



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-269, 50-270, and 50-287; NRC-2020-0097]

Duke Energy Carolinas, LLC;

Oconee Nuclear Station, Unit Nos. 1, 2, and 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued an exemption for the Oconee Nuclear Station, Unit Nos. 1, 2 and 3 in response to a request from Duke Energy Carolinas, LLC dated April 14, 2020, as supplemented by letter dated April 16, 2020, for an exemption from specific requirements in the NRC's regulations regarding security officer participation in force-on-force training exercises.

DATES: The exemption was issued on April 17, 2020.

ADDRESSES: Please refer to Docket ID **NRC-2020-0097**. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2020-0097**. Address questions about NRC docket IDs in Regulations.gov to Jennifer Borges; telephone: 301-287-9127; e-mail: Jennifer.Borges@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System**

(ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please

contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

The exemption request dated April 14, 2020, as supplemented by letter dated April 16, 2020, contains security-related information and is accordingly withheld from public disclosure under section 2.390 of title 10 of the *Code of Federal Regulations* (CFR). The NRC staff's approval is available in ADAMS under Accession No. ML20104C070.

FOR FURTHER INFORMATION CONTACT: Michael Mahoney, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-3867, e-mail: Michael.Mahoney@nrc.gov.

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated: April 17, 2020.

For the Nuclear Regulatory Commission.

Michael Mahoney,
Project Manager,
Plant Licensing Branch II-1,
Division of Operating Reactor
Licensing,
Office of Nuclear Reactor
Regulation.

Attachment – Exemption 10 CFR 73, Appendix B, Section VI, Subsection C.3.(I)(1)

NUCLEAR REGULATORY COMMISSION

Docket Nos. 50-269, 50-270, and 50-287

Duke Energy Carolinas, LLC.

Oconee Nuclear Station, Unit Nos. 1, 2, and 3

Exemption

I. Background.

Duke Energy Carolinas, LLC. (Duke Energy, the licensee) is the holder of the Renewed Facility Operating Licenses (FOLs) DPR-38, DPR-47, and DPR-55, for Oconee Nuclear Station, Unit Nos. 1, 2, and 3 (Oconee), which consists of three pressurized-water reactors (PWRs) located in Oconee County, South Carolina. The licenses provide, among other things, that the facilities are subject to all the rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, Commission) now or hereafter in effect.

II. Request/Action.

By letter dated April 14, 2020, as supplemented by letter dated April 16, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML20105A105 and ML20107H265, respectively (withheld from public disclosure)), the licensee requested an exemption from 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,” Subsection C.3.(I)(1), in part, pursuant to 10 CFR 73.5, “Specific exemptions.” Due to the Coronavirus Disease 2019 (COVID-19) pandemic currently affecting the United States

and the state of emergency declared by the State of South Carolina on March 13, 2020, the licensee is requesting an exemption to temporarily suspend the requirement of this subsection that each member of each shift who is assigned duties and responsibilities required to implement the safeguards contingency plan and licensee protective strategy participate in at least one (1) force-on-force exercise on an annual basis.

III. Discussion.

Pursuant to 10 CFR 73.5, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 73 when the exemptions are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest.

The licensee requests to temporarily suspend portions of requirements in Appendix B to Part 73, Section VI, Subsection C.3.(l)(1) related to requalification requirement of security personnel who are assigned duties and responsibilities required to implement the safeguards contingency plan and licensee protective strategy. Specifically, 10 CFR Part 73, Appendix B, Section VI, Subsection C.3.(l)(1) requires that 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) tactical response drill on a quarterly basis and one (1) force-on-force exercise on an annual basis. The licensee is requesting an exemption from the requirement in 10 CFR Part 73, Appendix B, Section VI, Subsection C.3.(l)(1) that security personnel participate in at least one (1) force-on-force exercise on an annual basis. The underlying purpose of this requirement is to ensure that the individuals can perform their duties in accordance with the licensee's approved security plans.

A. The Exemption is Authorized by Law.

The licensee is proposing that security personnel who are assigned duties and

responsibilities required to implement the safeguards contingency plan and licensee protective strategy be exempt from the requirement of meeting the requalification requirements to participate in at least one (1) force-on-force exercise on an annual basis. The NRC staff examined the licensee's rationale that supports the exemption request.

The licensee states that the exemption is related to training requalification and does not change physical security plans or the defensive strategy. The licensee states that security personnel impacted by the exemption are currently satisfactorily qualified on all required tasks. The licensee states that security personnel are regularly monitored by supervisory personnel. Additionally, to ensure the impacted security personnel maintain the knowledge, skills, and abilities required to effectively perform assigned duties and responsibilities, the licensee states, "Oconee will continue to conduct quarterly tactical response drills to ensure the security force maintains response readiness. Annual exercises that are suspended as a result of this temporary exemption will be rescheduled in accordance with the parameters outlined in this exemption request." Further, the licensee states, "Oconee will track and document when requalification periodicities have been exceeded."

In accordance with 10 CFR 73.5, the Commission may grant exemptions from the regulations in 10 CFR Part 73, as authorized by law. The NRC staff finds that granting the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or other laws, and is, thus, authorized by law.

B. The Exemption will not Endanger Life or Property or the Common Defense and Security.

The licensee asserts the requested exemption will not endanger life or property

or the common defense and security. The licensee states the requested exemption is a temporary exemption to allow deferring of the security training requalification requirement for certain members of the security organization to participate in one force-on-force exercise annually. The licensee states "Oconee had scheduled these requalification activities to comply with the regulation. However, these activities must be rescheduled to allow implementation of the Duke Energy pandemic response plan mitigation strategies." The licensee argues these strategies serve the public interest by ensuring adequate staff isolation and maintaining staff health to perform their job function actions during the COVID-19 pandemic. The licensee further asserts the proposed exemption is related to training requalification and does not change physical security plans or the defensive strategy. The licensee further states security personnel impacted by this exemption are currently satisfactorily qualified on all required tasks. In addition, security personnel are monitored regularly by supervisory personnel and the licensee will continue to conduct quarterly tactical response drills to ensure the security force maintains response readiness. Therefore, the licensee states that granting the requested temporary exemption will not endanger or compromise the common defense or security, or safeguarding Oconee. The licensee requested that this exemption expire 90 days following the lifting of the state of emergency declared by the State of South Carolina on March 13, 2020.

The NRC staff finds that the requested exemption will continue to allow the licensee to maintain the required security posture as the licensee will continue to conduct the required quarterly tactical response drills to ensure the response force maintains its proficiency and readiness. In addition, granting this exemption for no longer than 90 days following the lifting of the state of emergency declared on March 13, 2020, by the state of South Carolina, the jurisdiction in which this facility is located, or

December 31, 2020, whichever occurs first, would allow for the licensee to restore normal security staffing in a systematic manner. For example, it may take time after the state of emergency is lifted for COVID-19-affected security personnel to fully recover and return to work. Based on the above, the NRC staff concludes that the proposed exemption would not endanger life or property or the common defense and security.

C. Otherwise in the Public Interest.

On March 28, 2020, the Cybersecurity & Infrastructure Security Agency (CISA) within the U.S. Department of Homeland Security (DHS) published Version 2.0 of its “Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response” (<https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce>). Although that guidance is advisory in nature, it is designed to ensure “continuity of functions critical to public health and safety, as well as economic and national security.” DHS and CISA recommend the Energy Sector, including nuclear power reactor facilities, workers and functions, continue to operate during the COVID-19 public health emergency.

The licensee states, in part, that, “[k]eeping Oconee in operation during the pandemic will help to support the public need for reliable electricity supply to cope with the pandemic. As the U.S. Departments of Homeland Security and Energy have stated in their guidance, the electric grid and nuclear plant operation make up the nation's critical infrastructure similar to the medical, food, communications, and other critical industries. If the Security force is impacted because it cannot comply with the security training requalification requirements while isolation restrictions are in effect for essential crew members, the physical protection of the plant may be affected. This does not serve the public interest in maintaining a safe and reliable supply of electricity.”

Additionally, the licensee states, “The Duke Energy pandemic response plan is

based on NEI 06-03, *Pandemic Threat Planning, Preparation, and Response Reference Guide* (i.e., Reference 4) which recommends isolation strategies such as sequestering, use of super crews or minimum staffing as applicable, as well as social distancing, group size limitations and self-quarantining, in an event of a pandemic, to prevent the spread of the virus to the plant. NEI 06-03 provides other mitigation strategies that serve the public interest during a pandemic by ensuring adequate staff is isolated from the pandemic and remains healthy to perform their job function.” According to the licensee, holding force-on-force exercises would locate drill participants and drill controllers in close quarters making it impractical to meet the recommendation for social distancing. The licensee explains that maintaining a fully staffed and healthy workforce is in the best interest of public health and safety when considering the health risk of conducting activities which would put people in close contact during the pandemic.

Based on the above and the NRC staff’s aforementioned findings, the NRC staff concludes that the exemption is in the public interest because it allows the licensee to maintain the required security posture at Oconee while the facility continues to provide electrical power. The exemption also enables the licensee to minimize the risk of exposing essential security personnel to the coronavirus during the COVID-19 public health emergency.

D. Environmental Considerations.

The NRC staff’s approval of this exemption request is categorically excluded under 10 CFR 51.22(c)(25)(vi)(E), and there are no special circumstances present that would preclude reliance on this exclusion. The NRC staff determined that this action applies to granting of an exemption from requirements relating to education, training, experience, qualification, requalification, or other employment suitability requirements. The NRC staff has determined that approval of this exemption request involves no

significant hazards consideration; no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; no significant increase in individual or cumulative public or occupational radiation exposure; no significant construction impact; and no significant increase in the potential for or consequences from radiological accidents. In addition, the NRC staff has determined that there would be no significant impacts to biota, water resources, historic properties, cultural resources, or socioeconomic conditions in the region. As such, there are no extraordinary circumstances present that would preclude reliance on this categorical exclusion. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption request.

IV. Conclusions.

Accordingly, the NRC has determined that pursuant to 10 CFR Part 73.5, the exemption is authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest. Therefore, the Commission hereby grants the licensee an exemption for Oconee from the requirement of 10 CFR 73, Appendix B, Section VI, Subsection C.3.(I)(1), that security personnel who are assigned duties and responsibilities required to implement the safeguards contingency plan and licensee protective strategy participate in at least one (1) force-on-force exercise on an annual basis. This exemption expires no later than 90 days following the lifting of the state of emergency declared on March 13, 2020, by the State of South Carolina, or December 31, 2020, whichever occurs first.

Dated: April 17, 2020

For the Nuclear Regulatory Commission.

Craig Erlanger, Director,
Division of Operating Reactor Licensing,
Office of Nuclear Reactor Regulation.

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