

RS-23-117

November 10, 2023

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555

Byron Station, Units 1 and 2
Renewed Facility Operating License Nos. NPF-37 and NPF-66
NRC Docket Nos. STN 50-454 and STN 50-455

Subject: Supplemental Information Letter for Part 73 Exemption Request – Responses to Request for Confirmatory Information

- References:
1. Letter from D. Gudger (Constellation Energy Generation, LLC) to U.S. Nuclear Regulatory Commission, "Request for Exemption from Enhanced Weapons, Firearms Background Checks, and Security Event Notifications Implementation," dated October 13, 2023 (ML 23286A036)
 2. Email from Scott Wall (NRC Senior Project Manager) to Ron Reynolds (Constellation Energy Generation, LLC), "Final RCI - Constellation Energy Generation, LLC – Byron 1 & 2 - Exemption from Security Rule," dated October 30, 2023 (ML 23304A020)

By letter dated October 13, 2023 (Reference 1), Constellation Energy Generation, LLC (CEG) requested an exemption for Byron Station (Byron), Units 1 and 2, from the compliance date of January 8, 2024, for the new security Rule, "Enhanced Weapons, Firearms Background Checks, and Security Event Notifications." The requested exemption was based on the NRC's projected timeline for completion of revision to the applicable Regulatory Guides associated with the new rule, and the time necessary for Byron to process change management adequately to include the number of training weeks that will be required to implement the Rule. Byron requested a new compliance date of December 31, 2024, or 180 days after publication of final Regulatory Guides, whichever is later.

On October 24, 2023, the NRC issued, via email, a draft Request for Confirmatory Information (RCI). A clarification call with the NRC and CEG was held on October 25, 2023, resulting in a formal RCI request on October 30, 2023 (Reference 2).

The Attachment to this supplemental information letter provides responses to the RCI provided in Reference 2.

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There are no regulatory commitments contained in this supplement.

If you should have any questions concerning this submittal, please contact Richard Gropp at (267) 533-5642.

Respectfully,



David P. Helker
Sr. Manager, Licensing
Constellation Energy Generation, LLC

Attachment: Supplemental Information Letter

cc: w/ Attachment
NRC Regional Administrator, Region III
NRC Project Manager - Byron
NRC Senior Resident Inspector - Byron
Scott Wall, NRC Fleet Project Manager
Illinois Emergency Management Agency Division of Nuclear Safety

SUPPLEMENTAL INFORMATION

This Supplemental Information provides responses to the Request for Confirmatory Information (RCI) provided by the NRC in Reference 2. Each confirmatory request is provided below followed by CEG's response.

1. *Regarding CEG's request for exemption from the January 8, 2024, compliance date, please confirm the following:*
 - *CEG is requesting an exemption for Byron from specific requirements, as described below, associated with the final rule for Enhanced Weapons, Firearms Background Checks, and Security Event Notifications, as identified in your submission; that would defer compliance with those provisions until December 31, 2024, or 180 days after publication of final Regulatory Guides, whichever is later.*

CEG Response:

Yes, CEG is requesting an exemption for Byron from specific requirements, as described below, associated with the final rule for Enhanced Weapons, Firearms Background Checks, and Security Event Notifications, as identified in Byron's submittal dated October 13, 2023 (ML23286A036), that would defer compliance with those provisions until December 31, 2024, or 180 days after publication of final Regulatory Guides, whichever is later.

- *CEG is not requesting an extension to the compliance date for Byron for specific requirements in Title 10 of the Code of Federal Regulations (10 CFR) Part 73, Subpart B, "Enhanced Weapons, Preemption, and Firearms Background Checks," described in 10 CFR 73.15, "Authorization for Use of Enhanced Weapons and Preemption of Firearms Laws," and 10 CFR 73.17, "Firearms Background Checks for Armed Security Personnel."*

CEG Response:

Correct, CEG is not requesting an extension to the compliance date for Byron for specific requirements in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, Subpart B, "Enhanced Weapons, Preemption, and Firearms Background Checks," described in 10 CFR 73.15, "Authorization for Use of Enhanced Weapons and Preemption of Firearms Laws," and 10 CFR 73.17, "Firearms Background Checks for Armed Security Personnel."

- *CEG is requesting an exemption for Byron from specific requirements in 10 CFR Part 73, Subpart T, "Security Notifications, Reports, and Recordkeeping," 10 CFR 73.1200(a) through 10 CFR 73.1200(t), "Notification of Physical Security Events," 10 CFR 73.1205(a)(1) through 10 CFR 73.1205(e), "Written Follow-up Reports of Physical Security Events," 10 CFR 73.1210(a)(1) through 10 CFR 73.1210(h), "Recordkeeping of Physical Security Events," and "Suspicious Activity Reports," 10 CFR 73.1215(a) through 10 CFR 73.1215(f) until the later of December 31, 2024, or 180 days after publication of the final Regulatory Guides.*

CEG Response:

Yes, CEG is requesting an exemption for Byron from specific requirements in 10 CFR Part 73, Subpart T, "Security Notifications, Reports, and Recordkeeping," 10 CFR 73.1200(a) through 10 CFR 73.1200(t), "Notification of Physical Security Events," 10 CFR 73.1205(a)(1) through 10 CFR 73.1205(e), "Written Follow-up Reports of Physical Security Events," 10

CFR 73.1210(a)(1) through 10 CFR 73.1210(h), "Recordkeeping of Physical Security Events," and 10 CFR 73.1215(a) through 10 CFR 73.1215(f), "Suspicious Activity Reports," until the later of December 31, 2024, or 180 days after publication of the final Regulatory Guides.

- *CEG is requesting an exemption for Byron from using the definitions for the terms "Contraband," and "Time of Discovery" as recently revised in 10 CFR 73.2, "Definitions," until the later of December 31, 2024, or 180 days after publication of the final Regulatory Guides. The exemption would not apply to the definitions of those terms that were in effect prior to the issuance of the 2023 revisions.*

CEG Response:

Yes, CEG is requesting an exemption for Byron from using the definitions for the terms "Contraband," and "Time of Discovery" as recently revised in 10 CFR 73.2, "Definitions," until the later of December 31, 2024, or 180 days after publication of the final Regulatory Guides. The exemption would not apply to the definitions of those terms that were in effect prior to the issuance of the 2023 revisions.

2. *Confirm that the current Byron site security plan implements the requirements of 10 CFR 73.71, "Reporting of Safeguards Events" for reporting the suspension of security measures.*

CEG Response:

CEG confirms that the current Byron site security plan implements the requirements of 10 CFR 73.71, "Reporting of Safeguards Events" for reporting the suspension of security measures.

- *Confirm that Byron will continue to comply with security event reporting, as previously required in 10 CFR 73.71, "Reporting of Safeguards Events," and Appendix G to Part 73, "Reportable Safeguards Events."*

CEG Response:

CEG confirms that Byron will continue to comply with security event reporting, as previously required in 10 CFR 73.71, "Reporting of Safeguards Events," and Appendix G to Part 73, "Reportable Safeguards Events."

- *Confirm that Byron will use the definitions for the terms "Contraband" and "Discovery (time of)" in its site security plan consistent with how these terms are currently defined in Regulatory Guide 5.76, Revision 1, "Physical Protection Programs at Nuclear Power Reactors."*

CEG Response:

CEG confirms that Byron will use the definitions for the terms "Contraband" and "Discovery (time of)" in its site security plan consistent with how these terms are currently defined in Regulatory Guide 5.76, Revision 1, "Physical Protection Programs at Nuclear Power Reactors."

3. *Confirm that when Byron states that it is implementing the new Access Authorization Rule it actually means that it is implementing the new 2022 10 CFR Part 26 Fitness for Duty Rule (87 FR 71422, November 22, 2022)?*

CEG Response:

CEG confirms that the statement in its exemption request that "CEG is in the process of implementing the new Access Authorization Rule" was made in error. What the statement intended to say is that CEG is in the process of implementing the new 2022 10 CFR Part 26 Fitness for Duty Rule (87 FR 71422, November 22, 2022).