



102-08210-BJR/SPD
December 18, 2020

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U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk, Director, Office of Nuclear Reactor Regulation, and Director,
Office of Nuclear Material Safety and Safeguards
Washington, DC 20555-0001

Reference: NRC Letter from J. Lubinski and H. Nieh to Nuclear Energy Institute (NEI) dated November 10, 2020, U.S. NUCLEAR REGULATORY COMMISSION UPDATED PLANNED ACTIONS RELATED TO CERTAIN REQUIREMENTS FOR OPERATING AND DECOMMISSIONING REACTOR LICENSEES DURING THE CORONAVIRUS DISEASE 2019 PUBLIC HEALTH EMERGENCY, [Agencywide Document Access and Management System (ADAMS) Accession Number ML20261H515]

Dear Sirs:

Subject: **Palo Verde Nuclear Generating Station (PVNGS) Units 1, 2, and 3 and Independent Spent Fuel Storage Installation (ISFSI) Docket Nos. STN 50-528/529/530 and 72.44 Request for a Temporary Exemption from 10 CFR 73, Appendix B, Section VI, Subsection A.7 and Subsection C.3(I)(1)**

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) PHE. 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 response to these declarations and in accordance with the Arizona Public Service Company (APS) Pandemic Response plan, PVNGS has postponed some site activities due to isolation activities (e.g., social distancing, group size limitations, self-quarantining, etc.) and also anticipates the possibility of isolation of required station personnel to maintain necessary staffing levels. In addition, PVNGS needs more time to develop a plan to conduct annual force-on-force (FOF) exercises with additional artificialities and simulations as described in Regulatory Guide 5.75, *Training and Qualification of Security Personnel at Nuclear Power Reactor Facilities*, and as described during the public meeting held on December 3, 2020 [ADAMS Accession Number ML20329A366].

In accordance with the provisions of 10 CFR 73.5, APS requests a temporary exemption from the timeframe required by 10 CFR 73, Appendix B, Section VI, Subsection A.7. for conducting 2021 annual FOF exercises as required by 10 CFR 73, Appendix B, Section VI, Subsection C.3(I)(1). The enclosure provides the justification.


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APS commenced isolation activities necessary to protect required station staff beginning in March 2020, and estimates needing the exemption by January 8, 2021. The proposed exemption would apply to security personnel currently qualified in accordance with Appendix B to Part 73. PVNGS will track and document when requalification periodicities have been exceeded. The time period during which the exemption is needed will be through June 30, 2021.

APS makes no commitments in this letter. Should you need further information regarding this exemption request, please contact Matthew Kura, Department Leader, Nuclear Regulatory Affairs, at (623) 393-5379.

Sincerely,

Rash, Bruce
(Z77439)

 Digitally signed by Rash, Bruce
(Z77439)
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Date: 2020.12.18 13:01:39 -07'00'

Enclosure: PVNGS 2021 Annual Security FOF Exercise Exemption Request

BJR/SPD

cc:	S. A. Morris	NRC Region IV Regional Administrator
	S. P. Lingam	NRC NRR Project Manager for PVNGS
	J. L. Dixon	NRC Branch Chief for PVNGS
	C. A. Peabody	NRC Senior Resident Inspector for PVNGS

Enclosure

PVNGS 2021 Annual Security FOF Exercise Exemption Request

1.0 SUMMARY DESCRIPTION

Arizona Public Service Company (APS) requests a temporary exemption from conducting 2021 annual force-on-force (FOF) exercises as required by 10 CFR 73, Appendix B, Section VI, Subsection C.3. (I)(1), in the timeframe required in 10 CFR 73, Appendix B, Section VI, Subsection A.7. This temporary exemption supports the isolation activities (e.g., social distancing, group size limitations, self-quarantining) necessary to protect required site personnel in response to the Coronavirus Disease 2019 (COVID-19) pandemic. These activities are needed to ensure personnel are isolated from COVID-19 and remain capable of maintaining plant security. This temporary exemption also allows APS to develop a plan to conduct annual FOF exercises with additional artificialities and simulations as described in Regulatory Guide 5.75, *Training and Qualification of Security Personnel at Nuclear Power Reactor Facilities*, and as described during the public meeting held December 3, 2020. Approval of this exemption will continue to support the isolation activities necessary to protect essential site personnel while APS continues to plan annual exercises that will allow personnel to stay within COVID-19 protocols.

2.0 BACKGROUND

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 public health emergency (PHE). 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, the State of Arizona declared a state of emergency on March 11, 2020. In response to these declarations and in accordance with the APS Pandemic Response plan, APS has postponed some site activities due to isolation activities (e.g., social distancing, group size limitations, self-quarantining, etc.) and also anticipates the possibility of isolation of required station personnel to maintain necessary staffing levels.

In response to the PHE, the NRC issued a letter April 20, 2020, titled, *U.S. Nuclear Regulatory Commission Planned Actions Related to the Requirements for Part 73, Appendix B, Section VI During the Coronavirus Disease 2019 Public Health Emergency* (Reference 1). This letter provided information regarding licensee requests for exemptions from certain Title 10 of the Code of Federal Regulations (CFR) Part 73, Appendix B, Section VI security requirements during the COVID-19 PHE, and the process that the NRC planned to use when reviewing such requests. Because APS completed its 2020 annual FOF exercises (1/13/20, 1/27/20, and 2/24/20) prior to the onset of the PHE, APS did not request an exemption for 2020 annual FOF exercises.

Subsequently, the NRC issued a letter dated November 10, 2020, titled, *U.S. Nuclear Regulatory Commission Updated Planned Actions Related to Certain Requirements for Operating and Decommissioning Reactor Licensees During the Coronavirus Disease 2019 Public Health Emergency* (Reference 2). This letter provides guidance on the continued use of expedited processes needed for submitting exemption requests beyond December 31, 2020. Attachment 4 of this letter, titled, *Title 10 of the Code of Federal Regulations (10 CFR) Part 73 Requirements Related to Security Qualification*, further describes the exemption process for licensees that need to seek exemptions from the licensee-conducted annual FOF exercise requirement in 10 CFR Part 73, Appendix B, Section VI. The attachment also states that NRC staff expects that before requesting an exemption, a licensee will make reasonable attempts to meet regulatory requirements, including considering ways to conduct annual exercises with increased drill artificialities and simulations as described in Regulatory Guide (RG) 5.75. The NRC held a public meeting December 3, 2020, to discuss in more detail, the flexibility described in RG 5.75 and how they relate to the specific conditions caused by the COVID-19 PHE.

3.0 EXEMPTION DETAILS

NRC Regulation 10 CFR 73, Appendix B, Section VI, Subsection C.3. (I)(1), requires each member of each shift who is assigned duties and responsibilities required to implement the safeguards contingency plan and licensee protective strategy, to participate in one FOF exercise on an annual basis. NRC Regulation 10 CFR 73, Appendix B, Section VI, Subsection A.7 states that annual requirements must be scheduled at a nominal twelve-month periodicity and allows for annual training to be completed up to three months before or three months after the scheduled date. However, the next annual training must be scheduled twelve months from the previously scheduled date rather than the date the training was actually completed.

APS is scheduled currently to complete annual FOF exercises in the first quarter of 2021. Because the PHE has not ended and continues to impact the APS ability to conduct annual FOF exercises safely, APS requests a temporary exemption from conducting 2021 annual FOF exercises in the timeframe required in 10 CFR 73, Appendix B, Section VI, Subsection A.7. APS will develop a plan to complete annual FOF exercises by using the guidance provided in RG 5.75, that introduces artificialities and simulations, and will complete exercises by June 30, 2021. These artificialities and simulations will be used only as required to complete annual FOF exercises while the APS pandemic response plan activities are needed due to the COVID-19 PHE. The planned artificialities and simulations implemented due to COVID-19 will be documented in the annual FOF exercise report for each individual exercise and will be available for the NRC to review upon request.

Approval of this exemption will continue to support the isolation protocols necessary to protect essential site personnel and provide more time for the site to develop a plan considering ways to conduct annual exercises with increased drill artificialities and simulations as described in RG 5.75. These restrictions are needed to ensure personnel are isolated from COVID-19 and remain capable of maintaining plant security.

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 3). APS has implemented isolation activities such as self-quarantining, group size limitations, and social distancing, to protect required site personnel based on NEI 06-03, *Pandemic Threat Planning, Preparation, and Response Reference Guide* (Reference 4). Ideally, this will limit the spread of COVID-19 among the station staff. Maintaining a healthy workforce is preferable to having a sick workforce that is unavailable during a pandemic.

Maricopa County is experiencing an increase in COVID-19 positivity rates and APS has experienced a recent increase in the number of employees who have tested positive for COVID-19. Approximately 197 members of the Palo Verde Nuclear Generating Station (PVNGS) workforce have tested positive for COVID-19, as of December 17, 2020, with 18 of those being Security Force Members.

The APS pandemic response plan has impacted the stations ability to perform annual FOF exercises safely as it mandates physical distancing, mask use, limitations on the size of gatherings, and limitations on the number of personnel allowed in a vehicle.

This temporary exemption supports the isolation activities (e.g., social distancing, group size limitations, self-quarantining) necessary to protect required site personnel in response to the COVID-19 pandemic. These activities are needed to ensure personnel are isolated from

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COVID-19 and remain capable of maintaining plant security and compliance with the APS pandemic response plan and CDC recommendations.

In addition, approval of this temporary exemption request will allow PVNGS time to develop a plan to conduct annual FOF exercises with additional artificialities and simulations as described in RG 5.75, and as described during the public meeting held December 3, 2020. Deferral of the annual FOF exercises due to the reasons listed in this request are consistent with the requirement of Appendix B to Part 73, Section VI, C.3. (I)(5), *Tactical response drills and force-on-force exercises are conducted safely and in accordance with site safety plans.*

The proposed temporary exemption will apply specifically to security personnel that are currently qualified in accordance with Appendix B to Part 73. 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 APS has continued to conduct the following training requalification requirements of Section VI of Appendix B to Part 73:

- Quarterly tactical response drills including tabletop exercises and limited-scope tactical response drills

The following annual security requalification requirements that reinforce annual FOF exercise related skills will continue as planned:

- Firearms familiarization
- Daylight qualification course
- Night fire qualification course
- Tactical qualification course
- Physical examination and fitness test
- Weapons range activities (on a four-month periodicity)
- Written examinations

PVNGS intends to complete the annual FOF exercises by June 30, 2021. The annual FOF exercise dates are scheduled tentatively for May 16, 2021, May 23, 2021, June 20, 2021, and June 27, 2021.

In addition, PVNGS will track and document the names of the Security Force members who will not meet the requirements of 10 CFR Part 73, Appendix B, Section VI, Subsection C.3. (I)(1) and Subsection A.7.

5.0 JUSTIFICATION OF EXEMPTION

NRC Regulation 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 exemption is authorized by law.
- (2) The exemption will not endanger life or property or the common defense and security, and
- (3) The exemption is otherwise in the public interest.

PVNGS has evaluated the requested exemption against the criteria of 10 CFR 73.5 and determined the criteria are satisfied as described below.

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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 temporary exemption to allow deferring of annual FOF exercises. APS had scheduled these requalification activities to comply with the regulation, however, these activities must be rescheduled to allow continued implementation of the APS pandemic plan mitigation strategies and to develop a plan to conduct the annual FOF exercises safely. These strategies serve the public interest by ensuring adequate staff isolation and maintaining staff health to perform their job function actions 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 Force members impacted by this request are currently qualified on all required tasks and continue to maintain proficiency with the knowledge, skills, and abilities required to effectively implement the protective strategy to protect PVNGS against the design basis threat. In addition, Security Force members will continue to be monitored regularly by supervisory personnel. Granting the requested temporary exemption will not endanger or compromise the common defense or security, or safeguarding of PVNGS.

3. This exemption is otherwise in the public interest

The APS pandemic response plan is based on NEI 06-03, *Pandemic Threat Planning, Preparation, and Response Reference Guide*, (Reference 4) 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 PVNGS personnel. NEI 06-03 provides other mitigation strategies that serve the public interest during a pandemic by ensuring adequate staff are isolated from the COVID-19 pandemic and remain healthy to perform their job functions.

Ensuring PVNGS continued operation during the COVID-19 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 operations make up the nation's critical infrastructure similar to the medical, food, communications, and other critical industries. If PVNGS 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.

6.0 CONCLUSION

As demonstrated above, APS considers this temporary 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 of the plant. A temporary exemption for the conduct of 2021 annual FOF exercises at PVNGS is required in order to provide time to develop a plan to safely conduct annual FOF exercises with increased drill artificialities and simulations as described in RG 5.75.

In summary, APS 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.

7.0 ENVIRONMENTAL ASSESSMENT

APS is requesting a temporary exemption from the conduct of 2021 annual FOF exercises. Specifically, in accordance with the provisions of 10 CFR 73.5, APS requests a temporary exemption from the timeframe required by 10 CFR 73, Appendix B, Section VI, Subsection A.7. for conducting 2021 annual FOF exercises as required by 10 CFR 73, Appendix B, Section VI, Subsection C.3. (I)(1). The following information is provided in support of an environmental assessment and finding of no significant impact for the proposed exemption.

APS 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 2021 annual security FOF exercise requirements. Accordingly, the proposed temporary 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. NRC letter, *U.S. Nuclear Regulatory Commission Planned Actions Related to the Requirements for Part 73, Appendix B, Section VI During the Coronavirus Disease 2019 Public Health Emergency*, dated April 20, 2020 (ADAMS Accession No. ML20105A483)
2. NRC Letter, *U.S. Nuclear Regulatory Commission Updated Planned Actions Related to Certain Requirements for Operating and Decommissioning Reactor Licensees During the Coronavirus Disease 2019 Public Health Emergency*, dated November 10, 2020 (ADAMS Accession No. ML20261H515)
3. *Interim Guidance for Businesses and Employers*, retrieved from <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>, on March 17, 2020
4. NEI 06-03, *Pandemic Threat Planning, Preparation, and Response Reference Guide*, Revision 2, February 2020
5. NRC Public meeting held on December 3, 2020 (ADAMS Accession No. ML20329A366)