

NRC TALKING POINTS

APRIL 7, 2021, PRESUBMITTAL MEETING REGARDING THE PROPOSED EXEMPTION

REQUEST TO DEFER THE ANNUAL FORCE-ON-FORCE EXERCISE

VISTRA OPERATIONS COMPANY LLC

COMANCHE PEAK NUCLEAR POWER PLANT, UNITS NO. 1 AND 2

The NRC staff has developed the preliminary feedback below on information to be included in a potential exemption request from the annual force-on-force (FOF) requirements for the period beyond that covered by November 10, 2020 guidance letter (see below). The NRC staff has developed this preliminary feedback based on existing guidance, the licensee's presentation, information provided through normal informal project manager interactions, and other generally available information and is specific to the proposed exemption request for the Comanche Peak Nuclear Power Plant (Comanche Peak). This preliminary feedback is intended for discussion purposes only and does not constitute a final regulatory position. The NRC staff may have additional or alternative observations based on information discussed at the meeting. The NRC has also prepared background information to support discussions. Note that the discussion of the topics below will be at the publicly available level.

Information to be Included in a Potential Exemption Request

- Enclosure 4 to the NRC's guidance letter, "U.S. Nuclear Regulatory Commission Updated Planned Actions Related to Certain Requirements for Operating and Decommissioning Reactor Licensees During the Coronavirus Disease 2019 Public Health Emergency," dated November 10, 2020 (ADAMS Accessions No. ML20261H515), states, "The NRC staff expects that before requesting an exemption, a licensee will make reasonable attempts to meet regulatory requirements, including considering ways to conduct annual exercises with increased drill artificialities and simulations. The NRC staff understands that certain COVID-19 mitigation measures may result in increased numbers of drill artificialities and simulations during annual FOF exercises. Licensees may review Regulatory Guide 5.75, "Training and Qualification of Security Personnel at Nuclear Power Reactor Facilities," for guidance related to FOF exercise conduct specific to artificialities and simulations associated with personnel safety. Artificialities or simulations implemented due to COVID-19 should be identified in one of the following documents: planning guide; event matrix; or after-action report or summary reports, which can be provided to the NRC during inspection activities."

- 1) Because the staff communicated its expectation that a licensee will make reasonable attempts to meet the CY 2021 FOF exercise training requirement, even if those attempts involve increased artificialities and simulations, the licensee's exemption request should describe the attempts it made to satisfy the CY 2021 FOF exercise training requirement prior to requesting an exemption.
- 2) The licensee should describe in its exemption request the change(s) it is planning to make to the protective strategy for Comanche Peak. The description should include an explanation of why the change(s) will be significant enough that the licensee decided to use the annual FOF exercise to validate the

effectiveness of the planned change(s) rather than to provide the required training to site security personnel. The exemption request should also include the date(s) and description of any training and evaluation(s) that the licensee has conducted to prepare for the planned protective strategy change(s).

- Attachment 1 to Enforcement Guidance Memorandum 20-002, “Dispositioning Violations of NRC Requirements for Completion Periodicities Associated with Security Training and Requalification Requirements During the COVID-19 Public Health Emergency,” dated April 15, 2020 (ADAMS Accession No. ML20091L385), communicates the staff’s expectation “that licensees will apply other methodologies and practices to support the licensee’s security training program” during the COVID-19 public health emergency.
- 3) Accordingly, the licensee should describe any alternative training it conducted to identify and address the knowledge or proficiency gaps that may have developed as a result of not having the majority of its Comanche Peak security force members participate in a FOF exercise for more than 2 years (i.e., May 2019 until August or September 2021). This description should focus on the following elements, since they are primary purposes for conducting annual FOF exercises:
 - a) Ensuring the security force can effectively implement the site protective strategy;
 - b) Demonstrating the protective strategy and security training program is adequate to defend against the design basis threat;
 - c) Providing security force members with opportunities to perform as a team under simulated combat conditions;
 - d) Testing security force members' command, control, communications, and decision making under simulated combat conditions; and
 - e) Identifying deficiencies associated with the site protective strategy or security personnel training and performance.
- The security training requirements in Appendix B to 10 CFR Part 73 represent the minimum level of training for licensee security personnel. They are a necessary component upon which the NRC derives reasonable assurance of adequate protection.
- 4) The licensee should describe in its exemption request why delaying its CY 2021 annual FOF exercise(s) is in the best interest of the public.
- 5) The licensee should describe in its exemption request how it would continue to maintain reasonable assurance of adequate protection and contingency response readiness during the exemption period.
- 6) The licensee should include in its description relevant COVID-19 trends, which according to the Texas Department of State Health Services’ online database have significantly declined in Somerville and surrounding counties since Governor Abbott rescinded the statewide COVID-19-related restrictions effective March 10, 2021.
- There will likely be fewer than 60 calendar days for the staff to consider and analyze the licensee’s request before the licensee will be in violation of the periodicity requirement in Subsection VI.A.7. of Appendix B to 10 CFR Part 73.

- 7) The licensee should explain why it waited until after its CY 2021 scheduled annual FOF exercise date to request an exemption.
- 8) Confirm that if the NRC grants the licensee's request to extend its CY 2021 annual FOF exercise completion date to no later than September 30, 2021, the licensee will continue to use March 15 as its scheduled date for completing future annual FOF exercises. In other words, the licensee should confirm that it will not reset its annual FOF exercise date to the CY 2021 completion month and day.

Supporting Background Information

- 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."
- The purpose of the annual licensee-conducted FOF exercise requirement is to ensure that a licensee's security force maintains its contingency response readiness. Participation in the annual FOF exercise also supports the requalification of security force members. The annual FOF exercise is one of a licensee's methods for:
 - ensuring its security force can effectively implement the site protective strategy;
 - demonstrating its protective strategy and security training program is adequate to defend against the design basis threat;
 - providing its security force members with opportunities to perform as a team under simulated combat conditions;
 - testing its security force members' command, control, communications, and decision making under simulated combat conditions; and
 - identifying deficiencies associated with its protective strategy or security personnel training and performance.
- Information from Informal Project Manager Interactions with the Licensee:
 - 1) Comanche Peak's scheduled annual FOF exercise date is March 15. With the 6-month leeway permitted by Subsection VI.A.7. in Appendix B to 10 CFR Part 73 (i.e., 3 months before or after the scheduled date), the site could conduct its CY 2021 annual FOF exercise(s) between December 15, 2020, and June 15, 2021.
 - 2) Comanche Peak said the purpose of its potential exemption request is to delay the annual FOF exercise requirement until September 30, 2020, so the site can implement a new, enhanced protective strategy with minimal artificialities.
 - 3) The licensee assumes that fewer artificialities would be needed in late summer, so it would conduct a series of exercises (perhaps a series of drills prior to the required annual exercise) in late August into September to meet the annual FOF exercise requirement.
 - 4) The licensee indicated that the new strategy cannot be as well tested with significant artificialities.
 - 5) The licensee could conduct the required annual FOF exercise by June 15, 2021, using its current protective strategy and the allowed artificialities. However, the licensee believes it would be better to implement the enhanced strategy with fewer artificialities and thus is proposing the exemption request.
 - 6) The licensee's situation is not covered by the NRC's November 10, 2020, guidance letter.
 - 7) Comanche Peak last conducted an annual FOF exercise(s) in May 2019.

- 8) An NRC-graded FOF exercise was conducted at Comanche Peak in December 2019.
- CY 2020-related exemptions:
 - 1) On May 14, 2020, Comanche Peak applied for a temporary exemption to not conduct quarterly tactical response drills and its annual FOF exercise(s).
 - 2) On May 29, 2020, NRC granted Comanche Peak's request pursuant to the conditions in the NRC's April 20, 2020, guidance letter.
 - 3) On December 10, 2020, Comanche Peak applied for an exemption to not conduct its annual FOF exercise in CY 2020.
 - As part of the justification, the site indicated it continued to meet all required Appendix B to Part 73 security training requirements except for the annual FOF exercise.
 - Apparently, the site continued to conduct quarterly tactical response drills even though NRC had issued an exemption to that requirement on May 29, 2020.
 - Additionally, Comanche Peak conducted tabletop exercises and reviewed lessons-learned of past exercises with all impacted security personnel, and completed additional target set training in the 3rd Quarter of CY 2020.
 - 4) On December 22, 2020, NRC granted Comanche Peak's request pursuant to the October 13, 2020, guidance letter.
- COVID-19 appears to be a less-significant factor for Comanche Peak, which is located in Somervell County, and its surrounding area.
 - 1) On March 2, 2021, the Texas governor issued an executive order rescinding most of his earlier executive orders related to COVID-19. Effective March 10, 2021, all businesses of any type were able to open at 100% capacity. Additionally, the order ended the statewide mask mandate in Texas. Businesses can still limit capacity or implement additional safety protocols at their own discretion.
 - 2) The State of Texas' COVID-19 Dashboard showed no new confirmed or probable cases for Somervell County since March 6, 2021 (<https://tabexternal.dhs.texas.gov/t/THD/views/COVIDExternalQC/COVIDTrendS?:isGuestRedirectFromVizportal=y&:embed=y>). The counties surrounding Somervell County also had COVID-19 numbers that were at least 80% lower than they were in February 2021. Since March 6:
 - Hood County (north of site): fewer than 55 confirmed cases and fewer than 45 probable cases
 - Johnson County (northeast of site): fewer than 240 confirmed cases and fewer than 160 probable cases
 - Hill County (east of site): fewer than 10 confirmed cases and fewer than 20 probable cases
 - Hamilton County (southeast of site): fewer than 5 confirmed cases and fewer than 5 probable cases
 - Bosque County (south of site): no confirmed cases and fewer than 5 probable cases
 - Erath County (west and northwest of site): fewer than 50 confirmed cases and fewer than 15 probable cases