancing, group size limitations, self-quarantining, etc.) necessary to protect personnel in response to COVID-19 and that these isolation activities are needed to ensure emergency response organization (ERO) personnel remain capable of executing the PSEG Emergency Response Plan.
- In response to PHE declarations, and in accordance with the PSEG Pandemic Response Plan, PSEG initiated isolation activities on March 25, 2020. PSEG and State isolation activities resulted in the inability to complete the biennial emergency preparedness exercise that was originally scheduled for May 19, 2020. In addition, Enclosures 2 and 3 to PSEG’s application provide copies of letters received from the State of Delaware and the State of New Jersey, respectively, that endorse this exemption request and reflect that those organizations’ paramount focus is on pandemic response. The letters additionally indicate that pandemic response would not impact the organizations’ ability to respond in the unlikely event of an actual radiological emergency at Hope Creek or Salem, Unit Nos. 1 and 2.
- The last full participation biennial EP exercise was conducted on May 22, 2018. Since that time, PSEG has conducted numerous drills, exercises, and other training activities that have exercised its emergency response strategies in coordination with offsite authorities. A table that lists the drills conducted since the last exercise is provided in the PSEG application. The drills listed in the table were full onsite participation drills, which included activation of all PSEG emergency response facilities (with the exception of the listed Salem 19-01 drill that did not include Operational Support Center and Technical Support Center staffing due to extension of the Salem refueling outage) and at least partial participation by the States of New Jersey and Delaware. The listed HC 20-1 drill in the table was conducted in preparation for the May 19, 2020, full participation biennial EP exercise and included full participation by all OROs. In addition, PSEG has conducted training drills with ORO participation since the last biennial exercise with no performance issues.

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

- PSEG will continue to conduct limited participation drills and other training activities that exercise its emergency response functions. In Enclosures 2 and 3 of the PSEG application, the States of New Jersey and Delaware indicated that they are committed to maintain their radiological emergency plans.
- PSEG made a reasonable effort to reschedule the biennial EP exercise during CY 2020 but was unsuccessful. PSEG conducted regular meetings with the States of New Jersey and Delaware related to rescheduling of the full participation biennial EP exercise in CY 2020, but satisfaction of all exercise requirements was determined not to be feasible. In consultation with the States of New Jersey and Delaware, the decision to defer the CY 2020 biennial EP exercise into CY 2021 was preferred because it allows both PSEG and the OROs to continue responding to the current PHE and focus on protecting responders as well as the health and safety of the public.
- The biennial EP exercise is tentatively rescheduled to occur in April 2021. The date of the rescheduled full participation biennial EP exercise falls within 35 months from the month of the previously evaluated biennial EP exercise conducted on May 22, 2018. However, PSEG requests the schedular exemption to expire December 31, 2021, or when the required exercise is conducted in CY 2021 (whichever occurs first) to accommodate potential changes to the schedule. To support this request, PSEG notes that an EP Baseline Program Inspection was recently conducted for PSEG the week of September 28, 2020. If this exemption request is granted to allow PSEG to conduct the CY 2020 biennial exercise in CY 2021, PSEG states that future biennial EP exercises would continue to be held as planned in even-numbered years.

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, Section IV.F.2.b and Section 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 biennial EP exercise from CY 2020 until CY 2021. Thus, the probability and consequences of postulated accidents are not increased. In addition, the requested exemption for a one-time change to the biennial EP exercise schedule 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 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 principal functional areas of emergency response since the last evaluated full participation biennial EP exercise and has activated onsite emergency response facilities during those drills with ORO participation. Based on the above, the NRC staff finds that the underlying purposes of these regulations are met by the licensee having conducted these preparedness activities and establishing an acceptable tentative date for the rescheduled full participation biennial EP exercise during the month of April 2021.

- b. 10 CFR 50.12(a)(2)(v): "The exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation."

PSEG has determined that the originally scheduled exercise date 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 as described in the PSEG Emergency Response Plan.

The States of New Jersey and Delaware informed the licensee that they support the licensee's one-time schedular exemption to postpone the CY 2020 scheduled full participation biennial EP exercise. In consultation with these States, the decision to defer the exercise into CY 2021 was preferred because it would allow both PSEG and the OROs to continue responding to the current PHE and to continue focusing on protecting responders as well as the health and safety of the public. A tentative date of April 2021 has been proposed.

Therefore, the NRC staff finds that the requested exemption to conduct the full participation biennial EP exercise in CY 2021, instead of CY 2020, would provide only temporary relief from the applicable regulation and that the licensee has made good faith efforts to comply with the regulation.

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 Hope Creek and Salem. 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 full participation biennial EP exercise in 10 CFR Part 50, Appendix E, Sections IV.F.2.b. and IV.F.2.c at Hope Creek and Salem.

This exemption for Hope Creek and Salem expires on expires December 31, 2021, or when the required exercises are conducted in CY 2021, whichever occurs first.

E. Carr

- 6 -

If you have any questions, please contact the Hope Creek and Salem project manager, James Kim, at 301-415-4125 or by e-mail to James.Kim@nrc.gov.

Sincerely

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

Docket Nos. 50-354, 50-272,
and 50-311

cc: Listserv

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***by e-mail**

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