

SAFETY EVALUATION REPORT

DOCKET NO.: 07003103

LICENSEE: Louisiana Energy Services LLC doing business as URENCO, USA (UUSA),
Eunice, NM

SUBJECT: TEMPORARY EXEMPTION FROM THE 2021 BIENNIAL EVALUATED
EMERGENCY PLAN EXERCISE REQUIRED BY 10 CFR 70.22(i)(3)(xii)
(ENTERPRISE PROJECT IDENTIFIER L-2021-LLA-0162)

REQUEST

By letter dated September 15, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21266A301), as supplemented by letter dated September 22, 2021 (ADAMS Accession No. ML21272A295), Louisiana Energy Services, LLC, which does business as URENCO, USA (UUSA), submitted a request for an exemption from certain requirements of Title 10 of the *Code of Federal Regulations* (10 CFR), Paragraph 70.22(i)(3)(xii), "Exercises." In particular, UUSA requests a one-time exemption from the provisions in 10 CFR 70.22(i)(3)(xii), which require a biennial emergency plan exercise.

UUSA proposes to reschedule the conduct of the biennial exercise within 35 months from the date in which the previously evaluated exercise was conducted in October 2019, to on or before June 30, 2022. In addition, UUSA states that future biennial emergency plan exercises will continue to be conducted in odd years starting in CY 2023.

BACKGROUND

Currently, UUSA is required by regulation to conduct emergency plan exercises biennially. Under UUSA's Emergency Plan Section 7.3.1, UUSA will conduct a major exercise on a biennial basis in order to exercise coordination with offsite assistance organizations, including the testing of procedures and equipment for notifying and communicating with local and state agencies.

UUSA states that, as of September 15, 2021, Lea County and neighboring Chaves County's Coronavirus Disease 2019 (COVID-19) exposure risks have been classified as Severe Risk Level, the highest in New Mexico, based on daily new cases, infection rates and positivity rest rates. UUSA also states that the Centers for Disease Control and Prevention, the State of New Mexico, Lea County, and the UUSA facility have recently reinstated several COVID-19 protective measures for individuals regardless of vaccination status.¹ Based on the rising number of positive COVID-19 cases in the local area and the increased number of personnel involved in an evaluated exercise, UUSA concludes that an evaluated exercise cannot be conducted as scheduled in October 2021 without unnecessarily increasing the risk of exposing UUSA staff, offsite responders, and members of the public to the COVID-19 virus.

¹ UUSA's submission technically states that "Les County" has reinstated protective measures. The NRC staff, however, understand this to be a typo.

UUSA's last biennial emergency plan exercise was conducted in October 2019. UUSA indicated that it has made a reasonable effort to reschedule the emergency plan exercise in CY 2021 but has been unsuccessful. UUSA states that it plans to conduct the rescheduled biennial plan exercise on or before June 30, 2022, which is within 35 months from the date in which the previously evaluated emergency plan exercise was conducted. Since the last biennial emergency plan exercise conducted on October 9, 2019, UUSA has continued to conduct surveillances and other training activities that exercise their emergency response strategies internally and with offsite agencies, such as:

- annual offsite emergency planning update training conducted on December 7, 2020;
- planned annual offsite emergency planning update training to be conducted on December 9, 2021; and
- annual memorandums of understanding were reviewed with all offsite agencies on August 31, 2021.

UUSA states that it will conduct an evaluated exercise, which will be coordinated and scheduled with the applicable offsite response organizations and the U.S. Nuclear Regulatory Commission's (NRC) applicable region.

DISCUSSION – NRC STAFF REVIEW PURSUANT TO 10 CFR 70.17(a)

The NRC issued a letter on May 14, 2020, to the Nuclear Energy Institute (ADAMS Accession No. ML20120A003) related to emergency biennial exercise requirements during the COVID-19 public health emergency for all licensees under Parts 30, 40, 50, 52, 70 and 72 that have a radiological emergency plan. This letter stated that the "NRC is prepared to consider on an expedited basis requests for exemptions, upon request from individual licensees, from the biennial emergency plan exercise requirements that are specified in 10 CFR 70.22(i)(3)(xii). These exemptions would, if granted, ensure that licensees engage in activities that do not conflict with practices recommended by the Centers for Disease Control and Prevention to limit the spread of COVID-19."

The NRC issued another letter on November 10, 2020, to the Nuclear Energy Institute (ADAMS Accession No. ML20261H515), which included discussion of emergency plan requirements, including 10 CFR 70.22(i)(3)(xii). The NRC stated that licensees seeking to move biennial emergency plan exercises from CY 2021 to CY 2022 should continue to consider the guidance in the NRC's May 14, 2020, letter and should continue to provide the information requested in said letter.

Consistent with the November 10, 2020, letter and the section entitled "Requested Information" in the May 14, 2020, letter, UUSA provided the following information:

- UUSA's last biennial exercise was conducted in October 2019.
- UUSA's current biennial exercise date was scheduled to be held in October 2021.

- UUSA has made a reasonable effort to reschedule the planned exercise in CY 2021 but has been unsuccessful.
- UUSA will reschedule the conduct of the biennial exercise within 35 months from the month in which the previously evaluated exercise was conducted.
- If this exemption is granted, UUSA states that future biennial exercises will continue to be held in odd years.
- UUSA states that it has conducted drills, exercises, and other training activities that exercised its emergency response strategies, in coordination with offsite authorities, since the previous biennial exercise.
- UUSA also states that it will coordinate with the applicable offsite response organizations (if offsite response organization participation is required) and the applicable NRC Region.

The November 10, 2020, letter noted that licensees could continue to consider the guidance in the May 14, 2020 letter when moving exercises from calendar year 2021 to calendar year 2022. Per the May 14, 2020, letter, licensees need to provide the date of their last biennial exercise. Rather than providing the precise date of its previous exercise, UUSA told the NRC that the previous exercise had been conducted in October 2019. The NRC staff views this as sufficiently precise to still provide expedited review. The NRC staff notes that UUSA's previous exercise was conducted on October 9, 2019.

Pursuant to 10 CFR 70.17(a), the NRC may grant an exemption from the requirements of 10 CFR Part 70 if the staff determines that 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.

The NRC staff has reviewed the requested exemption and determined that it is permissible under the Atomic Energy Act of 1954, as amended, and that no other prohibition of law or the Commission's regulations exists to preclude the activities that would be authorized by the exemption. Therefore, the NRC staff finds that the requested exemption is authorized by law.

UUSA has conducted surveillances and other training activities that exercise its emergency response strategies internally and with offsite agencies. These include an annual emergency planning update training with offsite agencies last performed on December 7, 2020 and scheduled to next be performed on December 9, 2021. UUSA also reviewed its annual memorandums of understanding with all offsite agencies on August 31, 2021. Additionally, UUSA states that the requested relief also does not decrease the effectiveness of UUSA's emergency plan nor involve changes to security at the UUSA facility. Further, the licensee will reschedule the exercise within 35 months from the month in which the previously evaluated exercise was conducted. Therefore, the staff finds that granting the exemption would not endanger life or property or the common defense and security.

Finally, granting this exemption request is otherwise in the public interest because it promotes public health and safety by following social distancing recommendations related to the transmission of the COVID-19 virus. As discussed above, the county in which UUSA is located has seen rising COVID-19 caseloads. Conducting this exercise involves increased numbers of

personnel. Thus, granting this exemption will minimize the risk to UUSA staff, offsite responders, and potentially members of the public, of exposure to the COVID-19 virus. Therefore, the NRC staff concludes that granting this exemption is in the public interest.

ENVIRONMENTAL REVIEW

Pursuant to 10 CFR 51.22(b) and 10 CFR 51.22(c)(25)(vi)(G), provided that there are no special circumstances, the granting of an exemption from the requirements of any regulation in Chapter I of 10 CFR is a categorical exclusion, provided that: (i) there is no significant hazards consideration; (ii) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (iii) there is no significant increase in individual or cumulative public or occupational radiation exposure; (iv) there is no significant construction impact; (v) there is no significant increase in the potential for or consequences from radiological accidents; and (vi) the requirements from which an exemption is sought involve, as relevant here, scheduling requirements.

For the reasons described below, UUSA's request meets the criteria for a 10 CFR 51.22(c)(25) categorical exclusion. There are no special circumstances here which require an environmental assessment or environmental impact statement. The UUSA facility is not a reactor and this exemption is limited to timing of an emergency exercise, so there are no significant hazards considerations. Because the request by UUSA pertains to an exemption from conducting a biennial emergency exercise, there are no effluents or offsite releases or significant increase in radiation exposure to workers or members of the public associated with this request. There are no construction activities associated with this request, so there is no significant construction impact. There is no significant increase in the potential for any radiological accidents associated with this request because the request for exemption from performing an emergency plan exercise does not affect the facility's operations. Finally, given that the exemption concerns the scheduling of an emergency exercise, the exemption is related to a scheduling requirement. Therefore, pursuant to 10 CFR 51.22(b) and 10 CFR 51.22(c)(25)(vi)(G), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption request.

CONCLUSION

Based on its review above, the NRC staff concludes that the postponement of the biennial emergency plan exercise to be authorized by the issuance of this exemption is in compliance with the law and will not endanger life or property or the common defense and security. The NRC staff also concludes that granting the exemption is in the public interest. Accordingly, the NRC hereby grants UUSA a temporary exemption, until 35 months from the previously evaluated exercise, from the requirements in 10 CFR 70.22(i)(3)(xii) pertaining to the timeframe for biennial emergency plan exercises.

A new license condition in Section 1.0, "Domestic Safety and Safeguards," number 35 has been issued to reflect the exemption as follows:

35. The licensee is granted an exemption from performing the biennial emergency plan exercise listed in 10 CFR 70.22(i)(3)(xii) in calendar year 2021 but must complete said exercise within 35 months of the previously evaluated emergency plan exercise, which occurred on October 9, 2019. Following that evaluated exercise, the licensee will conduct biennial emergency plan exercises in odd number years.

PRINCIPAL CONTRIBUTOR
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