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CP-202000677  
TXX-20102  
December 10, 2020

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

Ref 10 CFR 73.5

Subject: Comanche Peak Nuclear Power Plant (CPNPP)  
Docket Nos. 50-445 and 50-446  
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:

- 1) CPNPP letter from Steven Sewell to the NRC submitted via E-mail on May 14, 2020 requesting a temporary exemption from certain 10 CFR 73, Appendix B, Section VI requirements regarding annual force-on-force exercises due to the COVID-19 PHE
- 2) NRC letter dated May 29, 2020, "Comanche Peak Nuclear Power Plant, Units 1 and 2 - Exemption Request from Certain Requirements of 10 CFR Part 73, Appendix B, 'General Criteria for Security Personnel,' Section VI (EPID L-2020-LLE-006) [COVID-19]" [ML20136A141]

Dear Sir or Madam:

Vistra Operations Company LLC (Vistra OpCo) submits the attached request for a one-time exemption from certain 10 CFR 73, Appendix B, Section VI requirements regarding annual force-on-force (FOF) exercises due to the Coronavirus Disease 2019 (COVID-19) pandemic.

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 COVID-19 pandemic. 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 (COVID-19) pandemic a national emergency. In addition, on November 6th, 2020, the Texas Governor renewed the State of Disaster Declaration due to COVID-19 for all counties in Texas.

In response to these declarations CPNPP requested a temporary exemption from annual force-on-force training requirements (Reference 1). The NRC approved the exemption request on May 29, 2020 (Reference 2). 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, CPNPP detailed site-specific COVID-19 PHE controls for managing personnel performing Security Program duties by maintaining a list of names of the individuals who will not meet the requalification requirements, and ensuring contingency response readiness by conducting 1) table top exercises, 2) lessons-learned review of past exercises, and 3) completing the FOF exercise within the time period of the request, after isolation restrictions were ended. At the time of submittal for the exemption request the duration of the PHE was discussed as "not currently known," and therefore a control was added to complete the exercises 90 days after the PHE is ended, or by December 31, 2020, whichever occurs first. However, the PHE has not ended and continues to impact CPNPP's ability to conduct annual FOF exercises. Because the temporary exemption expires December 31, 2020, Vistra OpCo 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 control in the previously approved exemption to complete any missed FOF exercise within the time period in that request. 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 approved temporary exemption applied.

This communication contains no new commitments regarding CPNPP Units 1 and 2.

Should you have any questions, please contact Jim Barnette at (254) 897-5866 or [James.barnette@luminant.com](mailto:James.barnette@luminant.com).

Sincerely,



Steven K. Sewell

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

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

### **1.0 SUMMARY DESCRIPTION**

Comanche Peak Nuclear Power Plant (CPNPP) 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 to complete any missed FOF exercises, within 90 days after the PHE is ended or by December 31, 2020, whichever occurs first, and when isolation restrictions are ended. 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 letter dated May 29, 2020, CPNPP was approved a temporary exemption from 10 CFR 73, Appendix B, Section VI, Subsection C.3.(I)(1) regarding annual FOF exercises (letter Reference 2). The exemption was in response to the COVID-19 public health emergency (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.

### **3.0 EXEMPTION DETAILS**

In the request for exemption, CPNPP detailed site-specific COVID-19 PHE controls for managing personnel performing Security Program duties by maintaining a list of names of the individuals who will not meet the requalification requirements, and ensuring contingency response readiness by conducting 1) table top exercises, 2) lessons-learned review of past exercises, and 3) completing the FOF exercise within the time period of the request, after isolation restrictions were ended. At the time of submittal for the exemption request the duration of the PHE was discussed as "not currently known," and therefore a control was added to complete the exercises 90 days after the PHE is ended, or by December 31, 2020, whichever occurs first. However, the PHE has not ended and continues to impact CPNPP's ability to conduct annual FOF exercises. Because the temporary exemption expires December 31, 2020, Vistra OpCo 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 control in the previously approved exemption to complete any missed FOF exercise within the time period in that request. 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.

### **4.0 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). CPNPP has implemented isolation activities such as self-quarantining, group size limitations, social distancing and POD rotation strategy 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 CPNPP to request a temporary exemption 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. Specifically, CPNPP's pandemic plan has impacted the stations ability to perform annual FOF exercises safely due to the following:

- Texas COVID cases have continued to climb as documented on the State's HHS COVID Dashboard (<https://www.dshs.state.tx.us/news/updates.shtm#coronavirus>). The following 7 Day Averages indicates the rise in cases in Texas:
  - 9/30/20 - 5,332 cases per day
  - 10/31/20 - 6,845 cases per day
  - 12/1/20 - 15,182 cases per day
  - Locally, the rise in cases from 10/29/20 - 12/3/20 is 44%.
- CPNPP's current pandemic plan only allows critical, mission-essential personnel to come to the plant site, all others must work from home. This does not allow sufficient number of site personnel to support Security's ability to carry-out an FOF exercise.
- Current pandemic plan requirements do not allow visitors to visit the plant site without Senior Executive approval.
- Texas continues to be under a State of Disaster, and CDC guidelines regarding masks and social distancing requirements continues to impact CPNPP's ability to safely bring people within close proximity without risking the spread of the virus.
- Under current CPNPP pandemic plan and CDC restrictions, CPNPP is unable to conduct the necessary briefs and hot washes due to limited spaces that can house the amount of people needed.
- Support needed from other organizations to conduct exercises are not available due to work from home restrictions.
- Current pandemic plan social distancing requirements have not allowed CPNPP to put three people in a BRE (player/controller/safety) due to the size of the BREs
- Travel restrictions within Luminant and other licensees inhibit the ability for industry peers to support Force on Force activities. CPNPP depends on other licensee's adversary teams to conduct some annual exercises.

Not conducting annual FOF exercises due to the reasons listed in this request is consistent with the requirement of Appendix B to Part 73, Section VI, C.3.(1)(5); "Tactical response drills and force-on-force exercises are conducted safely and in accordance with site safety plans."

The proposed one-time exemption will apply specifically to security personnel that the temporary approved exemption applied. 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 CPNPP has continued to conduct the following training/requalification requirements of Section VI. of Appendix B to Part 73:

- Quarterly tactical response drills (Tabletop 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)
- Annual written exam

In addition, and in accordance with the approved temporary exemption, CPNPP conducted tabletop exercises and reviewed lessons-learned of past exercises with all impacted security personnel. Additional Target Set training was completed in the 3<sup>rd</sup> Quarter of 2020. Therefore, Comanche Peak continues to maintain a physical protection program that provides high assurance that the health and safety of the public will not be inimical to the common defense and security and does not constitute an unreasonable risk to the public health and safety.

## 5.0 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.

CPNPP 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. CPNPP 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 CPNPP's 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 CPNPP has continued to conduct other training requalification requirements as identified in sections 3 and 4 of this attachment. 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 CPNPP.

3. This exemption is otherwise in the public interest

The CPNPP 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 CPNPP is in operation during the pandemic will help to support the public need for reliable electricity supply to cope with the pandemic. As the US 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, CPNPP 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.

## **6.0 CONCLUSION**

As demonstrated above, Comanche Peak considers 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 Comanche Peak is required during and recovery from the COVID-19 pandemic.

## **7.0 ENVIRONMENTAL ASSESSMENT**

Vistra OpCo is requesting a one-time exemption from the conduct of 2020 annual FOF exercises. Specifically, Vistra OpCo 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.

Vistra OpCo 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.

## 8.0 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.