

Guzman, Richard

From: Guzman, Richard
Sent: Wednesday, April 15, 2020 6:09 PM
To: Mirzai, Mahvash
Subject: Indian Point Unit Nos. 2 and 3 - REQUEST FOR ADDITIONAL INFORMATION: Exemption Request from 10 CFR Appendix R, Section III.H due to COVID-19 Pandemic (EPID L-2020-LLE-0019)

Mahvash,

On April 14, 2020, the U.S. Nuclear Regulatory Commission (NRC) staff sent Entergy Nuclear Operations, Inc. (Entergy, the licensee) the subject Request for Additional Information (RAI) as a draft (via e-mail shown below). This RAI relates to the exemption request submitted by Entergy on April 13, 2020 (ADAMS Accession No. ML20104C121), from specific requirements of Title 10 of the *Code of Federal Regulations* (10 CFR), Part 50, Appendix R, Section III.H for Indian Point 2 and 3 due to the COVID-19 Pandemic.

On April 14, the NRC staff also conducted a conference call with the licensee staff to clarify the request. As we discussed today, you indicated that Entergy did not desire a follow-up clarification call and agrees to respond to the RAI no later than April 21, 2020. Updated below is the official (final) RAI. A publicly available version of this e-mail and RAI will be placed in the NRC's ADAMS system. Please contact me should you have any questions in regard to this request.

Thanks,

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**Rich Guzman**

Sr. PM, Division of Operating Reactor Licensing  
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**From:** Guzman, Richard  
**Sent:** Tuesday, April 14, 2020 5:46 PM  
**To:** Mirzai, Mahvash <mmirzai@entergy.com>  
**Subject:** Indian Point Unit Nos. 2 and 3 - DRAFT Request for Additional Information: Exemption Request from 10 CFR Appendix R, Section III.H due to COVID-19 Pandemic (EPID L-2020-LLE-0019)

Mahvash,

By letter dated April 13, 2020 (ADAMS Accession No. ML20104C121), Entergy Nuclear Operations, Inc. (Entergy, the licensee) submitted an exemption request from specific requirements of Title 10 of the *Code of Federal Regulations* (10 CFR), Part 50, Appendix R, Section III.H for Indian Point 2 and 3 due to the COVID-19 Pandemic.

The Nuclear Regulatory Commission (NRC) staff has determined that additional information is needed to complete its review, as described in the request for additional information (RAI) shown below. This RAI is identified as draft at this time to confirm your understanding of the information needed by the NRC staff to complete its evaluation. I intend to send out the questions below as a final RAI, no later than April 16<sup>th</sup>. We request that you provide a formal response to the RAI as promptly as possible to permit a review schedule that

supports Entergy's requested approval date of the exemption by April 22<sup>nd</sup>. Please let me know if a clarification call is necessary, and I will coordinate availabilities w/the NRC technical staff.

Thanks,

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Rich Guzman

Sr. PM, Division of Operating Reactor Licensing

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=====FINAL=====

REQUEST FOR ADDITIONAL INFORMATION
EXEMPTION REQUEST RELATED TO THE ANNUAL PHYSICAL EXAMINATION
FOR FIRE BRIGADE MEMBERS REQUIRED BY 10 CFR, APPENDIX R, SECTION III.H

Entergy Nuclear Operations, Inc.
Indian Point Nuclear Generating Unit Nos. 2 and 3
Docket Nos. 50-247 and 50-286
EPID L-2020-LLE-0019

Entergy Nuclear Operations, Inc. (Entergy, the licensee) is the holder of Renewed Facility Operating License Nos. DPR-26 and DPR-64 for Indian Point Nuclear Generating Unit Nos. 2 and 3 (Indian Point 2 and 3). The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission), now or hereafter in effect.

The Indian Point 2 and 3 facility consists of two pressurized-water reactors located in Buchanan, New York. By letter dated April 13, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20104C121), the licensee submitted an exemption request from specific requirements of Title 10 of the *Code of Federal Regulations* (10 CFR), Appendix R, Section III.H for Indian Point 2 and 3 due to the COVID-19 Pandemic. The regulation in 10 CFR, Appendix R, Section III.H states in part, that:

The qualification of fire brigade members shall include an annual physical examination to determine their ability to perform strenuous fire fighting activities.

The licensee is specifically requesting a temporary 90-day exemption from complying with the annual physical examination requirement for 15 fire brigade members. In order to complete its review of the exemption request, the NRC staff requests that the licensee respond to the following questions:

1. Special Circumstances, 10 CFR 50.12(a)(2)(v)

10 CFR 50.12(a)(2)(v) states, in part, that:

The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever the exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation.

The licensee stated that it:

Had originally scheduled these annual physical examinations to be completed within the required frequency, and thus comply with the regulation. However, these annual physical examinations must be rescheduled to allow implementation of the Entergy pandemic plan mitigation strategies. Prior to the implementation of isolation activities in response to COVID-19 pandemic conditions, Entergy had successfully scheduled and completed annual fire brigade physical examinations within the specified frequency.

It is unclear to the NRC staff what good faith efforts have been made to comply with the regulation other than scheduling the physical examinations to be completed within the required frequency particularly after the emergency declarations were made on January 31, 2020 (U.S. Department of Health and Human Services), March 7, 2020 (New York State), and March 13, 2020 (United States of America). Include a discussion of any actions taken to complete parts of the physical that can be completed without visiting a medical facility such as the completion of required forms/paperwork; conducting parts of the physical using non-contact methods such as the use of remote audio/visual services (tele-health); and utilizing remote patient monitoring tools such as blood pressure monitors, scales, or wearable devices that can communicate biometric data for review. Include any relevant discussions you may have had with your contract medical provider who conducts the physical examinations.

2. 10 CFR 50.12(a)(1)

10 CFR 50.12(a)(1) states in part that:

The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of this part, which are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security.

The licensee stated that:

Every fire brigade member is part of an Operations Watch Team and as such they are under the Behavior Observation Program which results in continuous interaction with their supervisors while on shift. Any decrease in health or performance would be readily apparent.

Provide additional information regarding your behavior observation program including whether this is the program required by 10 CFR 73.56, whether it is proceduralized, how often observations are conducted, what is observed, how corrective actions are taken, etc.

3. The NRC approval of this exemption will be conditioned, in part, on the establishment of a licensee-specific process to manage personnel with overdue physical examinations. Explain how your specific process will ensure the following:
- (a) That only experienced personnel with known, stable medical histories are allowed frequency extensions;
 - (b) That as much of the physical evaluation process as possible has been conducted, excluding physical visits to medical facilities;
 - (c) That a licensed physician, having reviewed the individual's relevant medical information, approves the frequency extension;
 - (d) That employees are informed of the exemption, the risks of conducting fire brigade activities including wearing respiratory protection, the rationale for annual physical examinations, the deviation from the requirements and the requirement that the licensee restore compliance within

90 days of the original annual physical examination due date, or another date as indicated by a physician, whichever is less.

=====FINAL=====