NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–247 and 50–286; NRC–2020–0100]

Entergy Nuclear Operations, Inc.;
Indian Point Nuclear Generating Unit Nos. 2 and 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) issued an exemption in response to an April 13, 2020, request from Entergy Nuclear Operations, Inc. (the licensee), as supplemented by letter dated April 16, 2020. The exemption grants the licensee's request for a temporary exemption for Indian Point Nuclear Generating Unit Nos. 2 and 3 (Indian Point 2 and 3) from the requirements with respect to extending the completion time for annual fire brigade physical examinations by 90 days for 15 fire brigade members.

DATES: The exemption was issued on April 22, 2020.

ADDRESSES: Please refer to Docket ID NRC–2020–0100 when contacting the NRC about the availability of information related to this document using any of the following methods:

- Federal Rulemaking Website: Go to https://www.regulations.gov and search for Docket ID NRC–2020–0100. Address questions about NRC docket IDs in Regulations.gov to Jennifer Borges; telephone: 301–287–9127; email: 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 information related to this document by accessing ADAMS under 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 technical questions, contact the NRC’s Public Document Room reference staff at 1–800–397–4209, 301–415–9737, or by email to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the document.


SUPPLEMENTARY INFORMATION: The text of the exemption is attached.


For the Nuclear Regulatory Commission.

James G. Danna,
Chief, Plant Licensing Branch I, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

Attachment: Exemption

NUCLEAR REGULATORY COMMISSION

Docket Nos. 50–247 and 50–286

Entergy Nuclear Operations, Inc.
Indian Point Nuclear Generating Unit Nos. 2 and 3

Exemption

I. Background

Entergy Nuclear Operations, Inc. (the licensee) is the holder of Renewed Facility Operating License Nos. DPR–26 and DPR–64 for Indian Point Nuclear Generating Units Nos. 2 and 3, respectively (Indian Point 2 and 3). The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC or the Commission), now or hereafter in effect. The Indian Point 2 and 3 facility consists of two pressurized-water reactors located in Buchanan, New York.

II. Request/Action

By letter dated April 13, 2020, as supplemented by letter dated April 16, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML20104C121 and ML20107551, respectively), the licensee requested a temporary exemption from Title 10 of the Code of Federal Regulations (10 CFR) Part 50, Appendix R, Section III.H, which requires (among other things) that the qualifications of fire brigade members include an annual physical examination to determine their ability to perform strenuous firefighting activities. Due to the Coronavirus Disease 2019 (COVID–19) Public Health Emergency (PHE) currently affecting the United States, and the state of emergency declared by the State of New York on March 7, 2020, the licensee has implemented pandemic planning strategies that include isolation activities and is requesting a temporary exemption from Appendix R, Section III.H, to extend the due dates for fire brigade members to have an annual physical examination in order to protect required site fire brigade personnel in response to the COVID–19 PHE. The
exemption would apply to 15 Indian Point 2 and 3 staff who are members of
the fire brigade and extend, by 90 days, the due dates to conduct their physical
examinations from April 23 through June 19, 2020, to July 22 through
September 17, 2020, based on when an individual brigade member’s physical
examination is due.

The regulatory framework that applies to Indian Point 2 and 3 is contained in
10 CFR 50.48(b)(1), which requires that plants licensed before January 1, 1979,
meet all sections of Appendix R to 10 CFR part 50 (expect Sections III.G, III.J,
and III.O), unless the fire protection feature was specifically accepted by the
NRC staff in a safety evaluation report (1) issued before February 19, 1981, as
satisfying the provisions of Appendix A to Branch Technical Position (BTP)
APCSB 9.5–1, “Guidelines for Fire Protection for Nuclear Power Plants,” or (2)
issued before the publication of Appendix A of BTP APCS B 9.5–1 (August 1976).
Indian Point 2 and 3 began commercial operations in 1974 and 1976, respectively.
The acceptability to conduct annual fire brigade physical examinations was not
discussed in any safety evaluation report before August 1976 or February 19,
1981. Thus, Section III.H of 10 CFR part 50, Appendix R, requires, among
other things, that “the qualification of fire brigade members shall include an
annual physical examination to determine their ability to perform strenuous fire-fighting activities.”

III. Discussion

Pursuant to 10 CFR 50.12, the
Commission may, upon application by
any interested person or upon its own
initiative, grant exemptions from the
requirements of 10 CFR part 50 when (1)
the exemptions are authorized by law,
will not present an undue risk to public
health or safety, and are consistent with
the common defense and security; and
(2) when special circumstances are
present.

The licensee requested an exemption
from 10 CFR part 50, Appendix R, Section III.H, which requires, in part,
annual fire brigade physical
examinations be conducted for fire
brigade members. The licensee claims
that special circumstances in 10 CFR
50.12(a)(2)(v), which state that, “The
exemption would provide only
temporary relief from the applicable
regulation and the licensee or applicant
has made good faith efforts to comply
with the regulation,” are present.

A. The Exemption is Authorized by Law

The proposed exemption from 10 CFR
part 50, Appendix R, Section III.H,
would temporarily extend, by 90 days,
due dates occurring from April 23
through June 19, 2020, to conduct annual physical examinations for fire
brigade members.

In accordance with 10 CFR 50.12, the
NRC may grant an exemption from the
requirements of 10 CFR part 50 if it
makes the requisite findings, including
findings that the exemption is
authorized by law and that special circumstances are present. The
requested exemption is authorized by law based on the findings set forth
below and because no other prohibition of law exists to preclude the activities
that would be authorized by the exemption. The NRC staff also finds that
granting the licensee’s proposed exemption will not result in a violation of
the Atomic Energy Act of 1954, as amended, or the Commission’s
regulations. Therefore, the NRC staff concludes that the exemption is
authorized by law.

B. The Exemption Will Not Present an
Undue Risk to the Public Health and
Safety

The proposed exemption from 10 CFR
part 50, Appendix R, Section III.H,
would temporarily extend, by 90 days,
the due dates to conduct annual
physical examinations for fire brigade
members. The NRC staff finds that the
exemption would not present an undue
risk to the public health and safety
because the licensee will implement the
following actions prior to the expiration
dates of the current physical
examinations:

1. Each affected fire brigade member
will complete an annual medical history
questionnaire based on American
National Standards Institute (ANSI) Z–
86.6–2006, “Physical Qualifications for
Respirator Use,” and the Occupational
Safety and Health Administration
Respirator Medical Evaluation
Questionnaire from 29 CFR 1910.134,
Appendix C.

2. Each completed medical history
questionnaire will be reviewed by a
licensed physician who will compare the
answers to the previous medical
examination to determine if a 90-day
extension is acceptable.

3. Telehealth conferencing will be
used to conduct a one-on-one
assessment of the fire brigade member
to complete the review, if needed.

In addition to the above, each fire
brigade member is part of an Operations
Watch Team and is subject to the
provisions of the licensee’s behavioral
observation program, which is
established by procedure, to ensure
compliance with 10 CFR 73.56. “Access
Authorization Program for Nuclear
Power Plants.” Under this program, a
decline in health or performance of a
fire brigade member would be identified
by an Operations supervisor. Also, as
part of this program, fire brigade
members are made acutely aware of the
need to immediately report any change
in their current health to their
supervisor.

Also, a supervisor will inform each of
the 15 affected fire brigade members, in
person, of the exemption; the risks of
conducting fire brigade activities, including wearing respiratory
protection; the rationale for annual
physical examinations; the deviation from the annual examination
requirements; and the requirement
that compliance be restored within 90 days
of each original annual physical
examination due date, or another date as
indicated by a physician, whichever is
sooner. The licensee indicated that it
will use its corrective action program to
document the performance of the
planned actions discussed above.

Based on the performance of the
above activities as described in the
licensee’s exemption request, as
supplemented, the NRC staff concludes
that granting the temporary exemption
from the requirement in 10 CFR part 50,
Appendix R, Section III.H, related to
conducting annual physical
examinations for fire brigade members
will not present an undue risk to the
public health and safety.

C. The Exemption Is Consistent With the
Common Defense and Security

The proposed exemption from 10 CFR
part 50, Appendix R, Section III.H,
would temporarily extend, by 90 days,
the due dates to conduct annual
physical examinations for fire brigade
members currently due from April 23
through June 19, 2020. The 90-day
extension would not adversely impact
the firefighting capability of the Indian
Point 2 and 3 fire brigade, because all
members are currently qualified for all
tasks, and the plant fire protection
features, firefighting plans, and fire
protection equipment have not been
altered. In addition, this temporary
exemption would allow the affected fire
brigade members to continue to be
available to perform their functions
during the COVID–19 PHE, provided a
review of each member’s medical
history yields satisfactory results.
Therefore, the NRC staff concludes
that the common defense and security is not
impacted by this temporary exemption.

D. Special Circumstances

Special circumstances, in accordance
with 10 CFR 50.12(a)(2)(v), are present
whenever an exemption would provide
only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation. The licensee is requesting an exemption to allow a temporary extension of the 10 CFR part 50, Appendix R, Section III.H requirement that annual physical examinations be conducted for fire brigade members. The exemption would apply to 15 Indian Point 2 and 3 staff who are members of the fire brigade and extend, by 90 days, the due dates to conduct these physical examinations currently due from April 23 through June 19, 2020, to July 22 through September 17, 2020, based on when an individual brigade member’s physical examination is due.

The licensee had scheduled these annual physical examinations to comply with the regulation, and prior to the implementation of isolation activities (e.g., social distancing, group size limitations, self-quarantining, etc.) necessary to protect brigade personnel in response to the COVID–19 PHE, the licensee had successfully scheduled and completed previous annual fire brigade physical examinations within the specified frequency. As discussed in Section III.B above, the licensee will implement certain actions, including having each member complete an annual medical history questionnaire, having that medical questionnaire reviewed by a licensed physician, and using telehealth conferencing if a one-on-one assessment is needed, prior to the respective member’s approved extension period.

Since the exemption would only grant temporary relief from the regulation, and the licensee has made good faith efforts to comply with the regulation, the NRC staff finds that the special circumstances required by 10 CFR 50.12(a)(2)(iv) exist for the granting of an exemption from 10 CFR part 50, Appendix R, Section III.H. in regard to conducting the annual physical examinations for fire brigade members.

E. Environmental Considerations

The granting of the proposed exemption is categorically excluded under 10 CFR 51.22(c)(25) and there are no special (or extraordinary) circumstances present that would preclude reliance on this exclusion. The NRC staff determined, per 10 CFR 51.22(c)(25)(vi)(E), that the proposed action would grant an exemption from education, training, experience, qualification, requalification, or other employment suitability requirements.

The NRC staff also determined, per 10 CFR 51.22(c)(25)(i), that granting the proposed exemption involves no significant hazards consideration because the 90-day extension of due dates to conduct annual physical examinations for fire brigade members does not change the way the reactor protection systems perform, authorize any hardware or design changes, alter any assumptions made in the safety analyses, introduce any new failure modes, or alter any safety limits. Thus, the issuance of the exemption does not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. Similarly, per 10 CFR 51.22(c)(25)(v), there is no significant increase in the potential for or consequences from radiological accidents.

In addition, the NRC staff determined that there would be no significant impacts to biota, water resources, air or terrestrial resources, historic properties, cultural resources, or socioeconomic conditions in the region. The requested temporary deferral of physical examinations, based on the medical review and other actions the licensee plans to implement, would maintain fire brigade availability during the COVID–19 PHE. Thus, per 10 CFR 51.22(c)(25)(ii) and (iii), there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite and no significant increase in individual or cumulative public or occupational radiation exposure. In addition, because the proposed exemption does not authorize any construction, per 10 CFR 51.22(c)(25)(iv), there is no significant construction impact. As such, there are no special (or extraordinary) circumstances present that would preclude reliance on this categorical exclusion.

Based on the above, the NRC staff concludes that the proposed exemption meets the eligibility criteria for the categorical exclusion set forth in 10 CFR 51.22(c)(25). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the granting of this exemption.

IV. Conclusions

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security, and there are special circumstances present. Therefore, based upon the medical review and other actions described in the exemption request, as supplemented, the Commission hereby grants the licensee’s request for a temporary exemption from the 10 CFR part 50, Appendix R, Section III.H, fire brigade annual qualification requirement by extending, by 90 days, the completion time for annual fire brigade physical examinations due from April 23 through June 19, 2020, to July 22 through September 17, 2020, for 15 brigade members at Indian Point 2 and 3.

For the Nuclear Regulatory Commission.
Craig G. Erlanger,
Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket No(s). 72–1031; 72–1037; 72–64; 72–38; and 72–45; NRC–2020–0092]

ZionSolutions LLC; Dominion Energy Kewaunee, Inc.; Duke Energy Carolinas, LLC

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemptions; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) issued four exemptions in response to requests from ZionSolutions LLC; Dominion Energy Kewaunee, Inc.; and Duke Energy Carolinas, LLC. The exemptions allow the licensees to deviate from the requirements for the MAGNASTOR® storage cask system in Certificate of Compliance No. 1031, Amendment No. 7 (for Catawba and McGuire) and Amendment No. 6 (for Zion and Kewaunee), by utilizing two exceptions to the American Society of Mechanical Engineers Boiler and Pressure Vessel Code. The NRC is issuing a single notice to announce the issuance of these exemptions because these are nearly identical.

DATES: The four exemptions were issued on April 21, 2020.

ADDRESSES: Please refer to Docket ID NRC–2020–0092 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:
• Federal Rulemaking website: Go to https://www.regulations.gov and search