

November 4, 2020

AEP-NRC-2020-64
10 CFR Part 73, Appendix B, Section VI

Docket Nos.: 50-315
50-316

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

Donald C. Cook Nuclear Plant Unit 1 and Unit 2
Request for a One-Time Exemption from 10 CFR 73, Appendix B, Section VI, Subsection
C.3.(I)(1) Regarding Annual Force-on-Force (FOF) Exercises, Due to COVID 19 Pandemic

Reference:

NRC Letter, "Donald C. Cook Nuclear Plant, Units 1 and 2 – Temporary Exemption from Certain Requirements of 10 CFR Part 73, Appendix B, "General Criteria for Security Personnel," Section VI (EPID L-2020-LLE-0104 [COVID-19]), dated July 21, 2020 Agencywide Documents Access and Management System Accession (ADAMS) No. ML20171A686

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 (COVID-19) pandemic a national emergency. In addition, Michigan Governor Gretchen Whitmer declared a state of emergency on March 10, 2020.

In response to these declarations and in accordance with the Indiana Michigan Power Company (I&M), the licensee for Donald C. Cook Nuclear Plant (CNP) Unit 1 and Unit 2, pandemic response plan, by letter dated July 21, 2020 (Reference), a temporary exemption from; 10 CFR 73, Appendix B, Section VI, Subsection C.3.(I)(1), regarding quarterly tactical response drills and annual force-on-force (FOF) exercises, was approved for the 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.

In the request for exemption I&M committed to complete the FOF exercise using the existing scenarios already developed for this year within 90 days after the PHE is ended, 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

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added to complete the exercises 90 days after the PHE is ended, or until December 31, 2020, whichever occurs first. However, the PHE has not ended and is not expected to end before December 31, 2020. Therefore, I&M 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 complete the FOF exercise using the existing scenarios already developed for this year within 90 days after the PHE is ended, 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 COVID-19 disease and remain capable of maintaining plant security.

The proposed one-time exemption will apply specifically to security personnel to whom the temporary approved exemption applied (security personnel who have previously demonstrated proficiency and are currently qualified in accordance with 10 CFR Part 73, Appendix B, Section VI, "Nuclear Power Reactor Training and Qualification Plan for Personnel Performing Security Program Duties"). The current 2021 Training schedule has FOF slated for mid-March. This one-time exemption will be required until the 2021 exercise is completed.

I&M requests a written confirmation and approval of this request.

This letter contains no new regulatory commitments. Should you have any questions, please contact me at (269) 466-2649.

Sincerely,



Michael K. Scarpello
Regulatory Affairs Director

JMT/ml

Enclosure:

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

c: R. J. Ancona, MPSC
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Enclosure to AEP-NRC-2020-64

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

1.0 SUMMARY DESCRIPTION

Indiana Michigan Power Company (I&M), the licensee for Donald C. Cook Nuclear Plant (CNP) Unit 1 and Unit 2, 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.(I)(1). This one-time exemption would supersede the commitment in the previously approved exemption (Reference 4) to complete the FOF exercise using the existing scenarios already developed for this year within 90 days after the public health emergency (PHE) is ended, 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 COVID-19 disease and remain capable of maintaining plant security.

2.0 BACKGROUND

By Reference 4, CNP was approved a temporary exemption from 10 CFR 73, Appendix B, Section VI, Subsection C.3.(I)(1) regarding quarterly tactical response drills and annual FOF exercises. 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.

EXEMPTION DETAILS

In the request for exemption (Reference 3), I&M committed to complete the FOF exercise using the existing scenarios already developed for this year within 90 days after the PHE is ended, 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 90 days after the PHE is ended, or that the temporary exemption would expire December 31, 2020, whichever occurs first. However, the PHE has not ended and continues to impact CNP's ability to conduct annual FOF exercises. The projected end date of the PHE is still unknown but it is not expected to end in 2020. Because the temporary exemption (Reference 4) expires December 31, 2020, I&M 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). This one-time exemption would supersede the commitment in the previously approved exemption to complete the FOF exercise using the existing scenarios already developed for this year within 90 days after the PHE is ended, 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 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 (security personnel who have previously demonstrated proficiency and are currently qualified in accordance with 10 CFR Part 73, Appendix B, Section VI, "Nuclear

Power Reactor Training and Qualification Plan for Personnel Performing Security Program Duties").

3.0 TECHNICAL JUSTIFICATION OF ACCEPTABILITY

The U. S. Centers for Disease Control (CDC) has issued recommendations advising "social distancing" to prevent the spread of the COVID-19 disease (Reference 1). I&M has implemented isolation activities 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 2). Ideally this will limit the spread of the virus among the station staff. This required I&M to request a temporary exemption (Reference 3) 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 FOF exercise requires extensive use of the Bullet Resistant Enclosures (BREs), In-Plant Office, and Alarm Stations. I&M attempted to plan FOF exercise with sufficient distance and there is not enough space to maintain 6 feet of separation with the addition of players, controllers, and on-duty personnel. Conducting FOF exercises in the winter months in Michigan requires equipment issue and return to take place indoors to minimize personnel exposure to the elements. Completing the FOF exercise would require the majority of security personnel, players and controllers to be in close proximity for 45 minutes and potentially up to several hours. This is in direct contradiction to the Reference 1 CDC recommendations.

Berrien County has experienced a spike in cases in the fall of 2020. The Berrien County spike has led to a spike in cases for I&M employees at CNP. Senior Leadership has initiated a "COVID reset" period following the fall 2020 outage to maintain only essential personnel on-site. The populations that are most critical to plant operation are Operators and Security Officers due to the fact that the jobs that they perform are highly specialized. There are a limited number of people qualified to perform each function. A wave of COVID in either of these populations could result in the inability to meet minimum staffing, which is unacceptable. The total COVID cases on site at CNP rose from less than 5 at the beginning of September to nearly 80 at the end of October. Also, the new cases per day in Berrien County, where CNP is located, rose from between 10 and 15 between mid-August and early October to 40 new cases per day by the end of October. The number of CNP Security personnel impacted during this spike, either by personal exposure/testing or household member exposure/testing, has risen to 23 and continues to rise. Performing the FOF drill in 2020 presents a serious threat to the spread of COVID at CNP. The COVID infection rates at CNP and the local area are being closely monitored. Performing the FOF drill in 2020 represents a serious risk to the safe operation of CNP. CNPs current 2021 Training schedule has FOF slated for mid-March, prior to the spring outage.

The proposed one-time exemption will apply specifically to security personnel to whom the temporary approved exemption (Reference 4) applied (security personnel who have previously demonstrated proficiency and are currently qualified in accordance with 10 CFR Part 73, Appendix B, Section VI, "Nuclear Power Reactor Training and Qualification Plan for Personnel Performing Security Program Duties"). 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 CNP has continued to conduct the following training requalification requirements of Section VI, of Appendix B to Part 73.

- Quarterly tactical response drills (Tabletop drills, Timeline drills, Target set training, etc.)
- 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 (Reference 4), CNP conducted a lessons-learned review of past exercises from 2018 and 2019, and a walkdown of previous exercise route of travel with all impacted security personnel. Additionally, though included in the temporary exemption request (Reference 3), CNP was able to restore and keep the quarterly tactical response drill requirement current by conducting tabletops and target set training. Therefore, CNP continues to maintain a physical protection program that provides high assurance that the health and safety of the public will be maintained, will not be inimical to the common defense and security, and does not constitute an unreasonable risk to the public health and safety.

4.0 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.

I&M 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. I&M 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 I&M 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 I&M 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 CNP.

3. This exemption is otherwise in the public interest

I&M pandemic response plan is based on NEI 06-03, "Pandemic Threat Planning, Preparation, and Response Reference Guide," (Reference 2) 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 CNP 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, CNP 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.

5.0 CONCLUSION

As demonstrated above, I&M 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 CNP is required due to the COVID-19 Pandemic.

6.0 ENVIRONMENTAL ASSESSMENT

I&M is requesting a one-time exemption from the conduct of 2020 annual FOF exercises. Specifically, I&M 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.

I&M 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.

7.0 REFERENCES

1. "Interim Guidance for Businesses and Employers", retrieved from <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>, on March 17, 2020.
2. NEI 06-03, "Pandemic Threat Planning, Preparation, and Response Reference Guide", Revision 2, February 2020.
3. Letter from M. K. Scarpello, Indiana Michigan Power Company (I&M), to U. S. Nuclear Regulatory Commission (NRC), "Donald C. Cook Nuclear Plant Unit 1 and Unit 2 Temporary Exemption Request From Security Training Requirements of 10 CFR PART 73, APPENDIX B, SECTION VI," dated June 18, 2020.
4. NRC Letter, "Donald C. Cook Nuclear Plant, Units 1 and 2 – Temporary Exemption from Certain Requirements of 10 CFR Part 73, Appendix B, "General Criteria for Security Personnel," Section VI (EPID L-2020-LLE-0104 [COVID-19])," dated July 21, 2020 Agencywide Documents Access and Management System Accession (ADAMS) No. ML20171A686