



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

December 23, 2020

Mrs. Maria L. Lacal
Executive Vice President/
Chief Nuclear Officer
Mail Station 7605
Arizona Public Service Company
P.O. Box 52034
Phoenix, AZ 85072-2034

SUBJECT: PALO VERDE NUCLEAR GENERATING STATION, UNITS 1, 2,
AND 3 – SUBSEQUENT REQUEST FOR EXEMPTION FROM SELECT
REQUIREMENTS OF 10 CFR PART 26 (EPID L-2020-LLE-0238 [COVID-19])

Dear Mrs. Lacal:

The U.S. Nuclear Regulatory Commission (NRC) has approved the requested exemption from specific requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 26, "Fitness for Duty Programs," Section 26.205, "Work hours," for Palo Verde Nuclear Generating Station, Units 1, 2, and 3 (Palo Verde). This action is in response to your application dated December 21, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20356A292). Your application cited the November 10, 2020, letter from Mr. Ho Nieh (ADAMS Accession No. ML20261H515) describing a process to request expedited review of certain exemptions from 10 CFR Part 26 during the Coronavirus Disease 2019 (COVID-19) public health emergency (PHE).

In your application, you provided the following information:

- A statement that explains how, and for which covered groups at Palo Verde, the COVID-19 PHE impacts the licensee's ability to meet the work-hour control requirements of 10 CFR 26.205(d)(1)-(d)(7);
- A statement that describes how Arizona Public Service Company (the licensee) would use an exemption from the 10 CFR 26.205(d)(1)-(d)(7) work-hour control requirements to manage the impact of the COVID-19 PHE on maintaining plant operational safety and security at Palo Verde;
- A list of positions for which the licensee may implement alternative work-hour controls at Palo Verde upon the NRC granting the requested exemption. From this, the NRC has determined the positions for which the licensee will maintain current work-hour controls under 10 CFR 26.205(d)(1)-(d)(7) and the positions for which the licensee requested the exemption;
- The date and time when the licensee will begin implementing site-specific COVID-19 PHE fatigue-management controls at Palo Verde for personnel specified in 10 CFR 26.4(a);

- A statement that the licensee's site-specific COVID-19 fatigue management controls at Palo Verde are consistent with the constraints outlined in the November 10, 2020, letter; and
- A statement that the licensee will establish alternative controls at Palo Verde for the management of fatigue during the period of the exemption and, at a minimum, the controls ensure that, for individuals subject to these alternative controls:
 - Individuals will not work more than 16 work hours in any 24-hour period and not more than 86 work hours in any 7-day period, excluding shift turnover,
 - A minimum 10-hour break is provided between successive work periods,
 - 12-hour shifts are limited to not more than 14 consecutive days,
 - A minimum of 6 days off is provided in any 30-day period, and
 - Requirements have been established for behavioral observation and self-declaration during the period of the exemption.

Additionally, because the licensee is requesting that the exemption period begin on a date that is less than 14 days following the last day (January 1, 2021) of a preceding exemption period, the application also provided the following information:

- The requested duration of the subsequent exemption period, and
- A technical basis for why the NRC would continue to have reasonable assurance that cumulative fatigue during the subsequent exemption period from 10 CFR 26.205(d)(1)-(d)(7) work-hour controls will not compromise plant safety or security due to impaired worker fitness for duty. Here, the licensee notes that they did not invoke the previously approved exemption.

Therefore, the NRC finds that the technical basis for an exemption described in the March 28, 2020 (ADAMS Accession No. ML20087P237), and November 10, 2020, letters is applicable to the licensee's specific request.

Section 26.9, "Specific exemptions," of 10 CFR allows the NRC to grant exemptions from the requirements of 10 CFR Part 26. The NRC staff has determined that granting the licensee's requested exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest.

The underlying purpose of 10 CFR 26.205(d) is to prevent impairment from fatigue due to duration, frequency, or sequencing of successive shifts. Based on the evaluation provided in the NRC's March 28 and November 10, 2020, letters and the criteria discussed above, no new accident precursors are created by using whatever licensee staff resources may be necessary or available during the term of this exemption to respond to a plant emergency and to ensure that the plant maintains a safe and secure status. Therefore, the probability of postulated accidents is not increased. Also, the consequences of postulated accidents are not increased because there is no change in the types of accidents previously evaluated. The requested

exemption would allow the use of licensee staff resources as may be necessary to maintain safe operation of the plant and to respond to a plant emergency. Therefore, the NRC finds that there is no undue risk to public health and safety from granting the requested exemption.

The requested exemption would allow the use of licensee security staff resources as may be necessary to ensure the common defense and security. Therefore, the NRC finds that there is no impact on common defense and security from granting the requested exemption.

Due to the impacts that the COVID-19 PHE has had on the licensee's ability to comply with the work-hour controls of 10 CFR 26.205(d), the importance of maintaining the operations of the Palo Verde, and the controls the licensee has established, the NRC finds that granting the requested exemption is in the public interest.

Granting the requested exemption from the requirements of 10 CFR 26.205 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)(I), that the requirements from which the exemption is sought involve other requirements of an administrative, managerial, or organizational nature.

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, does not authorize changes to any of the assumptions or limits used in the facility licensee's safety analyses, and does not 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. 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 this exemption request.

Based on the above, the NRC staff finds that (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.

M. Laca

- 4 -

This exemption is effective from January 2, 2021, through March 2, 2021.

Sincerely,

David J. Wrona, Acting Deputy Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. STN 50-528, STN 50-529,
and STN 50-530

cc: Listserv

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DATED DECEMBER 23, 2020

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ADAMS Accession No.: ML20357A055***by e-mail**

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