

## **SAFETY EVALUATION REPORT**

DOCKET NO.: 70-1113

LICENSEE: Global Nuclear Fuel Americas, Wilmington, North Carolina

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-0000)

### **REQUEST**

By letter dated August 20, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21232A125), as supplemented by email dated September 17, 2021 (ADAMS Accession No. ML21265A308), Global Nuclear Fuel Americas (GNF-A) 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, GNF-A requests a one-time exemption from the provisions in 10 CFR 70.22(i)(3)(xii), which require a biennial emergency plan exercise.

GNF-A proposes to reschedule the conduct of the biennial exercise within 35 months from the date in which the previously evaluated exercise was conducted on October 30, 2019, to sometime before June 30, 2022. In addition, GNF-A states that future biennial emergency plan exercises will continue to be conducted in odd years starting in CY 2023.

### **BACKGROUND**

Currently, GNF-A is required by regulation to conduct emergency plan exercises biennially. Under GNF-A's Radiological Contingency and Emergency Plan Section 7.3.1, "Biennial Exercise," GNF-A will conduct at least one exercise every other year to simulate an onsite emergency condition that will require participation by the site emergency organization and a number of offsite support agencies. As a result of the Coronavirus Disease 2019 (COVID-19), GNF-A has determined that the performance of the calendar year (CY) 2021 biennial emergency plan exercise would increase the population of personnel in the emergency control center, which could challenge several COVID-19-related isolation guidelines (e.g., social distancing and group size limitations). The conduct of the CY 2021 exercise scenario requires participation by onsite personnel (controller/evaluator team, onsite security organization, onsite emergency response organization) and offsite agencies that agreed to participate, as well as evaluation by U.S. Nuclear Regulation Commission (NRC) staff. GNF-A states that in late July 2021, New Hanover County (where GNF-A is located) reported a concerning resurgence in new positive COVID-19 tests and that more recently there have been continued increases in new COVID-19 cases in the local area with weekly case counts more than quadrupling, continuing the countywide trend of increased viral spread. In response, the GNF-A facility reinstated several COVID-19 protective measures for individuals regardless of vaccination status. Because of the rising positive COVID-19 cases in the local area and the increased number of personnel involved in an evaluated exercise versus a response to a real event, GNF-A concludes that an evaluated exercise cannot be conducted as scheduled in October 2021 without unnecessarily increasing the risk of exposing GNF-A staff, offsite responders, and potentially members of the public to the COVID-19 virus.

GNF-A's last biennial emergency plan exercise was on October 30, 2019. GNF-A states that it has made a reasonable effort to reschedule the emergency plan exercise in CY 2021 but has been unsuccessful, in part, due to continued resource challenges and safety protocols associated with COVID-19. GNF-A has rescheduled the conduct of the biennial emergency plan exercise within 35 months from the date in which the previously evaluated emergency plan exercise was conducted. Since the last biennial emergency plan exercise conducted on October 30, 2019, GNF-A has continued to conduct drills, surveillances and other training activities that exercise its emergency response strategies internally and with offsite agencies, such as: weekly, monthly, and quarterly equipment surveillances, both onsite and offsite, to ensure resources are maintained in a ready state; quarterly emergency communication equipment functional tests; 19 drills to maintain emergency response proficiency; occupational Safety and Health Administration evacuations of site personnel; and; initial and requalification training of internal emergency organization and offsite agency response personnel.

GNF-A states that the rescheduled biennial emergency plan exercise will be coordinated with the applicable offsite response organizations and the applicable U.S. Nuclear Regulatory Commission's (NRC) Region.

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

The NRC issued a letter on May 14, 2020, to the Nuclear Energy Institute (ADAMS Accession No. ML20120A003) related to emergency biennial exercise requirements during the COVID-19 public health emergency for all licensees under Parts 30, 40, 50, 52, 70 and 72 that have a radiological emergency plan. This letter stated that the "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, to the Nuclear Energy Institute (ADAMS Accession No. ML20261H515), 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 said letter.

Consistent with the November 10, 2020, letter and the section entitled "Requested Information" in the May 14, 2020, letter, GNF-A provided the following information:

- GNF-A's last biennial exercise was conducted on October 30, 2019.
- GNF-A's current biennial exercise date was scheduled to be held in October 2021.
- GNF-A has made a reasonable effort to reschedule the planned exercise in CY 2021 but has been unsuccessful.

- GNF-A will reschedule the conduct of the biennial exercise within 35 months from the month in which the previously evaluated exercise was conducted.
- If this exemption is granted, GNF-A states that future biennial exercises will continue to be held in odd years.
- GNF-A states that it has conducted drills, exercises, and other training activities that exercised its emergency response strategies, in coordination with offsite authorities, since the previous biennial exercise.
- GNF-A also states that it will coordinate with the applicable offsite response organizations (if offsite response organization participation is required) 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.

GNF-A has conducted drills, surveillances, and other training activities that exercise its emergency response strategies internally and with offsite agencies. These include weekly, monthly, and quarterly equipment surveillances, both onsite and offsite, to ensure resources are maintained in a ready state; quarterly emergency communication equipment functional tests; 19 drills to maintain emergency response proficiency; Occupational Safety and Health Administration evacuations of site personnel; and initial and requalification training of internal emergency organization and offsite agency response personnel.

Additionally, the requested exemption also does not decrease the effectiveness of GNF-A's Radiological Contingency and Emergency Plan, nor involve changes to security at the facility. Further, the licensee has rescheduled 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, the county in which GNF-A is located has seen rising COVID-19 caseloads. Granting this exemption will minimize the risk to GNF-A staff, offsite responders, and potentially members of the public, of exposure to the COVID-19 virus. Further, conducting the exercise in October 2021 would increase the population of personnel that assemble in the site emergency control center, which would challenge COVID-19-related isolation guidelines (e.g., social distancing and group size limitations). This would add risk to GNF-A employees. 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, GNF-A'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 GNF-A 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 GNF-A 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 GNF-A 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-6 has been issued to reflect the exemption as follows:

- S-6. 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 D. Mott, NSIR/DPR/RLB