



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

December 17, 2020

M. Christopher Nolan, Vice President  
Nuclear Regulatory Affairs, Policy  
& Emergency Preparedness  
Duke Energy  
Mail Code EC2ZF/ P.O. Box 1006  
Charlotte, NC 28201-1006

SUBJECT: H. B. ROBINSON STEAM ELECTRIC PLANT, UNIT NO. 2 – EXEMPTION FROM ANNUAL FORCE-ON-FORCE EXERCISE REQUIREMENT OF 10 CFR PART 73, APPENDIX B, “GENERAL CRITERIA FOR SECURITY PERSONNEL,” SUBSECTION VI.C.3(I)(1) (EPID L-2020-LLE-0180) [COVID-19]

Dear Mr. Nolan:

The U.S. Nuclear Regulatory Commission (NRC, the Commission) has approved the requested exemption from a specific requirement of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, Appendix B, Section VI, “Nuclear Power Reactor Training and Qualification Plan for Personnel Performing Security Program Duties,” for the H. B. Robinson Steam Electric Plant, Unit No. 2 (RNP) for calendar year (CY) 2020. This action is in response to the Duke Energy Progress, LLC, (the licensee) application dated November 4, 2020, as supplemented on November 19, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20310A032 and ML20324A105, respectively (non-public, withheld under 10 CFR 2.390)), that requested an exemption from 10 CFR Part 73, Appendix B, Section VI, subsection C.3.(I)(1), regarding annual force-on-force (FOF) exercises for CY 2020 at RNP.

The requirements in 10 CFR Part 73, Appendix B, Section VI, subsection C.3.(I)(1), state, in part:

Each member of each shift who is assigned duties and responsibilities required to implement the safeguards contingency plan and licensee protective strategy participates in at least . . . one (1) force-on-force exercise on an annual basis. Force-on-force exercises conducted to satisfy the NRC triennial evaluation requirement can be used to satisfy the annual force-on-force requirement for the personnel that participate in the capacity of the security response organization.

The purpose of the annual licensee-conducted FOF exercise is to ensure that the site security force maintains its contingency response readiness. Participation in these exercises also supports the requalification of security force members.

On January 31, 2020, the U.S. Department of Health and Human Services declared a Coronavirus Disease 2019 (COVID-19) public health emergency (PHE) for the United States. Subsequently, the Centers for Disease Control and Prevention (CDC) issued recommendations (e.g., social distancing, limiting assemblies) to limit the spread of COVID-19. On May 14, 2020, (ADAMS Accession No. ML20129J867), the NRC granted the licensee’s previous request for

temporary exemption from 10 CFR Part 73, Appendix B, Section VI, subsection C.3.(l)(1). That exemption is set to expire on December 31, 2020. As such, the licensee is required to conduct any missed annual licensee-conducted FOF exercises by December 31, 2020.

The licensee's application dated November 4, 2020, states the following:

- The PHE has not ended and continues to impact Duke Energy's ability to conduct annual FOF exercises. Duke Energy intended to complete these FOF exercises in 2020, but continued isolation restrictions prevent this from occurring. Holding FOF exercises will locate drill participants and drill controllers in close quarters (e.g., bullet-resistant enclosures, defensive fighting positions, etc.), making it impractical to meet the CDC recommendations for social distancing and group size limitations.
- This exemption supports the proactive measures and isolation restrictions (e.g., social distancing, group size limitations, self-quarantining, etc.) necessary to protect required site personnel in response to COVID-19. These restrictions are needed to ensure personnel are isolated from the COVID-19 virus and remain capable of maintaining plant security.
- 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 Duke Energy has continued to conduct the following training/qualification requirements of Section VI of Appendix B to Part 73: quarterly tactical response drills (e.g., tabletop drills, timeline drills, 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), and annual written exam.

In its November 19, 2020, response to NRC staff's request for additional information (ADAMS Accession No. ML20324A105 (non-public, withheld under 10 CFR 2.390)), the licensee stated the following:

- The following conditions in the local area continue to impact the site: the state of emergency has been extended and is still in place for South Carolina; the number of positive COVID-19 cases continues to increase in South Carolina, with the seven-day rolling average climbing over the last two months; and based upon trends in RNP's service area, Duke Energy has delayed entry into the next phase of the pandemic plan return to work schedule, moving the Phase 3 return to work date to March 2021.
- A review of impacted security positions and other locations necessary for briefings and critiques has determined that annual exercises cannot be conducted safely due to the limited space available in most locations, which does not allow for appropriate social distancing. In addition, conducting FOF exercises will place approximately 100 percent of the security force onsite at the same time during the day of the exercise, presenting an unacceptable risk for transmission within the Security organization.
- FOF exercises at RNP are supported by personnel from other Duke Energy nuclear stations and from the Corporate office. Requiring these individuals to travel during a time

of increasing COVID-19 positivity rates, and then reintegrating them into the workforce at their assigned location, presents an unacceptable risk for transmission within the Security organization and the Duke Energy workforce at large.

This exemption is specific to CY 2020 and RNP security personnel who have previously demonstrated proficiency and are currently qualified in accordance with the requirements of 10 CFR Part 73, Appendix B, Section VI. The licensee stated that given the rigorous nature of Duke Energy's security personnel training programs, which consist of regularly scheduled training activities to include weapons training, contingency response drills and exercises, and demonstrated acceptable performance of day-to-day job activities (e.g., detection and assessment, patrols, searches, and defensive operations), it is reasonable to conclude that security personnel will continue to maintain their proficiency even though the requalification periodicity is exceeded. Additionally, the November 4, 2020, request identified site-specific actions listed above that will continue to occur at RNP to maintain contingency response readiness, consistent with the NRC staff's October 13, 2020, letter (ADAMS Accession No. ML20273A117).

Pursuant to 10 CFR 73.5, "Specific exemptions," the Commission may, upon application by any interested person or on its own initiative, grant exemptions from the requirements of 10 CFR Part 73 when the exemptions are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest.

In accordance with 10 CFR 73.5, the Commission may grant an exemption from the regulations in 10 CFR Part 73 that is authorized by law. The NRC staff has reviewed the exemption request and finds that granting the proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or other laws. Therefore, the NRC staff finds that the exemption is authorized by law.

In accordance with 10 CFR 73.5, the Commission may grant an exemption from the regulations in 10 CFR Part 73 when the exemption will not endanger life or property or the common defense and security. This exemption will only apply to licensee security personnel who are already satisfactorily qualified in accordance with the security requirements outlined in 10 CFR Part 73, Appendix B, Section VI. Based on this fact, and its review of the controls that the licensee will continue to implement for the duration of the exemption including, continuing to conduct quarterly tactical response drills and other security requalification requirements, the NRC staff has reasonable assurance that the security force at these plants will maintain its proficiency and readiness to implement the licensee's protective strategy and adequately protect the site. Therefore, the NRC staff concludes that the proposed exemption would not endanger life or property or the common defense and security.

In accordance with 10 CFR 73.5, the Commission may grant an exemption from the regulations in 10 CFR Part 73 when the exemption is in the public interest. The NRC staff finds that the exemption from the annual FOF exercise requirement in 10 CFR Part 73, Appendix B, Section VI, subsection C.3.(l)(1), for CY 2020 would facilitate the licensee's efforts to maintain a healthy workforce capable of operating the plant safely and implementing the site's protective strategy by isolating security personnel from potential exposure to the COVID-19 virus. The NRC staff concludes that granting the exemption for CY 2020 is in the public interest because it allows the licensee to maintain the required security posture at RNP, while enabling the facility to continue to provide electrical power to the Nation.

## Environmental Considerations

NRC approval of this exemption request is categorically excluded under 10 CFR 51.22(c)(25), and there are no special 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 the exemption request involves no significant hazards consideration because it does not authorize any physical changes to the facility or any of its safety systems, nor does it change any of the assumptions or limits used in the facility 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 facility 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; and no significant increase in the potential for or consequences from radiological accidents because this exemption does not alter any of the assumptions or limits in the facility 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 this exemption request.

## Conclusions

Accordingly, the NRC has determined that pursuant to 10 CFR 73.5, the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the NRC hereby grants the licensee's request to exempt RNP from the annual FOF exercise requalification requirement of security personnel in subsection C.3.(l)(1) of 10 CFR Part 73, Appendix B, Section VI. This exemption applies only to those FOF exercises required during CY 2020.

If you have any questions, please contact the Duke Energy fleet project manager, Andrew Hon, at 301-415-8480 or [Andrew.Hon@nrc.gov](mailto:Andrew.Hon@nrc.gov).

Sincerely,

Caroline L. Carusone, Deputy Director  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

Docket No. 50-261

cc: Listserv

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**ADAMS Accession No. ML20339A521****\*via e-mail**

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