

SAFETY EVALUATION REPORT

DOCKET NO.: 70-27

LICENSEE: BWXT Nuclear Operations Group, Inc. – Lynchburg

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-EPR-0004)

REQUEST

By letter dated September 14, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21266A300), as supplemented by letter dated October 6, 2021 (ADAMS Accession No. ML21281A157), BWXT Nuclear Operations Group, Inc. – Lynchburg (BWXT NOG-L) 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, BWXT NOG-L requests a one-time exemption from the provisions in 10 CFR 70.22(i)(3)(xii), which require a biennial emergency plan exercise.

BWXT NOG-L proposes to reschedule the conduct of the calendar year (CY) 2021 biennial exercise within 35 months from the date on which the previously evaluated exercise was conducted, October 30, 2019, to a date on or before June 30, 2022. In addition, BWXT NOG-L states that future biennial emergency plan exercises will continue to be conducted in odd years starting in CY 2023.

BACKGROUND

Currently, BWXT NOG-L is required by regulation to conduct emergency plan exercises biennially. BWXT NOG-L’s Emergency Plan, Section 4.3, “Drills and Exercises,” specifies that biennially BWXT NOG-L shall conduct a full-scale emergency planning exercise that demonstrates and evaluates the capabilities of the site emergency planning organization to respond to simulated emergency conditions. As a result of the Coronavirus Disease 2019 (COVID-19), BWXT NOG-L has determined that the CY 2021 biennial emergency plan exercise cannot be conducted as scheduled due to the rising number of positive cases both in the surrounding area and within the facility. Additionally, BWXT NOG-L states that since early August 2021, there has been a resurgence of positive COVID-19 cases in the Central Virginia Region with a 7-day moving average, at the time of submittal, of approximately 500-600 new cases and nearly every county in Virginia having a COVID-19 case trajectory of “in surge”. BWXT NOG-L also states that University of Virginia modeling projects cases will continue to surge through the fall, reaching levels not seen in the state since the winter months of 2021. BWXT NOG-L has also seen an increase in active employee cases and is taking steps to minimize onsite contact, including the minimization of in-person meetings, reinforcement of social distancing requirements, and reinstatement of required face coverings for vaccinated personnel.

Conduct of a full-scale emergency plan exercise will include emergency management organization members/observers, a drill controller, and drill evaluators in the Emergency Operations Center. U.S. Nuclear Regulatory Commission (NRC) inspectors will be onsite for emergency plan exercise observation. In addition, BWXT NOG-L states that the on-scene

portion of the exercise will involve approximately seventy individuals, including the emergency response team, offsite response personnel, controllers, evaluators, NRC staff, and other government agency observers. Given that, BWXT NOG-L states it will be extremely difficult to comply with the COVID-19 isolation guidance, such as social distancing and group size limits. The potential risk to BWXT NOG-L staff, NRC, non-BWXT NOG-L observers, local response agencies, and members of the public to COVID-19 and its variants would create an unnecessary potential for transmission due to the number of personnel required to adequately conduct a biennial exercise. Therefore, BWXT NOG-L concludes that the biennial emergency plan exercise cannot be conducted as scheduled due to the rising number of positive cases both in the surrounding area and within the facility.

BWXT NOG-L's last biennial emergency plan exercise was on October 30, 2019. BWXT NOG-L indicates that it has made a reasonable effort to reschedule the biennial emergency plan exercise in CY 2021 but has been unsuccessful. BWXT NOG-L started preparation efforts for the October 27, 2021, exercise in June 2021 in anticipation of a biennial exercise that would be held in the fall of 2021. Once an increase in COVID-19 cases was noted, and with the current case rate and projected increases (holiday surge, current geographical surge in Central Virginia, etc.) in the COVID-19 cases in the Commonwealth of Virginia, it was decided that it was in the best interest of all organizations to request an exemption and reschedule the drill. BWXT NOG-L also states that with the upcoming holidays and potential for further increases in COVID-19 rates, rescheduling the biennial drill in CY 2021 would not be prudent due to the potential negative impact of community spread to the participating community responders. BWXT NOG-L states that it plans to conduct the rescheduled CY 2021 biennial emergency plan exercise on or before June 30, 2022, which is within 35 months from the date on which the previously evaluated emergency plan exercise was conducted. Since the last biennial emergency plan exercise was conducted on October 30, 2019, BWXT NOG-L has continued to conduct drills and other training activities that exercise its emergency response strategies internally and with offsite agencies, such as:

- BWXT NOG-L resumed the quarterly emergency plan exercise program in the third quarter of 2021. The program was limited to the onsite Emergency Organization.
- BWXT NOG-L held an offsite responders training event on September 26, 2021, at the Concord Volunteer Fire Department for Campbell County Sheriff's Department, Concord Rescue Squad, Concord Volunteer Fire Department, and Campbell County Public Safety. Training topics included facility familiarization, radiation safety, and nuclear criticality safety in firefighting.
- BWXT NOG-L states that it will be reinstating the previous semiannual meetings with the mutual aid agency leadership. These meetings include a site briefing and will be held in December 2021 and in the first quarter of 2022.

BWXT NOG-L indicates that, in accordance with the site Emergency Plan, BWXT NOG-L will coordinate with the offsite response organizations/mutual aid partners and NRC Region II to schedule and conduct the biennial emergency exercise by June 30, 2022.

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

The NRC issued a letter on May 14, 2020 (ADAMS Accession No. ML20120A003), to the Nuclear Energy Institute, related to emergency biennial exercise requirements during the

COVID-19 public health emergency for all licensees under 10 CFR Parts 30, 40, 50, 52, 70, and 72 that have a radiological emergency plan. The letter stated, in part:

[T]he 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 (ADAMS Accession No. ML20261H515), to the Nuclear Energy Institute, 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 the letter.

Consistent with the NRC letter dated November 10, 2020, and the section entitled "Requested Information" in the May 14, 2020, letter, BWXT NOG-L provided the following information:

- BWXT NOG-L's last biennial emergency plan exercise was conducted on October 30, 2019.
- BWXT NOG-L's current biennial emergency plan exercise date was scheduled to be held on October 27, 2021.
- BWXT NOG-L has made a reasonable effort to reschedule the planned biennial emergency plan exercise in CY 2021 but has been unsuccessful.
- BWXT NOG-L will reschedule the conduct of the biennial emergency plan exercise within 35 months from the month in which the previously evaluated exercise was conducted.
- If this exemption is granted, BWXT NOG-L states that future biennial emergency plan exercises will continue to be held in odd years.
- BWXT NOG-L has conducted drills, exercises, and other training activities and will reinstate certain semiannual meetings that exercise its emergency response strategies, in coordination with offsite authorities, since the previous biennial exercise.
- BWXT NOG-L also states that the rescheduled biennial emergency plan exercise will be coordinated with the applicable offsite response organizations and the applicable NRC region.

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.

BWXT NOG-L states it will continue to perform other periodic emergency drills, training, and surveillances that allow personnel to stay within COVID-19 protocols and maintain emergency proficiency. Examples include the onsite emergency organization quarterly emergency exercise program, offsite responders training, and the reinstatement of meetings with the mutual aid agency leadership that include a site briefing to be held in December 2021 and in the first quarter of 2022.

Additionally, the requested exemption does not decrease the effectiveness of the BWXT NOG-L Emergency Plan nor involve changes to security at the 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, there has been a resurgence of positive COVID-19 cases in the Central Virginia Region with a 7-day average, at the time of submittal, of approximately 500-600 new cases and with nearly every county in Virginia having a COVID-19 case trajectory of "in surge." University of Virginia modeling, at the time of submittal, projects cases will continue to surge through the fall, reaching levels not seen in the state since the winter months of 2021. BWXT NOG-L has also seen an increase in active employee cases and is taking steps to minimize onsite contact. Further, conducting the emergency plan exercise would involve approximately 70 people on site. Conducting the exercise in October 2021 would create an unnecessary potential for transmission due to the number of personnel required to adequately conduct a biennial exercise. This would increase the risk of exposing the BWXT NOG-L staff, offsite responders, and potentially members of the public 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, BWXT NOG-L'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 BWXT NOG-L 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 BWXT NOG-L 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 BWXT NOG-L 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 S-2(c) has been issued to reflect the exemption as follows:

S-2(c) 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 30, 2019. Following that evaluated exercise, the licensee will conduct biennial emergency plan exercises in odd number years.

PRINCIPAL CONTRIBUTOR

Ken Mott, NSIR/DPR/RLB