license for the activity so authorized, the existing license will not be deemed to have expired until the application has been finally determined.''

The licensee's application requested an exemption from the timing requirements of 10 CFR 2.109(a), for submittal of the research reactor license renewal application. The exemption would allow the submittal of the renewal application with less than 30 days prior to expiration of the operating license while maintaining the protection of the timely renewal provision in 10 CFR 2.109(a).

3.0 Discussion

Pursuant to the requirements of 10 CFR 50.12, the Commission may grant an exemption from the requirements of Part 50 when the exemption is (1) 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 (2) special circumstances are present as defined in 10 CFR 50.12(a)(2). The operation of the University of Utah research reactor since initial licensing in 1975 and license renewal in 1985 has been acceptable to ensure protection of the public health and safety and consistent with the common defense and security. Further, the requested exemption meets two special circumstances: 10 CFR 50.12(a)(2)(ii), ''[a]pplication of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule;'' and 10 CFR 50.12(a)(2)(iii), ''[c]ompliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated.''

The purpose of 10 CFR 2.109(a), as it is applied to NRC licensees, is to implement the ''timely renewal'' doctrine of section 9(b) of the Administrative Procedure Act (APA), 5 U.S.C. 558(c), which states:

> When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency.

The underlying purpose of this ''timely renewal'' provision in the APA is to protect a licensee who is engaged in an ongoing licensed activity and who has complied with agency rules in applying for a renewed or new license from facing license expiration as the result of delays in the administrative process.

Submittal of the license renewal application approximately 24 days, instead of 30 days, prior to expiration of the operating license provides reasonable time prior to expiration to allow the staff to ensure that the application is essentially complete and sufficient and the licensee intends to continue to operate the facility. The NRC's current schedule for review of research reactor license renewal applications is to complete its review and make a decision on issuing the renewed license within 48 months of receipt. Meeting this schedule is based on a complete and sufficient application, and on the review being completed in accordance with the NRC's established license renewal review schedule. Also, completing the research reactor license renewal review process on schedule is, of course, dependent on licensee cooperation in meeting established schedules for submittal of any additional information required by the NRC, and the resolution of all issues demonstrating that issuance of a renewed license is warranted.

The second special circumstance involves undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated. The research reactor is operated solely for educational and research purposes. The reactor is a part of the Nuclear Engineering Program, but it also supports the curriculum of the other engineering disciplines in the University of Utah College of Engineering. The loss of this resource for an extended period of time during a license renewal process is an undue hardship.

In summary, the licensee has demonstrated that application of the subject regulation is not necessary to achieve the underlying purpose of the rule and is an undue hardship, thus meeting the criterion specified in 10 CFR 50.12(a)(2)(ii) and (iii). Accordingly, the NRC staff agrees that special circumstances are present to justify the requested exemption.

Therefore, the exemption is contingent upon the following condition being met: To ensure timely completion of the review process, the licensee must provide any requested information as necessary to support the completion of the NRC staff's safety and environmental reviews in accordance with the review schedule issued by the NRC.

Pending final action on the license renewal application, the NRC will continue to conduct all regulatory activities associated with licensing, inspection, and oversight, and will take whatever action may be necessary to ensure adequate protection of the public health and safety. The existence of this exemption does not affect NRC's authority, applicable to all licenses, to modify, suspend, or revoke a license for cause, such as a serious safety concern.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. In addition, special circumstances exist to justify the proposed exemption. Therefore, the Commission hereby grants the licensee an exemption from the requirement of 10 CFR 2.109(a) for the University of Utah research reactor. Specifically, this exemption will allow the University of Utah to have submitted a license renewal application for the research reactor less than 30 days prior to the expiration of the operating license, while maintaining the protection of the timely renewal doctrine contained in 10 CFR 2.109(a), subject to the condition imposed by this exemption.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment. This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 15th day of April, 2005.

For the Nuclear Regulatory Commission.

David B. Matthews,

Director, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 05–7844 Filed 4–18–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–407]

University of Utah; University of Utah TRIGA Nuclear Reactor Facility; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from certain requirements of Title 10 of the Code of Federal Regulations (10 CFR), subsection 2.109(a), for Facility Operating License No. R–126, which authorizes operation of the University of

Utah TRIGA Nuclear Reactor Facility, a 100 kW (thermal) research reactor facility, located in Salt Lake County, Utah. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

Subsection 109(a) of 10 CFR Part 2 states, ''Except for the renewal of an operating license for a nuclear power plant under 10 CFR 50.21(b) or 50.22, if, at least 30 days prior to the expiration of an existing license authorizing any activity of a continuing nature, the licensee files an application for a renewal or for a new license for the activity so authorized, the existing license will not be deemed to have expired until the application has been finally determined.''

The University of Utah has requested an exemption from the timing requirements of 10 CFR 2.109(a), for submittal of the University of Utah TRIGA Nuclear Reactor Facility license renewal application. The exemption would allow the submittal of the renewal application with less than 30 days remaining prior to expiration of the operating license while maintaining the protection of the timely renewal provision in 10 CFR 2.109(a).

The proposed action is in accordance with the licensee's application for exemption dated April 13, 2005.

The Need for the Proposed Action

Because the licensee has submitted their application for license renewal less than 30 days before the expiration date of the existing license (midnight April 17, 2005), the proposed action is needed to allow continued operation of the facility while the NRC staff makes a final determination regarding license renewal.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that pursuant to 10 CFR 50.12(a), the proposed exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. In addition, special circumstances exist to justify the proposed exemption. The details of the staff's evaluation will be provided in the exemption that will be issued as part of the letter to the licensee approving the exemption to the regulation.

Because the proposed action would allow continued operation of the reactor facility under the current license conditions and technical specifications and will not authorize any changes to the facility or its operation, the proposed action will not significantly increase the probability or consequences of accidents. No changes are being made in the types of effluents that may be released offsite. There is no significant increase in the amount of any effluent release offsite. There is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC staff concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (*i.e.*, the ''no-action'' alternative). Denial of the application for exemption would result in a period of time where the licensee would not operate the reactor while the NRC staff reviewed the licensee's application for license renewal. There would be a small decrease in environmental impact during the period of time the reactor would be shut down and the benefits of education and research would be lost. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This proposed action does not involve the use of any resources not previously considered in environmental impact appraisal for initial facility license authorization dated September 30, 1975, and the environmental assessment for operating license renewal dated March 27, 1985.

Agencies and Persons Consulted

In accordance with its policy, on April 13, 2005, the NRC staff consulted with the Utah State official, Mr. Dane Finerfrock, Director, Division of Radiation Control, Department of Environmental Quality, regarding the environmental impact of the proposed action. The State official had no comments regarding the environmental aspects of the exemption.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated April 13, 2005. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 14th day of April, 2005.

For the Nuclear Regulatory Commission.

Patrick M. Madden,

Section Chief, Research and Test Reactors Section, New, Research and Test Reactors Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Week of April 18, 2005.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of April 18, 2005

Thursday, April 21, 2005

2:55 p.m.

Affirmation Session (Public Meeting) (Tentative).

a. Duke Energy Corp. (Catawba Nuclear Station, Units 1 and 2),