



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

January 13, 2021

Mr. Don Moul
Executive Vice President, Nuclear
Division, and Chief Nuclear Officer
Florida Power & Light Company
Mail Stop: EX/JB
700 Universe Blvd.
Juno Beach, FL 33408

SUBJECT: DUANE ARNOLD ENERGY CENTER – EXEMPTION FROM ANNUAL
FORCE-ON-FORCE EXERCISE REQUIREMENTS OF 10 CFR PART 73,
APPENDIX B, “GENERAL CRITERIA FOR SECURITY PERSONNEL,”
SUBSECTION VI.C.3(I)(1) (EPID L-2020-LLE-0241 [COVID-19])

Dear Mr. Moul:

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 Duane Arnold Energy Center (DAEC) for calendar year (CY) 2020. This action is in response to NextEra Energy Duane Arnold, LLC’s (NEDA, the licensee) application dated December 29, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20364A039), that requested an exemption from 10 CFR Part 73, Appendix B, Section VI, subsection C.3.(I)(1), regarding the annual force-on-force (FOF) exercise for CY 2020 at DAEC.

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 exercises 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, which is still in effect. 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 26, 2020 (ADAMS Accession No. ML20139A006), NRC granted the licensee's previous request for a temporary exemption from 10 CFR Part 73, Appendix B, Section VI, subsection C.3(1)(1) for DAEC, regarding the performance of annual FOF exercises. That exemption expired on December 31, 2020. As such, the licensee was required to conduct any missed annual licensee-conducted FOF exercises by December 31, 2020.

The licensee's application dated December 29, 2020 stated, in part, the following:

- The threat of the Coronavirus Disease 2019 (COVID-19) spread has resulted in the inability to safely conduct the annual force-on-force (FOF) exercise at the DAEC within calendar year (CY) 2020, as required by 10 CFR 73 Appendix B, Section VI, subsection C.3.(1)(1).
- Performance of FOF exercises requires significant site resources that will result in exposing multiple individuals to conditions of close contact with others. Those scenarios would conflict with CDC guidance and NextEra Energy policy for maintaining separation of 6 feet between personnel, and many of these situations would also be in enclosed areas. Areas where public health measures cannot be followed due to the performance of an FOF exercise include bullet resistant enclosures and alarm stations, as they do not provide adequate social distancing capability for the increased FOF staffing. The annual FOF exercises require approximately 75% of the security staff to be onsite and in the proximity of one another during the exercise. In addition, there is a potential for interdepartmental exposure risks with the addition of DAEC non-Security support staff that are required to participate in the exercise, briefings, and critiques.
- Continued implementation of public health measures (for example, social distancing, group size limitations, remote working, etc.) taken at DAEC remain necessary to protect the health and safety of essential site personnel during the COVID-19 PHE. Participation in the annual FOF exercise with the current, rapidly increasing rate of COVID-19 infections in the towns and communities surrounding DAEC exposes additional COVID-19 risk to Security, as well as site personnel that are necessary to participate in the FOF exercise.
- 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 NEDA has continued to conduct the following training requalification requirements of 10 CFR Part 73, Appendix B, Section VI:
 - Quarterly tactical response drills (Tabletop drills completed)
 - Annual firearms familiarization
 - Annual daylight qualification course
 - Annual night fire qualification course

- Annual tactical qualification course
 - Annual physical examination
 - Annual physical fitness test
 - Weapons range activity (four separate range activities completed in 2020)
 - Annual written exam
- NEDA has also reviewed lessons-learned of past exercises, and conducted tabletop exercises, a communication-based exercise and walkdowns of the routes of travel with all impacted security personnel.

This exemption is specific to CY 2020 and DAEC 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 proposed exemption is related only to the conduct of annual FOF exercises and does not change physical security plans or the defensive strategy; 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 the licensee has continued to conduct other training requalification requirements; security personnel will continue to be monitored regularly by supervisory personnel and have implemented controls as identified in the approved temporary exemption granted on May 26, 2020; and granting the requested exemption will not endanger or compromise the common defense or security, or safeguarding of DAEC. Additionally, the December 29, 2020, request identified site-specific actions listed above that will be implemented at DAEC to maintain contingency response readiness, consistent with the NRC staff's October 13, 2020, letter (ADAMS Accession No. ML20273A126).

Pursuant to 10 CFR 73.5, "Specific exemptions," the Commission may, upon application by any interested person or upon 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 DAEC security personnel who are already satisfactorily qualified on the security requirements in 10 CFR Part 73, Appendix B, Section VI. Based on this fact, and its review of the controls that the licensee has, or will, 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 DAEC 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 temporary exemption from the annual licensee-conducted FOF requirement in 10 CFR Part 73,

Appendix B, Section VI, subsection C.3.(l)(1), would facilitate the licensee's efforts to maintain a healthy workforce capable of maintaining 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 temporary exemption is in the public interest because it allows the licensee to maintain the required security posture at DAEC, while enabling the facility to continue to complete decommissioning activities.

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 that, per 10 CFR 51.22(c)(25)(vi)(E), 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 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 change 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 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 DAEC 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.

D. Moul

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If you have any questions, please contact the DAEC project manager, Scott P. Wall, at 301-415-2855 or via e-mail at Scott.Wall@nrc.gov.

Sincerely,

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

Docket No. 50-331

cc: Listserv

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ADAMS Accession No.: ML21004A215***via email**

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