



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

May 19, 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 –
TEMPORARY EXEMPTION FROM ANNUAL FORCE-ON-FORCE EXERCISE
REQUIREMENT OF 10 CFR PART 73, APPENDIX B, “GENERAL CRITERIA
FOR SECURITY PERSONNEL,” SUBSECTION A.7 (EPID L-2021-LLE-0024
[COVID-19])

Dear Mr. Peters:

The U.S. Nuclear Regulatory Commission (NRC, the Commission) has approved the requested temporary 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 Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2 (Comanche Peak or CPNPP), for calendar year (CY) 2021. This action is in response to the Vistra Operations Company LLC (Vistra OpCo or the licensee) application dated April 16, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML21106A293 (cover letter) and ML21106A294 (cover letter with the enclosure; non-public, withheld under 10 CFR 2.390)), as supplemented by letter dated May 12, 2021 (ADAMS Accession Nos. ML21132A126 (cover letter) and ML21132A127 (cover letter with the enclosure; non-public, withheld under 10 CFR 2.390)), that requested an exemption from 10 CFR Part 73, Appendix B, Section VI, subsection A.7, regarding the timeframe for conducting the annual force-on-force (FOF) exercises scheduled for the first quarter of CY 2021 at Comanche Peak, as required by 10 CFR Part 73, Appendix B, Section VI, subsection C.3(l)(1).

The requirements in 10 CFR Part 73, Appendix B, Section VI, subsections A.7 and C.3.(l)(1), respectively, state, in part:

Annual requirements must be scheduled at a nominal twelve (12) month periodicity. Annual requirements may be completed up to three (3) months before or three (3) months after the scheduled date. However, the next annual training must be scheduled twelve (12) months from the previously scheduled date rather than the date the training was actually completed.

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. Subsequently, the Centers for Disease Control and Prevention (CDC) issued recommendations (e.g., social distancing, limiting assemblies) to limit the spread of COVID-19.

The licensee's application dated April 16, 2021, stated the following, in part:

- The COVID-19 PHE has not ended and Vistra OpCo, in order to maintain a healthy work force, continues to implement strict isolation protocols (e.g., social distancing, group size limitations, self-quarantining, etc.) and work-from-home requirements at CPNPP.
- COVID-19 trends in Texas have been improving. Effective March 10, 2021, the State lifted COVID-19-related operating limits for businesses not in areas with high hospitalizations. The COVID-19 trend in Somervell County (2019 population 8,860) where CPNPP is located has been improving as well. Hood County (2019 population 61,643), the most populous of the counties surrounding the CPNPP site, designates their current level of community transmission or impact of COVID-19 as "MODERATE." The State continues to strongly encourage individuals to wear face coverings and maintain social distancing. Corporate-level COVID-19 isolation protocols remain in place to ensure continuing availability of staff to support plant operations as described. The most recent projection is to potentially relax the isolation protocols in August 2021.
- Specifically, CPNPP's pandemic plan has impacted the [station's] ability to perform annual FOF exercises safely and with minimum artificialities due to the following:
 - CPNPP's current pandemic plan restricts site access to critical, mission-essential personnel; other personnel are normally working 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 to minimize the potential for virus spread.

- CDC guidelines regarding masks and social distancing requirements continue to impact CPNPP's ability to safely bring people within close proximity without risking the spread of the virus.
 - Under the 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 is 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 [bullet resistance enclosure] (player/controller/safety) due to the size of the BREs.
 - Travel restrictions within Luminant [the licensee] and other licensees inhibit the ability for industry peers to support FOF activities. CPNPP depends on other licensees' adversary teams to conduct some annual exercises.
- Approval of this exemption will continue to support the isolation protocols necessary to protect essential site personnel while CPNPP prepares to conduct the annual FOF exercises during August and September, by which time the COVID-related restrictions are expected to be relaxed and the exercises can be conducted with minimal artificialities. These restrictions are needed to ensure personnel are isolated from the COVID-19 disease and remain capable of maintaining plant security. The short-term deferral of the security exercises ensures the safety of security personnel participants, and, by extension, critical personnel required to safely operate the plant, their associated families, and the surrounding community by minimizing the possibility of spread of the virus.
 - 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 [DBT] 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

- CPNPP has performed (and will continue to perform) numerous tabletop sessions with extensive defense in depth scenarios for every qualified armed responder. The tabletop drills are in small group settings normally comprised of just seven Security Officers to enhance participation while also maintaining COVID-19 isolation protocols. The informal setting allows for open discussion and feedback to enhance the group members' knowledge on how to react to various DBT scenarios. Experience from previous tabletops and FOF exercises are disseminated to the Security Officers throughout the training cycles. In addition, each Security crew has performed a monthly shift drill which allows the security crews to react to scenarios that are rare events such as loss of communications, computer failure, internal disturbance, missing Security Officer, breached barrier and access control issues.

Additional Target Set training was completed in the 3rd Quarter of 2020.

- CPNPP 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(l)(1) and Subsection A.7.

In its May 12, 2021, response to NRC staff's request for supplemental information dated May 6, 2021 (ADAMS Accession No. ML21125A433), the licensee stated the following, in part:

- While the COVID-19 trends in Texas including the areas directly around Comanche Peak are encouraging, CPNPP has experienced direct COVID-19 impacts during the first quarter of 2021, including:
 - Numerous security personnel were quarantined for a total of 6 weeks due to actual or potential COVID-19 exposure.
 - A total of 179 other Comanche Peak employees were quarantined during the first quarter of 2021 due to COVID-19.
 - Comanche Peak was scheduled to start an ISFSI [independent spent fuel storage installation] dry cask transfer/storage campaign on March 1, 2021. The campaign was delayed by a week when 10 of the 20 primary contractor employees had to be quarantined due to COVID-19.
- CPNPP has addressed security officer perishable skills through the conduct of a significant number of training activities using live-fire and laser engagement equipment.
- CPNPP Security did not engage plant Operations for security tabletops in 2020 due to COVID safety protocols; however, the security department did administer vandalism, tampering, and sabotage (VTS) training to Operations personnel during their yearly licensed operator requalification training (LORT). VTS training includes the actions/responsibilities of the Operations personnel if the scenario is hostile action based.

- CPNPP recognizes that there is a possibility that site specific conditions may not improve by August 2021, at which point CPNPP will forgo executing annual exercises under the new enhanced protective strategy until 2023 and execute .03 Lite Limited Scope (LS) type exercises¹ with enhanced simulations and artificialities under the current protective strategy to be completed prior to September 30, 2021.

This temporary exemption is specific to FOF exercises previously scheduled for the first quarter of CY 2021 and Comanche Peak 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 the proposed exemption does not change the 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 DBT because CPNPP has continued to conduct other training requalification requirements as identified above; and security personnel will continue to be monitored regularly by supervisory personnel. Therefore, granting the requested exemption will not endanger or compromise the common defense or security, or safeguarding CPNPP. Additionally, the licensee identified the site-specific actions listed above that will continue to occur at Comanche Peak to maintain contingency response readiness, consistent with the NRC staff's November 10, 2020, letter (ADAMS Accession No. ML20261H515).

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 licensee security personnel who are already satisfactorily qualified in accordance with 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 will implement to ensure contingency response readiness for the duration of the exemption, including continuing to conduct quarterly tactical response drills, perishable skills training, and other security qualification requirements, the NRC staff has reasonable assurance that the security force at Comanche Peak 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 otherwise in the public interest. The NRC staff finds

¹ .03 Lite Limited Scope (LS) type exercises are described in Addendum 5 to Inspection Procedure 71130.03, "Contingency Response – Force-on-Force Testing," which is not publicly available.

that the temporary exemption from 10 CFR Part 73, Appendix B, Section VI, subsection A.7, for the timeframe required to conduct annual FOF exercises in the first quarter of CY 2021 until September 30, 2021, would facilitate the licensee's efforts to maintain a healthy workforce capable of operating 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 exemption allowing postponement of the first quarter CY 2021 FOF exercises until September 30, 2021, is otherwise in the public interest because it allows the licensee to maintain the required security posture at Comanche Peak, while enabling the facility to continue to provide electrical power to the Nation.

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, per 10 CFR 51.22(c)(25)(vi)(E), that 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 changes 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 facility 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 temporary 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 temporarily exempt Comanche Peak from the timeframe required by 10 CFR Part 73, Appendix B, Section VI, subsection A.7 for conducting the annual FOF exercise with 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 to be conducted in the first quarter of CY 2021 and is valid until September 30, 2021.

K. Peters

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If you have any questions, please contact the Comanche Peak project manager, Dennis J. Galvin, at 301-415-6256 or via e-mail at Dennis.Galvin@nrc.gov.

Sincerely,

Craig G. Erlanger, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-445 and 50-446

cc: Listserv

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***via e-mail**

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