



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

December 17, 2020

Mr. Bradley J. Sawatzke
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SUBJECT: COLUMBIA GENERATING STATION – TEMPORARY EXEMPTION FROM BIENNIAL EMERGENCY PREPAREDNESS EXERCISE FREQUENCY REQUIREMENTS OF 10 CFR PART 50, APPENDIX E, SECTIONS IV.F.2.B AND IV.F.2.C (EPID-L-2020-LLE-0173 [COVID-19])

Dear Mr. Sawatzke:

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, Sections IV.F.2.b and IV.F.2.c, for the Columbia Generating Station (Columbia). This action is in response to your application dated October 29, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20303A348), that requested a one-time exemption from requirements in 10 CFR Part 50, Appendix E, Sections IV.F.2.b and IV.F.2.c, to postpone the joint, full participation biennial emergency preparedness (EP) exercise until calendar year (CY) 2021.

Energy Northwest (the licensee) holds Renewed Facility Operating License No. NPF-21, which authorizes operation of Columbia. This license is subject to the rules, regulations, and orders of the Commission. The facility consists of a boiling-water reactor located in Benton County, Washington.

By letter dated October 29, 2020, Energy Northwest 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 the CY 2020 biennial EP exercise.

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 the 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, Washington State Governor Jay Inslee declared a state of emergency on February 29, 2020.²

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) currently implemented to protect critical personnel and required emergency response organization (ERO) personnel as a result of the ongoing COVID-19 PHE. These protective strategies are needed now and in the foreseeable future to ensure ERO personnel are isolated from the COVID-19 virus and remain capable of executing the functions of the ERO, as described in the Columbia Emergency Plan.
- The threat of COVID-19 spread resulted in the inability to safely conduct the offsite biennial EP exercise that was originally scheduled for March 24, 2020, and then rescheduled to October 27, 2020. Benton and Franklin Counties (the counties located within the 10-mile emergency planning zone), along with the States of Washington and Oregon, communicated to Energy Northwest that the current COVID-19 pandemic response impacted their ability to prepare for the scheduled exercise. Each of these offsite response organizations (OROs) also affirmed that supporting the exercise in October 2020 would place undue burden on existing resources that are managing the ongoing PHE. Benton and Franklin Counties indicated they would be unable to support the exercise as planned without compromising their current social distancing practice, which would be inconsistent with current Benton Franklin Health District and Washington State pandemic response directives, mandates, and protocols. Further, these OROs continue to maintain readiness to respond to an actual radiological emergency at Columbia. This exemption request will allow State and local governments to continue to focus their essential response efforts on the COVID-19 PHE and other actual events that may occur during the COVID-19 PHE.
- This one-time schedular exemption to allow for the conduct of the biennial 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 ERO and ORO personnel in response to the COVID-19 PHE.

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

² <https://www.governor.wa.gov/news-media/inslee-issues-covid-19-emergency-proclamation>

- The last full participation biennial EP exercise was conducted on March 27, 2018. Since that time, the licensee has conducted drills, exercises, and other training activities that have exercised its emergency response strategies in coordination with offsite authorities. State and local officials participated in these activities exercising various EP Program elements during the following months: May 2018, July 2018, September 2018, February 2019, July 2019, September 2019, October 2019, February 2020, and August 2020 (involved reduced center staffing due to COVID-19 protocols).
- Energy Northwest will continue to conduct drills, tabletops, and other training activities that exercise its emergency response strategies and demonstrate proficiency to the extent reasonable during the pandemic PHE. The associated OROs have committed to maintain their current emergency plans and ability to respond to an actual emergency during the pandemic. These State and local authorities are expected to participate in drills to the extent practical while also complying with the CDC recommendations to limit the spread of COVID-19. The extension afforded by an exemption would not hinder the ability to respond, should an actual emergency occur.
- Energy Northwest has made a reasonable effort to reschedule and complete the Columbia planned exercise in CY 2020 with the respective OROs but was unsuccessful due to the sustained and continuing impact of the nationwide PHE. Energy Northwest has been unable to find a date in CY 2020 that would factor in a possible reduction of the impact of the PHE on the conduct of the CY 2020 exercise, which was originally scheduled for March 24, 2020, and then rescheduled to occur on October 27, 2020. Energy Northwest and the pertinent OROs have determined that the PHE conditions will not sufficiently improve by the end of CY 2020 to support the safe conduct of a full participation exercise. Due to the uncertainty of COVID-19 isolation actions and scheduling conflicts, it is not feasible to reschedule in the first three quarters of CY 2021. Energy Northwest is currently coordinating a tentative date for a joint biennial exercise of October 26, 2021. A date in the fourth quarter of CY 2021 will allow for a joint exercise to be conducted if the PHE conditions improve sufficiently to hold a joint exercise safely, after the Columbia refueling outage in the second quarter of CY 2021 and after the summer fire season, which can be reasonably expected to end after late September 2021.
- The date of the rescheduled biennial EP exercise is greater than 35 months from the previously evaluated full participation biennial EP exercise conducted on March 27, 2018. Because the proposed fall 2021 exercise date is more than 35 months from the 2018 exercise date, Energy Northwest coordinated with the Region IV EP inspector for the performance of an EP Baseline Program Inspection on November 2, 2020, which allowed NRC staff to confirm that the licensee's EP Program is adequately prepared by inspecting the EP Program using various selected elements of the Reactor Oversight Program EP Inspection Procedures. Following the Columbia biennial exercise in the fall of CY 2021, future Columbia biennial exercises would continue to be held in even years, with the exercise schedule resuming in CY 2022.

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, cited by the licensee 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 biennial EP exercise and has activated all onsite emergency response facilities during those drills with State 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 biennial EP exercise of October 26, 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 licensee 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 of the ERO, as described in the Columbia Emergency Plan. A tentative date of October 26, 2021 has been proposed.

Benton and Franklin Counties, along with the States of Washington and Oregon, communicated to Energy Northwest that the current COVID-19 pandemic response has impacted their ability to prepare for the scheduled exercise. Each of these OROs also affirmed that supporting the exercise in October 2020 would place undue burden on existing resources that are managing the ongoing PHE. Benton and Franklin Counties indicated they would be unable to support the exercise as planned without compromising their current social distancing practice. As a result of discussions among the licensee, State, local officials, NRC, and Federal Emergency Management Agency (FEMA), Energy Northwest concluded that scheduling the exercise in CY 2020 would not be reasonable during the current COVID-19 PHE conditions, and upon exemption approval, will coordinate a date in the fall of CY 2021 for a joint biennial exercise. Supporting letters from Benton and Franklin Counties emergency management offices and the States of Washington and Oregon are provided in Attachments 1 through 4 of Energy Northwest's October 29, 2020, application.

The States of Washington and Oregon 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 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 Columbia. 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 biennial EP exercise in 10 CFR Part 50, Appendix E, Sections IV.F.2.b. and IV.F.2.c.

This exemption expires on December 31, 2021, or when the biennial EP exercise is performed in CY 2021, whichever occurs first.

If you have any questions, please contact the Columbia project manager, Mahesh Chawla, at 301-415-8371 or by e-mail to Mahesh.Chawla@nrc.gov.

Sincerely,

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

Docket No. 50-397

cc: Listserv

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