

CRCPD's Committee on Emergency Response Planning (HS/ER-5)

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U.S. Nuclear Regulatory Commission

Subject: ORO Exemption Request for Exercises

There is currently an outbreak of respiratory disease caused by a novel coronavirus, "Coronavirus Disease 2019" (COVID-19). On January 31, 2020, HHS issued a declaration of a public health emergency related to COVID-19 and mobilized the Operating Divisions of HHS. On March 13, 2020, President Trump declared a national emergency in response to COVID-19 and major disaster declarations have been declared in all states.

During these unprecedented times, the HS/ER-5 Committee on Emergency Response Planning, strongly believes that REP exercises should not be conducted during a national emergency and the requirement should be suspended through an exemption. This conclusion has not been arrived at lightly, but after a careful review of the current exercise requirements, discussions with our state radiation control program members, and an ongoing analysis of the OROs response to COVID-19. This review also included an analysis of the nation's fixed nuclear facilities and their increased response to the ongoing COVID-19.

REP exercises are required to be conducted biennially in accordance with 10 CFR 50, Appendix E and 44 CFR 350. In specific NUREG-0654, Rev. 2 states in criterion N.2.a that "Plume Exposure Exercises are conducted biennially". This ORO exemption request is to suspend the requirement for biennial exercises scheduled during 2020 and 2021. The normal exercise schedule would resume in 2022. The request for ORO exemption from biennial exercises is necessary given the ongoing national emergency. In a national emergency, many state and local emergency responders who would normally participate in a REP exercise, are deployed in response to the pandemic. The REP Program has reached a level of maturity, where the nation's nuclear plants and associated OROs have consistently demonstrated a high-level of preparedness. Licensees and OROs maintain this high level through various efforts, of which exercises are only one. In other words, this one-time exemption of the biennial exercise requirements in no way detracts from the overall state of emergency preparedness.

The 2019 FEMA REP Program Manual in Part III, "REP Program Assessment Policies and Guidance" provides guidance for determining reasonable assurance using a number of factors including biennial exercises. As pointed out in this part, the Biennial Preparedness Report captures not only exercise evaluations, but also actual incidents. Therefore, it would appear that FEMA has indicated that reasonable assurance can be determined without the conduct of an exercise.

The magnitude, duration, and impact of the response to the COVID-19 emergency could not have been anticipated when the exercise schedule was developed. The ongoing challenges and response to

COVID-19 are beyond anything that could ever be designed in any exercise. The main point is that there is an ongoing national emergency with no end in sight. During national emergencies, exercises should be cancelled, as they ultimately detract from the response to the pandemic. Even if the COVID-19 emergency ended today, it would take months to incorporate all of the lessons learned from this emergency and return the ORO organization to normal operation and staffing levels.

Also as mentioned previously, NRC licensees for fixed nuclear facilities must also conduct exercises in accordance with 10 CFR 50, Appendix E. Due to the COVID-19 emergency, special circumstances exist that meet the exemption criteria as delineated in 10 CFR 50.12(a):

- Many state and local emergency resources that would normally participate in a REP exercise are deployed in the ongoing response to the pandemic. Conducting REP exercises under these conditions would result in hardships and costs clearly in excess of any contemplated when 10 CFR 50.12 was issued.
- Conduct of the exercises could actually pose health risks to responders, many of whom may be in high-risk groups already. Exemption from these exercises would thus result in a net benefit to health and safety. If one person dies from contracting COVID-19 as a result of an exercise, that is one death too many.

Due to the fact that the COVID-19 is a national emergency, it would be prudent to grant a blanket exemption for OROs rather than have each licensee file a separate exemption under 10 CFR 50.12(a). Given 40 years of successfully conducting numerous emergency exercises, it is felt that this exemption is warranted considering the low risk the exemption would entail versus the current ongoing risk associated with COVID-19.

In summary, HS/ER-5 is recommending that NRC grant an exemption to OROs from the biennial exercise requirement (10 CFR 50 Appendix E, IV.F2.c), in accordance with 10 CFR 50.12(a) for calendar years 2020 and 2021. To be clear, this exemption request should cover all scheduled exercises through 2021. With the ongoing nationwide emergency, and the uncertainty of when it may terminate, HS/ER-5 also feels that significant time will be required to resume normal operations for responders, provide training and prepare for exercises. That is the primary reason for the time period identified in this exemption request. Upon NRC granting this blanket exemption request, FEMA, in effect, should be granted temporary relief of their responsibility under 44 CFR 350 to require ORO participation in biennial exercises. While exercises are one tool that FEMA has used to assess reasonable assurance during a biennial period, the 2019 FEMA REP Manual provides alternative means for FEMA to provide a finding of reasonable assurance to the NRC. Therefore, given the above facts, an exemption to the biennial exercise requirement under 10 CFR 50.12 should be granted for OROs.

Sincerely,



Ken Evans, HS/ER-5 Chairperson

Cc: Craig J. Fiore, Technological Hazards Division (THD)|DHS/FEMA/RSL/NPD