



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

December 8, 2020

Mr. Mark D. Sartain
Vice President – Nuclear Engineering
and Fleet Support
Virginia Electric and Power Company
North Anna Power Station Units 1 and 2
Richmond, VA 23261

SUBJECT: NORTH ANNA POWER STATION, UNITS 1 AND 2 – TEMPORARY
EXEMPTION FROM BIENNIAL EMERGENCY PREPAREDNESS EXERCISE
FREQUENCY REQUIREMENTS OF 10 CFR PART 50, APPENDIX E,
SECTION IV.F.2.C (EPID-L-2020-LLE-0184 [COVID-19])

Dear Mr. Sartain:

The U.S. Nuclear Regulatory Commission (NRC, the Commission) has approved the below temporary exemption from specific requirements of Appendix E to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, Section IV.F.2.c, for North Anna Power Station, Units 1 and 2 (NAPS). This action is in response to your application dated November 10, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20317A162), that requested a one-time exemption from the requirements in 10 CFR Part 50, Appendix E, Section IV.F.2.c to postpone the calendar year (CY) 2020 biennial offsite emergency preparedness (EP) exercise until CY 2021.

Virginia Electric and Power Company (Dominion Energy Virginia, the licensee) holds Renewed Facility Operating Licenses No. NPF-4 and NPF-7, which authorize operation of NAPS. These licenses are subject to the rules, regulations, and orders of the Commission.

The facility consists of two pressurized water reactors located in Louisa County, Virginia.

By letter dated November 10, 2020, Dominion Energy Virginia submitted a request for temporary exemption from Appendix E to 10 CFR Part 50, Section IV.F.2.c, regarding the performance of the CY 2020 biennial offsite EP exercise for responsible offsite response organizations (OROs).

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.

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 addition, on March 12, 2020, the Governor of the Commonwealth of Virginia declared a State of Emergency due to COVID-19.²

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 IV.F.2.c) are not required to be performed simultaneously.

In your application, you provided the following information:

- The requested exemption supports the continued implementation of the isolation activities (e.g., social distancing, group size limitations, self-quarantining, etc.) in response to the ongoing COVID-19 pandemic. This exemption is requested to ensure that Dominion Energy Virginia and the Commonwealth of Virginia continue to engage in activities that are consistent with practices recommended by the CDC in response to the COVID-19 PHE, and to protect NAPS emergency response organization (ERO) and ORO personnel who are required to participate during an exercise.
- The potential for COVID-19 spread has resulted in the inability to safely conduct the offsite portion of the NAPS biennial EP exercise that was conducted by the licensee on August 18, 2020, without ORO participation, which did not meet the requirements of 10 CFR Part 50, Appendix E, Section IV.F.2.c. The Commonwealth of Virginia (State agencies and Risk Jurisdictions around NAPS) informed the licensee just before performance of the exercise that ORO participation would be delayed due to concerns about in-person training, potential for disease spread in closed areas during an exercise, and emergency responder needs related to the COVID-19 outbreak. This resulted in the inability to conduct the CY 2020 biennial offsite EP exercise with full ORO participation. The Commonwealth of Virginia intends to remain fully capable of providing reasonable assurance of the public's safety in the unlikely event of an emergency at NAPS.
- This one-time schedular exemption to allow for the conduct of the biennial offsite EP exercise in CY 2021 supports continued implementation of the isolation activities (e.g., social distancing, group size limitations, self-quarantining, etc.) to protect required NAPS ERO and ORO personnel in response to the COVID-19 PHE.
- The last biennial EP exercise with full ORO participation was conducted on July 17, 2018. Since that time, the licensee has conducted numerous activities that show the continuing level of engagement in EP activities for NAPS and the actual and/or simulated participation with the Commonwealth of Virginia. The licensee has conducted drills, exercises, and other training activities that exercised its emergency response strategies, and in coordination with offsite authorities, since the previous biennial exercise.

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

² <https://www.governor.virginia.gov/newsroom/all-releases/2020/march/headline-853537-en.html>

- Some training activities were performed after the COVID-19 pandemic was declared in March 2020, and future activities are scheduled to be performed in the timeframe leading up to the rescheduled NAPS biennial offsite exercise date in February of CY 2021. Unlike the biennial EP exercise, the nature and scale of these training activities allow them to be performed in a manner that adheres to the CDC-recommended practices, without significantly interfering with emergency responder responsibilities. These activities support the NAPS offsite organizations in maintaining proficiency in EP functions during the timeframe between biennial exercises.
- In a November 6, 2020, letter from the Commonwealth of Virginia State Coordinator of Emergency Management to Dominion Energy Virginia (Attachment 3 to your application), the Commonwealth of Virginia affirmed its commitment to respond to an emergency at NAPS during the COVID-19 PHE:

[T]o maintain operational readiness throughout the current pandemic, VDEM [Commonwealth of Virginia, Department of Emergency Management] and Dominion Energy have endeavored to maximize training and exercise opportunities, leveraging every possible option to ensure engagement, professional exchange, and training within the confines of acceptable social distancing protocols. These measures have included virtual drills held over all available communications devices, virtual quarterly meetings with OROs, upgrades to existing notification systems, and improvements in equipment posture. This has ensured the continuity and vigor of the Radiological Emergency Preparedness (REP) Program in the State and has served to increase the partnership and the preparedness cohesion between the Commonwealth and Dominion Energy. Owing to the extreme level of effort, preparedness and creativity, I can assure you that in the event of an unlikely emergency at the NAPS, the Commonwealth remains fully capable of providing reasonable assurance of the public's safety.

- The licensee has made a reasonable effort to reschedule the exercise during CY 2020, but was unsuccessful. Scheduling conflicts for the timeframe through December 2020 presented numerous challenges for rescheduling. The licensee provided a list of activities that precluded rescheduling of the offsite portion of the biennial exercise in CY 2020. Additionally, due to their involvement in ongoing pandemic response activities, availability of the Commonwealth of Virginia resources to participate in an exercise is limited through the end of 2020. In coordination with the Commonwealth of Virginia, an agreement was reached that the NAPS offsite EP exercise could be supported on February 23, 2021. This date has also been coordinated with the Federal Emergency Management Agency (FEMA) Region 3, who confirmed they would be able to support a full participation offsite exercise evaluation on February 23, 2021.
- The date of the rescheduled offsite biennial EP exercise falls within 35 months from the month of the previously evaluated offsite biennial EP exercise conducted on July 17, 2018. This exemption would defer the CY 2020 offsite biennial EP exercise to CY 2021. It is understood by Dominion Energy Virginia and the Commonwealth of Virginia that if this exemption is granted allowing NAPS to conduct the CY 2020 offsite biennial EP exercise in CY 2021, subsequent biennial exercises will continue to be held in even numbered years (i.e., 2022, 2024, etc.).

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.c, concern requirements for licensees to conduct offsite biennial EP exercises at their facilities. No new accident precursors are created by allowing the licensee to postpone the offsite 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 offsite 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.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 this requirement 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 drills, exercises, and other training activities that exercised its emergency response strategies, and in coordination with offsite authorities, since the previous offsite biennial exercise. 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 biennial offsite EP exercise of February 23, 2021.

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

The Commonwealth of Virginia informed the licensee that they were no longer able to support the originally scheduled offsite biennial EP exercise in the interest of protecting State and local staff and Federal evaluators. In coordination with the Commonwealth of Virginia, an agreement was reached that the NAPS offsite EP exercise could be supported on February 23, 2021. This date has also been

coordinated with FEMA Region 3, who confirmed they would be able to support a full participation exercise evaluation on February 23, 2021.

The Commonwealth of Virginia will continue to work with FEMA in support of further relief for offsite participation as appropriate under FEMA's requirements in 44 CFR 350.9.

Therefore, the NRC staff finds that the requested exemption to conduct the offsite portions of the NAPS 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 NAPS. 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 FR 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 offsite biennial EP exercise in 10 CFR Part 50, Appendix E, Section IV.F.2.c.

This exemption expires on June 30, 2021.

If you have any questions, please contact the NAPS project manager, Ed Miller, at 301-415-2481 or by e-mail to Ed.Miller@nrc.gov.

Sincerely,

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

Docket Nos. 50-338 and 50-339

cc: Listserv

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