



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

February 11, 2021

Mr. Ken J. Peters  
Senior Vice President and  
Chief Nuclear Officer  
Attention: Regulatory Affairs  
Vistra Operations Company LLC  
Comanche Peak Nuclear Power Plant  
6322 N FM 56  
P.O. Box 1002  
Glen Rose, TX 76043

SUBJECT: COMANCHE PEAK NUCLEAR POWER PLANT, UNIT NOS. 1 AND 2 –  
EXEMPTION FROM SELECT REQUIREMENTS OF 10 CFR PART 26  
(EPID L-2021-LLE-0009 [COVID-19])

Dear Mr. Peters:

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 Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2 (Comanche Peak). This action is in response to the Vistra Operations Company LLC's (the licensee's) application, dated February 8, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21039A688), as supplemented by letters dated February 9, 2021 (ADAMS Accession No. ML21040A512) and February 10, 2021 (ADAMS Accession No. ML21041A541). This application cited the March 28, 2020 (ADAMS Accession No. ML20087P237) and November 10, 2020 (ADAMS Accession No. ML20261H515), letters from Mr. Ho Nieh 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).

The application provided the following information:

- A statement that explains how, and for which covered groups at Comanche Peak, 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 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 Comanche Peak;
- A list of positions for which the licensee may implement alternative work-hour controls at Comanche Peak upon the NRC granting the requested exemption (from which 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));

- A statement that the licensee will continue to implement, as warranted by COVID-19 PHE conditions, site-specific COVID-19 PHE fatigue-management controls at Comanche Peak for personnel specified in 10 CFR 26.4(a) following the last day of the preceding exemption period (February 13, 2021);
- A statement that the licensee's site-specific COVID-19 fatigue-management controls at Comanche Peak are consistent with the constraints outlined in the March 28 and November 10, 2020, letters; and
- A statement that the licensee's alternative controls at Comanche Peak for the management of fatigue during the period of the exemption, at a minimum, 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;
  - The calculation of work hours and days off includes all work hours and days off during the applicable calculation periods, including those work hours and days off preceding initiation of the exemption 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 (February 14, 2021) that is less than 14 days following the last day (February 13, 2021) of the 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.

Therefore, the NRC finds that the technical basis for an exemption described in the March 28 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, as it determines are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest.

The NRC determined that the requested exemption is permissible under the Atomic Energy Act of 1954, as amended, and other regulatory requirements. Therefore, the NRC finds that the requested exemption is authorized by law.

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, along with 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 the requested exemption will not endanger life or property.

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 the requested exemption will not endanger the common defense and security.

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 Comanche Peak, Unit Nos. 1 and 2, 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 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 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 the 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 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.

This exemption is effective from February 14, 2021, through April 14, 2021.

Sincerely,

Philip J. McKenna, Acting Deputy Director  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

Docket Nos. 50-445 and 50-446

cc: Listserv

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 EXEMPTION FROM SELECT REQUIREMENTS OF 10 CFR PART 26  
 (EPID L-2021-LLE-0009 [COVID-19]) DATED FEBRUARY 11, 2021

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**ADAMS Accession No.: ML21040A001** \*via concurrence with model safety evaluation

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