



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 18, 2020

Dr. Steven R. Reese, Director
Oregon State University Radiation Center
100 Radiation Center, Room C102
Corvallis, OR 97331-5903

SUBJECT: OREGON STATE UNIVERSITY – TEMPORARY EXEMPTION FROM
REQUIREMENTS OF 10 CFR PART 50, APPENDIX E, SECTION IV.F.2.B
(EPID L-2020-NFO-0005 [COVID-19])

Dear Dr. Reese:

The U.S. Nuclear Regulatory Commission (NRC, the Commission) has approved the below temporary exemption from specific requirements of Appendix E to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, "Domestic Licensing of Production and Utilization Facilities," Section IV.F.2.b, for the Oregon State University (OSU, the licensee) TRIGA reactor (OSTR). This action is in response to your application dated November 3, 2020, as supplemented by letter dated December 10, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML20318A035 and ML20350B726, respectively), that requested a one-time exemption from the requirements in 10 CFR Part 50, Appendix E, Section IV.F.2.b, to postpone the current biennial onsite emergency preparedness (EP) exercise and conduct the exercise prior to August 1, 2021.

OSU holds Renewed Facility Operating License No. R-106, which authorizes operation of the OSTR. This license is subject to the rules, regulations, and orders of the Commission. The facility consists of a 1.1 megawatt TRIGA research reactor located in Corvallis, Oregon.

By application dated November 3, 2020, as supplemented by letter dated December 10, 2020, OSU submitted a request for temporary exemption from Appendix E to 10 CFR Part 50, Section IV.F.2.b, regarding the performance of its biennial onsite EP exercise.

The requirements in 10 CFR Part 50, Appendix E, Section IV.F.2.b, state, in part:

Each licensee at each site shall conduct a subsequent exercise of its onsite emergency plan every 2 years.

On January 31, 2020, the U.S. Department of Health and Human Services declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to the Coronavirus Disease 2019 (COVID-19). Subsequently, the Centers for

Disease Control and Prevention (CDC) issued recommendations (e.g., social distancing, limiting assemblies) in an attempt to limit the spread of COVID-19.¹

In your application, as supplemented, you provided the following information:

- The licensee's last biennial onsite EP exercise was conducted on September 20, 2018, and it involved the Corvallis Fire Department and the Emergency Department from the Good Samaritan Regional Medical Center. There were no significant gaps or areas for improvement identified during this exercise.
- The current biennial onsite EP exercise is required by March 20, 2021.
- As a result of the COVID-19 PHE, the social distancing mandate that has been established by the CDC and the State of Oregon² prevents the ability of the licensee to conduct an emergency exercise with offsite authorities by the required date of March 20, 2021.
- The requested one-time schedular exemption to postpone the conduct of the current biennial onsite EP exercise supports the health and safety of both worker and medical personnel to limit the spread of COVID-19. This request is being made to support OSTR efforts to maintain CDC recommendations related to social distancing, worker screening, and limiting close-proximity work.
- The licensee will follow the recommendation of scheduling an exercise within the 35-month window as described in Regulatory Issue Summary 2006-03, "Guidance on Requesting an Exemption from Biennial Emergency Preparedness Exercise Requirements," dated February 24, 2006. Specifically, the licensee will complete the current biennial onsite EP exercise requirement prior to August 1, 2021.
- Since the last biennial onsite EP exercise on September 20, 2018, the licensee conducted an annual emergency exercise on October 11, 2019. There were no significant deficiencies identified. The licensee also conducted a tabletop emergency exercise with internal OSTR personnel via a videoconference platform on December 9, 2020.
- Future biennial onsite EP exercises will continue to be held consistent with the exercises' required periodicities.

Pursuant to 10 CFR 50.12, "Specific exemptions," the NRC 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 the public health and safety, and are consistent with the common defense and security; and (2) special circumstances are present.

The NRC staff determined that the requested exemption is permissible under the Atomic Energy Act of 1954, as amended, and that no other prohibition of law exists to preclude the activities

¹ CDC, "How to Protect Yourself and Others," April 18, 2020 (ADAMS Accession No. ML20125A069).

² Oregon Health Authority, "Help stop rapid spread of COVID-19," <https://govstatus.egov.com/OR-OHA-COVID-19>

that would be authorized by the exemption. Therefore, the NRC staff finds that the requested exemption is authorized by law.

The regulations in 10 CFR Part 50, Appendix E, Section IV.F.2.b, concern requirements for licensees to conduct biennial EP exercises at their facilities. No new accident precursors are created by allowing the licensee to postpone the current biennial onsite EP exercise from March 20, 2021, to a date prior to August 1, 2021. Thus, the probability and consequences of postulated accidents are not increased. In addition, the requested exemption for a one-time change to the biennial onsite EP exercise schedule has no relation to security issues. Therefore, the NRC staff finds that the requested exemption will not present an undue risk to the public health and safety and is consistent with the common defense and security.

Special circumstances, per 10 CFR 50.12, that apply to the requested exemption include:

- a. 10 CFR 50.12(a)(2)(ii): “Application 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.”

The regulation in 10 CFR Part 50, Appendix E, Section IV.F.2.b, requires licensees to conduct an exercise of their site emergency plan biennially. The underlying purpose of this requirement is to ensure that the emergency organization personnel are familiar with their duties and to identify and correct any weaknesses that may exist in the licensee’s EP program. The licensee stated that it conducted a tabletop emergency exercise with internal OSTR personnel on December 9, 2020. Further, the licensee stated that the last annual emergency exercise was conducted on October 11, 2019, with no significant deficiencies identified. Based on the above, the NRC staff finds that the underlying purpose of this regulation is met by the licensee having conducted these preparedness activities and establishing an acceptable tentative date of prior to August 1, 2021, for the rescheduled biennial onsite EP exercise.

- b. 10 CFR 50.12(a)(2)(v): “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.”

OSU has determined that the originally scheduled exercise date does not support continued implementation of the isolation activities (e.g., social distancing, group size limitations, self-quarantining, etc.) to protect required OSTR personnel in response to the ongoing COVID-19 PHE. These activities are needed to ensure that OSTR personnel are isolated from COVID-19 and remain capable of executing the functions as described in the OSTR Emergency Response Plan. OSU proposed to complete the exercise prior to August 1, 2021.

Therefore, the NRC staff finds that the requested exemption, which would postpone the current biennial onsite EP exercise from March 20, 2021, to a date prior to August 1, 2021, would provide only temporary relief from the applicable regulation and that the licensee has made good faith efforts to comply with the regulation.

Based on the above, the NRC staff finds that the special circumstances of 10 CFR 50.12(a)(2)(ii) and 10 CFR 50.12(a)(2)(v) are present.

NRC approval of the requested exemption is categorically excluded under 10 CFR 51.22, "Criterion for categorical exclusion; identification of licensing and regulatory actions eligible for categorical exclusion or otherwise not requiring environmental review," paragraph (c)(25) and there are no 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 requirements from which the exemption is sought involve education, training, experience, qualification, requalification, or other employment suitability requirements. The NRC staff also determined that approval of this exemption involves no significant hazards consideration because it does not authorize any physical changes to the facility or any of its safety systems, change any of the assumptions or limits used in the licensee's safety analyses, or introduce any new failure modes. There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite because this exemption does not affect any effluent release limits as provided in the licensee's technical specifications or by the regulations in 10 CFR Part 20, "Standards for Protection Against Radiation." There is no significant increase in individual or cumulative public or occupational radiation exposure because this exemption does not affect limits on the release of any radioactive material, or the limits provided in 10 CFR Part 20 for radiation exposure to workers or members of the public. There is no significant construction impact because this exemption does not involve any changes to a construction permit. There is no significant increase in the potential for or consequences from radiological accidents because the exemption does not alter any of the assumptions or limits in the licensee's safety analysis. In addition, the NRC staff determined that there would be no significant impacts to biota, water resources, historic properties, cultural resources, or socioeconomic conditions in the region. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the approval of the requested exemption.

Granting the requested exemption does not impact NRC findings of reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency at the OSTR. In the statement of considerations for the standards to be applied when considering whether to grant exemptions ("Specific Exemptions; Clarification of Standards, Final Rule," 50 FR 50764, dated December 12, 1985), the Commission stated:

While compliance with all NRC regulations provides reasonable assurance of adequate protection of the public health and safety, the converse is not correct, that failure to comply with one regulation or another is an indication of the absence of adequate protection, at least in a situation where the Commission has reviewed the noncompliance and found that it does not pose an "undue risk" to the public health and safety. Furthermore, the Commission has never defined the concept of "defense-in-depth" to preclude the granting of an exemption from a regulation as long as the applicable exemption criteria are met. In fact, the Commission has recognized that its regulations may provide for the possibility of exemptions when an appropriately high level of safety is in fact achieved and the public interest is served.

The NRC staff has determined that in accordance with 10 CFR 50.12, the requested 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 that special circumstances are present. Therefore, the NRC hereby grants the licensee's request for a one-time schedular exemption from the requirements for the biennial onsite EP exercise in 10 CFR Part 50, Appendix E, Section IV.F.2.b.

This exemption expires on August 1, 2021.

If you have any questions, please contact your project manager, Michael Balazik, at 301-415-2856, or by electronic mail at Michael.Balazik@nrc.gov.

Sincerely,

/RA BSmith for/

Mohamed Shams, Director
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Office of Nuclear Reactor Regulation

Docket No. 50-243

cc: See next page

Oregon State University

Docket No. 50-243

cc:

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ADAMS Accession Nos.: ML20318A380**NRR-048**

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