



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

October 13, 2020

Dr. Jennifer L. Uhle  
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Nuclear Energy Institute  
1201 F Street, NW, Suite 1100  
Washington, DC 20004

SUBJECT: UPDATED GUIDANCE FOR LICENSEES THAT REQUEST EXEMPTIONS FROM THE CALENDAR YEAR 2020 ANNUAL LICENSEE-CONDUCTED FORCE ON FORCE REQUIREMENT IN PART 73, APPENDIX B, SECTION VI DURING THE CORONAVIRUS DISEASE 2019 PUBLIC HEALTH EMERGENCY

Dear Dr. Uhle:

This letter provides guidance that licensees may consider when requesting exemptions from the annual licensee-conducted force-on-force (FOF) exercise requirement in 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," paragraph C.3(l)(1). This guidance applies to licensees that were granted a previous exemption from the FOF exercise requirement consistent with the process set forth in the U.S. Nuclear Regulatory Commission's (NRC) April 20, 2020, guidance letter (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20105A483). It also applies to licensees who have not previously requested such an exemption.

The April 20, 2020, letter was issued to inform licensee requests for exemptions from certain security requirements in 10 CFR Part 73, Appendix B, Section VI, during the Coronavirus Disease 2019 (COVID-19) public health emergency (PHE). Additionally, the April 2020 letter explained the process by which licensees could request expedited review of their exemption requests, including requests for additional time to complete the annual licensee conducted FOF exercise for calendar year (CY) 2020.

The requirement in 10 CFR Part 73, Appendix B, Section VI, paragraph C.3(l)(1) states in part:

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 annual licensee conducted FOF exercise helps demonstrate whether the licensee's security force maintains its contingency response readiness. Participation in the annual FOF exercise also supports the requalification of security force members. As stated in Regulatory Guide 5.75, "Training and Qualification of Security Personnel at Nuclear Power Reactor Facilities,"

Section 5, "Performance Evaluation Program," the annual FOF exercise is one of the vital components of a comprehensive training program that enables the security force to gain experience in tactics, protective strategy, and assigned duties within the contingency response plan.

The April 20, 2020, letter stated that temporary exemptions from the annual FOF exercise requirement granted under the expedited review process would remain in effect until 90 days after the PHE ends or until December 31, 2020, whichever occurs first. Enclosure C, "10 CFR 73, Appendix B, Section VI, paragraph C.3(I)(1) – Tactical Response Drills and Force-on-Force Exercises," of the April 20, 2020, letter stated that licensees receiving an exemption from the annual licensee conducted FOF exercise would be expected to conduct any missed FOF exercises after the PHE ends, and include information in their exemption requests addressing how they plan to accomplish the missed annual FOF exercises. In their exemption requests, licensees committed to making up any missed annual FOF exercises. On a case-by-case basis, the NRC staff issued letters granting temporary exemptions from the annual FOF exercise requirement (publicly available at <https://www.nrc.gov/about-nrc/covid-19/reactors/licensing-actions.html>). In these approval letters, the NRC stated that licensees must make-up any missed annual FOF exercises.

In support of the CY 2020 exemptions to the annual FOF exercise requirement approved by the NRC, licensees also provided information related to how they intended to maintain contingency response force readiness via various additional measures, as specified in the site-specific exemption requests. This information was limited to security personnel who are already satisfactorily qualified on the requirements in 10 CFR Part 73, Appendix B, Section VI. Specifically, the licensees' commitments varied but included such measures as continuing to conduct required weapons training and quarterly tactical response drills, tabletop exercises, communication-based exercises, lessons-learned reviews of past exercises, and walkdowns of previous exercise routes of travel. The NRC staff found that each of these measures supports the licensee's ability to maintain contingency response readiness and reasonable assurance of adequate protection notwithstanding the temporary exemption from annual FOF exercises. These additional measures, in addition to the licensee commitment to make-up missed FOF exercises, provided the basis for staff's determination that licensees' security force personnel, notwithstanding the exemption, would maintain their proficiency and ability to implement the site protective strategy. Accordingly, staff made a finding that approving a temporary exemption from the annual FOF exercise requirement did not endanger life or property or the common defense and security.

Since the NRC issued the April 2020 letter, some licensees have taken measures recommended by Federal, State, and local authorities to help protect their personnel, including security personnel, from exposure to COVID-19. These measures include the implementation of COVID-19-related controls such as the widespread use of face coverings for site personnel, frequent surface sanitization and handwashing, and social distancing (i.e., maintaining 6 feet of separation between individuals where practical). Accordingly, some of these licensees have been able to resume many routine activities with little or no disruption or with the use of other controls, to accomplish the same tasks safely. In addition, due to site-specific configurations and implementation of certain safety measures, some commercial power reactor and fuel cycle facility licensees have successfully conducted their required annual FOF exercises during the PHE without adversely impacting the sites' security staffing or operations.

Nevertheless, the impacts of COVID-19 are still ongoing for some licensees and will likely extend beyond December 31, 2020. These circumstances may prevent licensees from

completing their missed CY 2020 FOF exercises by December 31, 2020. They may also prevent licensees that did not previously request an exemption from the annual FOF exercise requirements and, therefore, are still required to complete an FOF exercise before the end of the CY, from being able to complete that exercise by December 31, 2020. To address this situation, the NRC is prepared to expedite consideration of requests for an exemption that would relieve licensees from making up any missed CY 2020 annual FOF exercises. The NRC is also prepared to expedite consideration of exemption requests from the requirement to conduct an annual FOF exercise in CY 2020 for those licensees who were not previously granted such an exemption.

### Requested Information

To receive an expedited review of an exemption request from the Part 73, Appendix B, Section VI, paragraph C.3(l)(1) requirement that licensees conduct an annual FOF exercise in CY 2020, a licensee should submit the following information:

- For licensees that have previously been granted a temporary exemption from the annual FOF exercise requirement, a discussion as to why the licensee is unable to conduct make-up exercises due to continuing COVID-19 PHE impacts as committed to in their initial exemption request submission; or
- For licensees that have not previously been granted a temporary exemption from the annual FOF exercise requirement, a discussion as to why the licensee is unable to perform a CY 2020 FOF exercise before December 31, 2020, due to continuing COVID-19 PHE impacts. In support of the new exemption request, these licensees should include the information requested in Enclosure C to the April 20, 2020, letter; and
- In addition to the information above, licensees requesting an exemption from the CY 2020 annual FOF exercise requirement, whether previously granted an exemption for the annual FOF exercise requirement or not, should provide a description of how they intend to maintain contingency response readiness.

Under the NRC's regulations in 10 CFR 73.5, "Specific exemptions," "The Commission may upon application of any interested person or on its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest."

### Enforcement Guidance Memorandum

By letter dated April 15, 2020 (ADAMS Accession No. ML20083K794), the NRC issued Enforcement Guidance Memorandum (EGM) 20-002 regarding dispositioning violations of NRC regulations during the COVID-19 PHE, which remains in effect until any of the following conditions are met:

1. All licensees that are potentially affected by the COVID-19 PHE have received NRC approval of licensing actions associated with the training and requalification requirements in the applicable section of 10 CFR Part 73, Appendix B, Section VI, Subparts (B), (C), (D), (E), (F), and/or (G).
2. One year has elapsed since the issuance date of this EGM.

### How to Submit Requests

Licensees should make every effort to submit exemption requests in a timely manner in accordance with 10 CFR 73.4, "Communications." To ensure the timely receipt and review of these exemption requests, licensees should also send an e-mail with the request to their facility's NRC project manager, in addition to submitting the request as provided in NRC regulations.

### Review Process

The NRC will consider these requests on a case-by-case basis and, if the requirements for an exemption are met, will grant the requests in writing. If sufficient time is not available for the NRC to provide a prior written decision for the exemption, then the NRC may verbally convey the decision to the licensee, followed promptly with a letter documenting the approval or denial of the request.

### Duration of Exemptions

An exemption request, if approved, could provide relief from the annual FOF exercise for 2020 required by Part 73, Appendix B, Section VI, paragraph C.3(l)(1). Licensees receiving an exemption from conducting the CY 2020 annual FOF exercise would continue to be required to conduct the CY 2021 annual FOF exercises, absent approval of additional regulatory relief requests.

### Alternative Approaches

This letter does not preclude requests for exemptions that take a different approach or present different rationales or proposed end dates. The NRC cannot guarantee expedited consideration of such requests.

### Implementation Issues

Should any implementation issues arise during the period of exemption, the NRC may consider other available regulatory options, including additional exemptions or enforcement discretion, if appropriate.

To the extent possible, licensees should consider the information in Regulatory Issue Summary 2010-04, "Monitoring the Status of Regulated Activities During a Pandemic," to address any implementation issues.

### **Paperwork Reduction Act**

This letter contains voluntary guidance for implementing the voluntary information collections covered by 10 CFR Part 73 that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). These information collections were approved by the Office of Management and Budget (OMB) under control number 3150-0002. Estimated burden per response to comply with this voluntary information collection request is 25 hours. Send comments regarding this information collection to the FOIA, Library, and Information Collections Branch (T6 A10M), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by e-mail to

[Infocollects.Resource@nrc.gov](mailto:Infocollects.Resource@nrc.gov), and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB 10202, (3150-0002) Office of Management and Budget, Washington, DC 20503.

**Public Protection Notification**

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

If you have any further questions about the contents of this letter, please contact your facility's NRC project manager.

Sincerely,

Ho K. Nieh, Director  
Office of Nuclear Reactor Regulation

SUBJECT: UPDATE TO THE U.S. NUCLEAR REGULATORY COMMISSION PLANNED  
ACTIONS RELATED TO THE REQUIREMENTS FOR PART 73, APPENDIX B,  
SECTION VI DURING THE CORONAVIRUS DISEASE 2019 PUBLIC HEALTH  
EMERGENCY

DATED: October 13, 2020

Identical letters sent to:

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Mr. Don Moul  
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Jupiter, FL 33478

SUBJECT: UPDATE TO THE U.S. NUCLEAR REGULATORY COMMISSION PLANNED ACTIONS RELATED TO THE REQUIREMENTS FOR PART 73, APPENDIX B, SECTION VI DURING THE CORONAVIRUS DISEASE 2019 PUBLIC HEALTH EMERGENCY

DATED: OCTOBER 13, 2020

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RidsNrrOd Resource	JGiessner, RIII
RidsNsirDpr Resource	SMorris, RIV

**ADAMS Accession Number: ML20273A117**

**\*via email**

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DATE	10/02/2020	10/09/20	10/09/20	10/09/20	10/13/20

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