



*Perry Nuclear Power Plant
10 Center Road
P.O. Box 97
Perry, Ohio 44081*

Frank R. Payne
Site Vice President, Perry Nuclear

440-280-5382

May 15, 2020
L-20-010

10 CFR 50.12
10 CFR 54.15

ATTN: Document Control Desk
U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001

SUBJECT:
Perry Nuclear Power Plant
Docket No. 50-440, License No. NPF-58
Timely License Renewal Protection Exemption Request

Pursuant to 10 CFR 54.15 and 50.12, "Specific exemptions," Energy Harbor Nuclear Corp. requests approval of exemptions from 10 CFR 54.17(a), and 10 CFR 2.109(b) for Perry Nuclear Power Plant, Unit No. 1 (PNPP). These exemptions are requested to allow Energy Harbor Nuclear Corp. to file a sufficient application for renewal of the PNPP operating license at least three years (instead of at least five years) prior to the expiration of the existing license and to still receive the timely renewal protection of 10 CFR 2.109(b).

The exemption request is enclosed. Energy Harbor Nuclear Corp. is requesting Nuclear Regulatory Commission (NRC) staff approval of the exemption request by May 17, 2021.

There are no regulatory commitments contained in this submittal. If there are any questions or if additional information is required, please contact Mr. Thomas A. Lentz, Manager - Nuclear Licensing and Regulatory Affairs, at 330-315-6810.

Sincerely,


Frank R. Payne

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cc: NRC Region III Administrator

NRC Resident Inspector

NRC Project Manager

Branch Chief, Ohio Emergency Management Agency,

State of Ohio (NRC Liaison)

Utility Radiological Safety Board

Enclosure
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Energy Harbor Nuclear Corp. Exemption Request
(13 pages follow)

Subject: Request for Exemption from 10 CFR 54.17(a) and 10 CFR 2.109(b) to allow the filing of a sufficient license renewal application for the Perry Nuclear Power Plant, Unit No. 1 (PNPP), at least three years prior to the expiration of the existing license. Upon issuance of the requested exemptions, the PNPP license renewal application will receive the timely renewal protection provided in 10 CFR 2.109(b), and the existing license will not be deemed to have expired until the license renewal application has been finally determined.

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1.0 SUMMARY DESCRIPTION

In accordance with Title 10 of the Code of Federal Regulations (10 CFR) Sections 54.15, and 50.12, "Specific exemptions," Energy Harbor Nuclear Corp. requests exemptions from 10 CFR 54.17(a) and 10 CFR 2.109(b) for Perry Nuclear Power Plant, Unit No. 1 (PNPP). These exemptions are requested to allow Energy Harbor Nuclear Corp. to file a sufficient license renewal application for PNPP at least three years (instead of at least five years) prior to the expiration of the existing operating license while still maintaining the protection of the timely renewal provision in 10 CFR 2.109(b).

2.0 DETAILED DESCRIPTION

2.1 Decisions Regarding Operation of PNPP

In a letter dated April 25, 2018 (Accession No. ML18115A007), and pursuant to 10 CFR 50.82(a)(1)(i) and 10 CFR 50.4(b)(8), FirstEnergy Nuclear Operating Company (FENOC) certified to the NRC that FirstEnergy Solutions Corporation, the parent company of FENOC, intended to permanently cease power operations at PNPP by May 31, 2021. FirstEnergy Solutions Corporation had previously announced plans to retire PNPP due to severe economic challenges.

On July 23, 2019, the Ohio General Assembly passed the Ohio Clean Air Program, which contains provisions that are intended to preserve Ohio's nuclear generation capacity. The Ohio Governor signed the bill into law on July 23, 2019. Based on the Ohio Clean Air Program, FirstEnergy Solutions Corporation reversed its decision to permanently cease operations at PNPP.

Thus, by letter dated July 26, 2019 (Accession No. ML19207A097), FirstEnergy Solutions Corporation formally withdrew its certification of permanent cessation of power operations for PNPP.

2.2 Current License Expiration and Planned Recapture Amendment

Facility Operating License NPF-58 for PNPP states in license condition 2.H that:

This license is effective as of the date of issuance and shall expire at midnight on March 18, 2026.

Energy Harbor Nuclear Corp. submitted a license amendment request dated March 26, 2020 (Accession No. ML20086K773) to recapture low-power testing time and revise the PNPP facility operating license expiration date from March 18, 2026 to November 7, 2026. If the NRC approves the recapture amendment request along with this exemption request, then Energy Harbor Nuclear Corp. would be authorized to submit the PNPP license renewal application by November 7, 2023 (three years before the extended PNPP facility operating license expiration date) without losing the timely renewal protection provided by 10 CFR 2.109(b). This exemption request can be approved independently of the planned recapture amendment request.

2.3 Exemption Request

Pursuant to 10 CFR 54.15, and 10 CFR 50.12, Energy Harbor Nuclear Corp. requests an exemption from the 10 CFR 54.17(a) requirement that an application for a renewed license be filed in accordance with Subpart A of 10 CFR Part 2, and more specifically, 10 CFR 2.109(b). Section 2.109(b) states that if a licensee files a sufficient license renewal application at least five years before the expiration of the existing license, then the existing license will not be deemed to have expired until the application has been finally determined. Energy Harbor Nuclear Corp. requests exemptions from 10 CFR 54.17(a) and 10 CFR 2.109(b) to allow the filing of a sufficient license renewal application for PNPP at least three years prior to the expiration of the existing license, while still maintaining the protection of the timely renewal provision in 10 CFR 2.109(b).

2.4 Reason for the Exemption Request

By letter dated November 27, 2018 (Accession No. ML18331A155) FENOC notified the NRC that given the planned permanent cessation of PNPP power operations in May 2021, FENOC no longer planned to submit the license renewal application for PNPP.

By letter dated February 27, 2020 the NRC staff authorized the transfer of the PNPP facility operating license from FENOC and FirstEnergy Nuclear Generation, LLC, to Energy Harbor Nuclear Corp. and Energy Harbor Nuclear Generation, LLC, which are subsidiaries of a new privately-held holding company, the Energy Harbor Corp. Energy Harbor Nuclear Generation, LLC is the plant owner. Energy Harbor Nuclear Corp. is authorized to act as agent for Energy Harbor Nuclear Generation, LLC and has exclusive responsibility for, and control over, the physical construction, operation, and maintenance of the facility.

On May 8, 2020 the Energy Harbor Corp. Board of Directors met and approved the plan to submit an application for renewal of the PNPP operating license. Under 10 CFR 2.109(b), Energy Harbor Nuclear Corp. would need to file a sufficient license renewal application for PNPP by March 18, 2021 (at least five years prior to the current license expiration date) in order to secure the timely renewal protection provided by 10 CFR 2.109(b). The approximate 18-month period remaining prior to the five-year deadline set forth in 10 CFR 2.109(b) affords insufficient time to prepare, submit, and docket a sufficient license renewal application.

Information previously gathered to support development of an LRA must be updated and incorporated into an application that meets current NRC Staff expectations. Given the effort involved, Energy Harbor Nuclear Corp. has determined that it will not have adequate time to prepare and submit a sufficient license renewal application at least five years prior to the current license expiration (that is, by March 18, 2021). The requested exemptions, if granted would allow Energy Harbor Nuclear Corp. to submit the license renewal application at least three years prior to license expiration, thereby providing adequate additional time to prepare and submit a sufficient license renewal application to the NRC.

3.0 REGULATORY EVALUATION

3.1 Applicable Regulatory Requirements/Criteria

A. License Renewal Requirements

Pursuant to 10 CFR 54.29, "Standards for issuance of a renewed license," a renewed license may be issued only upon a finding by the NRC that, for specified matters within the scope of license renewal:

. . . there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the [current licensing basis] CLB, and that any changes made to the plant's CLB . . . are in accord with the [Atomic Energy] Act and the Commission's regulations.

10 CFR 54.17(a) states, in part, that:

The filing of an application for a renewed license must be in accordance with subpart A of 10 CFR part 2 . . ."

B. Timely Renewal Provisions

Administrative Procedure Act of 1946, Chapter 5, United States Code (U.S.C.) Subchapter II, paragraph 558(c) states in part that:

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.

This provision, which is known as the "timely renewal doctrine," is embodied in Subpart A of 10 CFR part 2 of the NRC's regulations. Specifically, 10 CFR 2.109(b) states:

If the licensee of a nuclear power plant licensed under 10 CFR 50.21(b) or 50.22 files a sufficient application for renewal of either an operating license or a combined license at least five years before the expiration of the existing license, the existing license will not be deemed to have expired until the application has been finally determined.

C. Exemption Requirements

Under 10 CFR 54.15, exemptions from the requirements of Part 54 are governed by 10 CFR 50.12. Specifically, Section 54.15 states:

Exemptions from the requirements of this part [Part 54] may be granted by the Commission in accordance with 10 CFR 50.12.

10 CFR 50.12(a) provides the criteria under which the Commission may grant exemptions from the requirements of the regulations of 10 CFR Part 50. The first

criterion, set forth in 10 CFR 50.12(a)(1), states that the Commission may grant exemptions which are:

Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security.

10 CFR 50.12(a)(2) provides the second criterion. Section 50.12(a)(2) states that the Commission will not consider granting an exemption unless one or more of the special circumstances specified in paragraphs (i) through (vi) of that regulation are present.

3.2 Exemption Justification

As discussed above, under 10 CFR 54.15, exemptions from the requirements of Part 54 may be granted by the Commission in accordance with 10 CFR 50.12. Pursuant to 10 CFR 50.12, the Commission may grant exemptions from the requirements of 10 CFR 50 when the exemptions are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security.

A. The exemption is authorized by law

As discussed further in Section 3.3.A of this exemption request, the five-year time limit (that is, the latest permitted date) for filing a license renewal application specified in 10 CFR 2.109(b) is the result of a discretionary agency rulemaking. It is not an express statutory mandate. No statute requires the NRC to adopt a five-year time limit in its timely renewal regulation. Rather, in implementing the Administrative Procedure Act's timely renewal provisions, the NRC need only ensure that it provides itself with reasonable and sufficient time to review license renewal applications while providing appropriate timely renewal protection to compliant applicants.

Before the NRC first issued 10 CFR Part 54 in 1991, Section 2.109 contained a 30-day renewal application-filing requirement for all licenses issued for activities "of a continuing nature." The NRC and stakeholders recognized that reactor license renewal application reviews would take considerably longer than 30 days. The proposed Part 54 rule modified Section 2.109 to require that nuclear power plant license renewal applications be submitted at least three years prior to license expiration to be eligible for timely renewal protection. The NRC ultimately changed three years to five years in the final rule to make the deadline consistent with a Part 50 deadline for the filing of licensee decommissioning plans and related financial assurance information (December 13, 1991 Federal Register, 56 FR 64962).

Neither the Atomic Energy Act nor the Administrative Procedure Act requires a five-year period for filing a renewal application to comply with the timely renewal doctrine. The NRC may shorten the period at its discretion and in accordance with agency rules through a change to, or exemption from, the existing regulation. Accordingly, this exemption request is authorized by law.

B. The exemption will not present an undue risk to public health and safety

Energy Harbor Nuclear Corp. will need to satisfy applicable regulatory requirements in connection with the preparation and submittal of a sufficient license renewal application for PNPP. If the exemption is authorized, then Energy Harbor Nuclear Corp. would submit the application at least three years prior to license expiration and conduct any necessary technical reviews and evaluations to ensure continued safe plant operation for the requested period of extended operation.

This three-year timeframe will afford the NRC a sufficient and reasonable period of time to complete its safety and environmental reviews as discussed in Section 3.3.A, prior to the expiration date of the PNPP operating license on March 18, 2026 (or November 7, 2026, if the separate request to recapture low-power testing time is approved).

Nothing in this exemption request would obviate the NRC's required findings under Section 54.29 or limit public participation in the license renewal process. Furthermore, pending final action on any future license renewal application, the NRC would retain its authority to conduct all regulatory activities associated with licensing, inspection, and oversight, and to take whatever action(s) may be necessary to ensure adequate protection of the public health and safety.

C. The exemption is consistent with the common defense and security

Modification of the timely renewal application-filing deadline from five years to three years before license expiration is a scheduling change and would not affect continued protection of the common defense and security at PNPP. Safeguards and security programs at PNPP will remain in full effect during any interim period permitted under the timely renewal doctrine.

3.3 Special Circumstances Supporting the Issuance of an Exemption

Under 10 CFR 50.12(a)(2), the NRC will not consider granting an exemption unless at least one of six "special circumstances" enumerated in the regulation is present. Two special circumstances apply to this request. First, under 10 CFR 50.12(a)(2)(ii), the underlying purpose of the rule can be achieved if Energy Harbor Nuclear Corp. files a sufficient license renewal application at least three years before the PNPP license expiration date. Thus, application of the five-year time limit in 10 CFR 2.109(b) is not necessary in these circumstances. Second, compliance with the regulation would result in undue hardship to Energy Harbor Nuclear Corp. that is significantly in excess of that contemplated when the regulation was adopted, or those incurred by others similarly situated (10 CFR 50.12(a)(2)(iii)).

A. Application of the regulation would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule

Application of the 10 CFR 54.17 requirement to file an application for a renewed license in accordance with subpart A of 10 CFR Part 2 (specifically, application of the five-year

timely renewal filing period in 10 CFR 2.109(b)) is not necessary to achieve the underlying purpose of the rule. The purpose of 10 CFR 2.109(b) is to implement the "timely renewal" doctrine of the Administrative Procedure Act. The Administrative Procedure Act's timely renewal provision "prevents the unfairness that would result if agency delay caused a licensee to lose a license despite having filed a timely renewal application," (Reference 7.1). In other words, the provision protects 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 due to delays in the administrative process.

On December 13, 1991, the NRC published the license renewal rule, 10 CFR Part 54, in the Federal Register (56 FR 64962). The Statement of Considerations for that rule discussed the timely renewal doctrine and the basis for establishing the latest date for filing license renewal applications as five years prior to expiration of the existing license. Specifically, the Statement of Considerations stated that:

Because the review of a renewal application will involve a review of many complex technical issues, the NRC estimates that the technical review would take approximately 2 years. Any necessary hearing could likely add an additional year or more. Therefore, in the proposed rule, the Commission modified § 2.109 to require that nuclear power plant operating license renewal applications be submitted at least 3 years prior to their expiration in order to take advantage of the timely renewal doctrine.

No specific comment was received concerning the proposal to add a 3-year provision for the timely renewal provision for license renewal. The current regulations require licensees to submit decommissioning plans and related financial assurance information on or about five years prior to the expiration of their operating licenses. The Commission has concluded that, for consistency, the deadline for submittal of a license renewal application should be five years prior to the expiration of the current operating license. The timely renewal provisions of § 2.109 now reflect the decision that a five year time limit is more appropriate.

The foregoing excerpt indicates that the NRC viewed three years as providing adequate agency review time. Energy Harbor Nuclear Corp. would submit the PNPP license renewal application at least three years prior to license expiration. The proposed three-year period will provide the NRC with ample time to perform a full and adequate review of the application. Therefore, application of the five-year period in 10 CFR 2.109(b) for the filing of a license renewal application is not necessary in this situation to achieve the purpose of the regulation.

Submittal of the PNPP license renewal application at least 36 months prior to expiration of the current operating license would provide the three-year review period that the NRC originally estimated would be adequate to review a license renewal application and

complete any associated adjudicatory hearing. The NRC's current targeted schedule for reviewing a license renewal application is to complete its review and make a decision on issuing the renewed license within 22 months (or less) of receipt of the license renewal application if there is no hearing, and within 30 months of receipt if a hearing is held. Therefore, a period of 36 months would provide ample time for the NRC to perform full and adequate safety and environmental reviews of the PNPP license renewal application.

Based on the above, application of the five-year timeframe in 10 CFR 2.109(b) is not necessary to achieve the underlying purpose of the rule, as required by 10 CFR 50.12(a)(2)(ii). Accordingly, special circumstances are present to justify the requested exemption.

- B. Compliance 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 substantial impact that fluctuating economic and legislative conditions could have on licensees' decisions to pursue license renewal were not considered when the timely renewal rule was issued as comparable conditions did not exist at the time. The decisions of licensees to prematurely close nuclear power plants and related state legislative actions intended to prevent further shutdowns are testament to this fact.

As explained in Section 2.1 above, FirstEnergy Solutions Corporation's decision to continue power operation at PNPP depended on economic and legislative factors that evolved in a manner that did not permit preparation and submittal of a license renewal application five years prior to license expiration. For example, new legislation incentivizing continued operation of PNPP was a significant factor informing FirstEnergy Solutions Corporation's decision to continue operation of PNPP.

As described in Section 2.4 above, the PNPP operating license was transferred to Energy Harbor Nuclear Corp. and Energy Harbor Nuclear Generation, LLC on February 27, 2020. Following license transfer, the Energy Harbor Corp. Board of Directors approved the plan to submit an application for renewal of the PNPP operating license.

The period from May 2020, when the plan to submit a PNPP operating license renewal application was approved, to March 18, 2021 (five years prior to license expiration) provides inadequate time to prepare, submit, and docket a sufficient license renewal application. Information previously gathered to support development of a license renewal application must be updated and incorporated into an application that meets current NRC staff expectations. To marshal the required PNPP site and technical resources to provide the information needed and perform the necessary technical reviews in such a condensed timeframe is impracticable and would substantially undermine Energy Harbor Nuclear Corp.'s ability to prepare a sufficient license renewal application commensurate with current NRC requirements and expectations.

Without the requested exemptions, Energy Harbor Nuclear Corp. would face undue hardship or other costs significantly in excess of those contemplated when Section 2.109(b) was adopted. If the exemption is granted and Energy Harbor Nuclear Corp. submits a sufficient license renewal application at least three years prior to license expiration, timely renewal protection would be preserved.

Alternatively, if the exemptions are not granted and Energy Harbor Nuclear Corp. submits the license renewal application less than five years before license expiration, then it faces the risk of being forced to shut down PNPP if the application is not approved before the current license expires. This scenario would cause Energy Harbor Nuclear Corp. to lose operating revenue and incur expenses associated with preparing the license renewal application. It would also cause significant uncertainty for PNPP employees due to the indeterminate length of time that the station would be shut down and the associated increased possibility of a permanent shutdown.

Therefore, the potential financial and staffing hardships that Energy Harbor Nuclear Corp. would bear if the requested exemptions are not granted significantly exceed those contemplated by the NRC when the current timely renewal rule was promulgated. These are additional special circumstances justifying issuance of the requested exemptions from 10 CFR 54.17(a) and 10 CFR 2.109(b).

4.0 PRECEDENT

By letter dated July 11, 2019 (ADAMS Accession No. ML19092A258), the NRC approved an exemption from 10 CFR 54.17 (and, by direct extension, 10 CFR 2.109(b)) that allowed Exelon Generation Company, LLC, to submit a license renewal application for the Clinton Power Station at least three years (instead of at least five years) prior to the expiration of the operating license, while maintaining the timely renewal protection provided in 10 CFR 2.109(b).

By letter dated December 22, 2004 (ADAMS Accession No. ML042960164), the NRC approved an exemption from 10 CFR 2.109(b) that allowed AmerGen Energy Company, LLC (now Exelon Generation Company, LLC) to submit a license renewal application for the Oyster Creek Nuclear Generating Station less than five years prior to the expiration of the operating license, while maintaining the timely renewal protection provided in 10 CFR 2.109(b).

For both Exelon and Energy Harbor Nuclear Corp. the decision to pursue license renewal depended on economic and legislative factors that evolved in a manner that did not permit a reasonable and sound business decision to prepare and submit a license renewal application at least five years prior to license expiration.

5.0 ENVIRONMENTAL ASSESSMENT

In accordance with 10 CFR 51.22(b), Energy Harbor Nuclear Corp. has determined that the proposed exemption request does not require an environmental assessment or environmental impact statement since the request meets the eligibility criteria for categorical exclusion in 10 CFR 51.22(c)(25), as: (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 the exemption is sought involves scheduling requirements and other requirements of an administrative nature.

5.1 No significant hazards consideration analysis

The proposed exemption would allow Energy Harbor Nuclear Corp. to submit a license renewal application for PNPP at least three years (instead of at least five years) before expiration of the operating license, while still maintaining timely renewal protection under 10 CFR 2.109(b). No physical changes are being made to the design features or operation of the facility as a result of, or in connection with, the proposed exemptions from the procedural requirements in 10 CFR 54.17(a) and 10 CFR 2.109(b) related to the timing of a license renewal application submittal.

Energy Harbor Nuclear Corp. has evaluated whether a significant hazards consideration is involved with the proposed exemptions in accordance with the three standards set forth in 10 CFR 50.92, "Issuance of amendment," as discussed below.

1. Does the proposed exemption involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The proposed exemptions do not involve a significant increase in the probability or consequences of an accident previously evaluated because it does not involve a change to the design configuration or operation of the facility. The proposed exemptions do not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously analyzed in the PNPP Updated Safety Analysis Report.

Therefore, the proposed exemptions do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed exemption create the possibility of a new or different kind of accident from any accident previously analyzed?

Response: No

The proposed exemptions do not involve physical alteration of plant systems, structures, or components, or changes in parameters governing the way the plant is operated and maintained.

Therefore, the proposed exemptions do not create the possibility of a new or different kind of accident from any accident previously analyzed.

3. Does the proposed exemption involve a significant reduction in a margin of safety?

Response: No

Margin of safety is associated with confidence in the ability of the fission product barriers (that is, fuel cladding, reactor coolant system pressure boundary, and containment structure) to limit the radiological dose to the public and control room operators in the event of an accident. The proposed exemptions have no impact on the margin of safety and robustness provided in the design and construction of the facility. In addition, the proposed exemptions will not relax any of the criteria used to establish safety limits, safety system settings, or limiting conditions of operation as defined in the Technical Specifications.

Therefore, the proposed exemptions do not involve a significant reduction in a margin of safety.

Based on the above evaluation, Energy Harbor Nuclear Corp. concludes that the proposed exemptions from 10 CFR 54.17(a) and 10 CFR 2.109(b) present no significant hazards consideration under the standards set forth in 10 CFR 50.92 and, accordingly, a finding that the exemption request involves "no significant hazards consideration" is justified.

5.2 There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite

There are no expected changes in the types, characteristics, or quantities of effluents discharged to the environment associated with the proposed exemptions. The exemptions will not cause any materials or chemicals to be introduced into the plant that could affect the characteristics or types of effluents released offsite. In addition, the method of operation of waste processing systems will not be affected by the exemptions. The proposed exemptions will not result in changes to the design basis requirements of plant systems, structures, or components that function to limit or monitor the release of effluents. Plant systems, structures, or components associated with limiting the release of effluents will continue to be able to perform their functions. Therefore, the proposed exemptions will result in no significant change to the types or significant increase in the amounts of any effluents that may be released offsite.

5.3 There is no significant increase in individual or cumulative public or occupational radiation exposure

The proposed exemptions do not involve any physical alterations to the plant configuration or any changes to the operation of the facility that could lead to a significant increase in individual or cumulative occupational radiation exposure.

5.4 There is no significant construction impact

No construction activities are associated with the proposed exemptions.

5.5 There is no significant increase in the potential for or consequences from radiological accidents

As stated in the no significant hazards considerations discussion in Section 5.1 above, there is no increase in the potential for or consequences from radiological accidents.

5.6 The requirements from which the exemption is sought involves scheduling requirements and other requirements of an administrative nature

The underlying purpose of the five-year timely renewal filing period in 10 CFR 2.109(b) from which an exemption is sought 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 due to delays in the administrative process. The requested exemptions, if granted, would allow Energy Harbor Nuclear Corp. to submit a license renewal application for PNPP at least three years prior to expiration of the operating license, while still maintaining timely renewal protection under 10 CFR 2.109(b), and allowing sufficient time for NRC review of the renewal application.

6.0 CONCLUSION

As demonstrated above, this request for exemptions from the requirements of 10 CFR 54.17(a) and 10 CFR 2.109(b) related to the timing of a license renewal application submittal meets the criteria of 10 CFR 54.15 and 10 CFR 50.12 for specific exemptions. Specifically, the requested exemptions are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. In addition, the special circumstances described in 10 CFR 50.12(a)(2)(ii), and (vi) are present and warrant issuance of the proposed exemptions.

7. REFERENCE

- 7.1. Kay v. Federal Communications Commission, 525 F. 3d 1277, 1278, 1279 (United States Court of Appeals, District of Columbia Circuit, 2008).