

NUCLEAR REGULATORY COMMISSION

Docket Nos. 50-313 and 50-368

Entergy Operations, Inc.

Arkansas Nuclear One, Units 1 and 2

Exemption

I. Background.

Entergy Operations, Inc. (Entergy, the licensee) is the holder of Renewed Facility Operating License Nos. DPR-51 and NPF-6 for Arkansas Nuclear One (ANO), Units 1 and 2, respectively. The licenses provide, among other things, that the facilities are subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect. ANO, Units 1 and 2, consists of pressurized-water reactors located in Pope County, Arkansas, licensed under Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, "Domestic Licensing of Production and Utilization Facilities." The ANO, Unit 1 license expires on May 20, 2034, and the ANO, Unit 2 license expires on July 17, 2038.

By letter dated March 11, 2026 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML26071A155), and pursuant to 10 CFR 50.12, "Specific exemptions," and 10 CFR 54.15, "Specific exemptions," the licensee submitted to the NRC a request for exemption from 10 CFR 2.109, "Effect of timely renewal application," section (b) for ANO, Units 1 and 2. The licensee requested this exemption to allow Entergy to submit a subsequent license renewal application for ANO, Units 1 and 2, no later than 3 years prior to the expiration of the ANO, Units 1 and 2, licenses and, if the NRC staff finds it acceptable for docketing, the licenses will be in timely renewal under NRC regulations until the NRC has made a final determination on whether to approve the subsequent license renewal application. The NRC has completed its evaluation of Entergy's exemption request and has determined that pursuant to 10 CFR 54.15 and 10 CFR 50.12, the requested exemption is authorized by law, will

not present an undue risk to public health and safety, and is consistent with the common defense and security. The NRC has also determined that special circumstances, as defined in 10 CFR 50.12(a)(2), are present.

II. Request/Action.

Entergy requested an exemption from 10 CFR 2.109(b), which states that if a nuclear power plant licensee files a sufficient license renewal application “at least 5 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.” Specifically, Entergy requested timely renewal protection under 10 CFR 2.109(b) if it submits a subsequent license renewal application for ANO, Units 1 and 2, no later than 3 years prior to the expiration of the renewed facility operating licenses on May 20, 2034, and July 17, 2038, respectively.

III. Discussion.

In accordance with 10 CFR 54.17, “Filing of application,” part (a), an application for subsequent license renewal must be filed in accordance with Subpart A, “Procedure for Issuance, Amendment, Transfer, or Renewal of a License, and Standard Design Approval,” of 10 CFR Part 2, “Agency Rules of Practice and Procedure,” which includes 10 CFR 2.109(b). The regulation in 10 CFR 2.109(b) states, in part:

If the licensee of a nuclear power plant licensed under [10 CFR 50.21(b) or 10 CFR 50.22] files a sufficient application for renewal of ... an operating license ... at least 5 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.

As provided in 10 CFR 54.15, exemptions from the requirements of 10 CFR Part 54, “Requirements for Renewal of Operating Licenses for Nuclear Power Plants,” are governed by 10 CFR 50.12. Pursuant to 10 CFR 50.12(a), the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, “Domestic Licensing of Production and Utilization Facilities,” 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) special circumstances are present, as defined in 10 CFR 50.12(a)(2).

The licensee included two special circumstances under 10 CFR 50.12(a)(2)(ii) and (vi) in its exemption request, which are:

- 1) The “application of the regulation in the particular circumstance would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule,” or
- 2) There “is present any other material circumstances not considered when the regulation was adopted for which it would be in the public interest to grant an exemption. If such condition is relied on exclusively for satisfying paragraph (a)(2) of this section, the exemption may not be granted until the Executive Director for Operations has consulted with the Commission.”

A. The Exemption is Authorized by Law.

The requested exemption would allow the licensee to submit a sufficient subsequent license renewal application for ANO, Units 1 and 2, no later than 3 years prior to the expiration of its existing licenses and the licenses would still be in timely renewal under 10 CFR 2.109(b). This means that if the licensee submits a subsequent license renewal application by May 20, 2031, for ANO, Unit 1, and by July 17, 2035, for ANO, Unit 2, and the NRC staff finds it acceptable for docketing, the existing licenses for ANO, Units 1 and 2, will not be deemed to have expired until the NRC has made a final determination on whether to approve the subsequent license renewal application.

The NRC has determined that even though less than 5 years would remain in the term of the license for ANO, Units 1 and 2, granting this limited, one-time exemption is authorized by law. The 5-year time period specified in 10 CFR 2.109(b) is not required by the Atomic Energy

Act of 1954, as amended, or the Administrative Procedure Act. It is the result of a discretionary agency rulemaking under Sections 161 and 181 of the Atomic Energy Act of 1954, as amended (56 FR 64943; December 13, 1991) that was designed to provide the NRC with a reasonable amount of time to review a license renewal application and decide whether to approve it.

Section 103c of the Atomic Energy Act of 1954, as amended, permits the Commission to issue operating licenses, including renewed licenses. Further, 10 CFR 2.109 implements Section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), which states, in part:

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 5-year time period in 10 CFR 2.109(b) is designed to provide a reasonable amount of time for the NRC to review a license renewal application and reach a decision on whether to approve it. Prior to 1992, the rules provided that a licensee would have received timely renewal protection when it submitted its license renewal application 30 days before the expiration of the current license (56 FR 64943; December 13, 1991). In 1990, the NRC proposed modifying 10 CFR 2.109 to provide that an application must be submitted 3 years before the expiration of the current license to be afforded timely renewal protection (55 FR 29043; July 17, 1990).

There is nothing in the preamble supporting the proposed rule or final rule revising 10 CFR 2.109(b) that suggests that applying the timely renewal doctrine to license renewal applications submitted 30 days before the expiration of the license was not authorized by law. Instead, it appears that the Commission proposed to revise 10 CFR 2.109(b) from 30 days to 3 years before the expiration of the license so that the final determination on a license renewal application would typically be made before the current operating license expired. In the proposed rule, the Commission explained that it did not believe 30 days would provide “a reasonable time to review an application for a renewed operating license” and estimated that the technical review of a license renewal application would take approximately 2 years

(55 FR 29043; July 17, 1990). In the final rule, the Commission stated that the technical review of the application would take approximately 2 years due to the review of many complex technical issues and that “any necessary hearing could likely add an additional year or more” (56 FR 64943; December 13, 1991). Ultimately, the Commission concluded in the final rule that timely renewal protection would be provided for a license renewal application filed 5 years before the operating license expired to promote consistency with the requirement that licensees submit decommissioning plans and related financial assurance information on or about 5 years prior to the expiration of their current operating licenses. Thus, in promulgating 10 CFR 2.109(b), the Commission considered that the time-period needed to reach a final determination may be less than 5 years in some cases, but the rule also provides timely renewal protection for timely filed applications to account for situations where the resolution of complex technical issues may take more time.

The requested exemption constitutes a change to the schedule by which the licensee must submit its application for the ANO, Units 1 and 2, subsequent license renewal and is administrative in nature; it does not involve any change to the current operating license. Under 10 CFR 54.17(a), an application for a renewed license must be filed in accordance with Subpart A of 10 CFR Part 2, which includes 10 CFR 2.109(b). However, the NRC may grant exemptions from the requirements of 10 CFR Part 54 pursuant to 10 CFR 54.15. For the reasons stated above, the NRC has determined that granting this one-time exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, the Administrative Procedure Act, or the NRC’s regulations. Therefore, the NRC finds that the exemption is authorized by law.

B. The Exemption will not Present an Undue Risk to the Public Health and Safety.

The requested exemption does not change the manner in which the plant operates and maintains public health and safety because the exemption from 10 CFR 2.109 does not result in

a change to the facility or the current operating license, but allows ANO, Units 1 and 2, to continue operating under its existing licenses in the event that the NRC has not reached a final determination on a subsequent license renewal application prior to the expiration of the current operating license. Pending final action on a subsequent license renewal application, the NRC will continue to conduct all regulatory activities associated with licensing, inspection, and oversight, and will continue to take whatever action may be necessary to ensure adequate protection of the public health and safety. The existence of this exemption would not affect the NRC's authority, applicable to all licenses, to modify, suspend, or revoke a license for cause, such as a serious safety concern.

If the licensee submits a subsequent license renewal application by May 20, 2031, for ANO, Unit 1, and by July 17, 2035, for ANO, Unit 2, there would be 3 years prior to the expiration of the current operating license for the NRC staff to conduct a docketing acceptance review and, if the application is accepted for docketing, provide a hearing opportunity and conduct the required safety and environmental reviews. Three years significantly exceeds the 12-month generic milestone schedule for the NRC staff's review of a subsequent license renewal application;¹ therefore, it is sufficient time for the NRC staff to at least determine if any immediate actions need to be taken prior to the licensee entering the period of timely renewal. Based on the discussion in this section, the NRC finds that the exemption will not present an undue risk to the public health and safety.

C. The Exemption is Consistent with the Common Defense and Security.

The requested exemption does not alter the design, function, or operation of any structures or plant equipment that are necessary to maintain the safe and secure status of any

¹ Nuclear Energy Innovation and Modernization Act Milestone Schedules of Requested Activities of the Commission, <https://www.nrc.gov/about-nrc/generic-schedules.html> (last updated August 28, 2025).

site security matters. Therefore, the NRC finds that the exemption is consistent with the common defense and security.

D. Special Circumstances are Present.

Pursuant to 10 CFR 50.12(a)(2) states that the Commission will not consider granting an exemption unless special circumstances are present. Such special circumstances are present whenever an “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,” (10 CFR 50.12(a)(2)(ii)) or “there is present any other material circumstance not considered when the regulation was adopted for which it would be in the public interest to grant an exemption” (10 CFR 50.12(a)(2)(vi)). The NRC finds that Entergy has provided several factors in support of its exemption request that demonstrate that the special circumstances of 10 CFR 50.12(a)(2)(ii) and (vi) are present.

In support of demonstrating 10 CFR 50.12(a)(2)(ii), Entergy stated the NRC’s “timely renewal” doctrine in 10 CFR 2.109 reflects the Administrative Procedure Act of 1946 requirement that a license for ongoing activities remains valid if the licensee submits a timely and sufficient renewal application, preventing license expiration due to delays in administrative processes. Entergy identified that when the NRC established the license renewal rule in 1991, it originally determined that three years before expiration was a reasonable filing timeframe based on expected review and hearing durations but ultimately adopted a five-year deadline for consistency with existing decommissioning requirements. The rule’s Statement of Consideration shows that the five-year period was chosen for administrative efficiency rather than necessity, and the NRC’s extensive experience with reviewing LRAs and SLRAs demonstrates that a three-year period is fully adequate. Entergy stated that its submittal of a subsequent license renewal application for ANO, Units 1 and 2, at least 3 years prior to the expiration of the renewed facility operating licenses, would provide the NRC the time that it needs to complete its

review and any hearing, if necessary, and, therefore, the application of 10 CFR 2.109(b) in the particular circumstances would not serve the underlying purpose of the rule and the special circumstance of 10 CFR 50.12(a)(2)(ii) is present.

Further, in support of demonstrating 10 CFR 50.12(a)(2)(vi), Entergy references Arkansas State policy which requires adequate, affordable, reliable, and dispatchable electric generation. Entergy asserts that ANO, Units 1 and 2, supports this through planned capital equipment reliability projects that help maintain lower costs for customers and the community. Entergy further stated that the need to focus resources on designing and implementing these projects creates new and material circumstances affecting the timing of the subsequent license renewal application, making it in the public interest to delay submittal rather than divert critical personnel is a material circumstance not considered when 10 CFR 2.109(b) was adopted for which it would be in the public interest to grant an exemption. Therefore, the special circumstance of 10 CFR 50.12(a)(2)(vi) is present.

For the reasons stated above, the NRC finds that the factors that Entergy provided in support of its exemption request are compelling and demonstrate that the special circumstances of 10 CFR 50.12(a)(2)(ii) and (vi) are present.

E. Environmental Considerations.

The NRC staff has determined that the issuance of the requested exemption request meets the provisions of the categorical exclusion in 10 CFR 51.22, "Categorical exclusions," Section (d)(5). Under 10 CFR 51.22(d), certain "NRC actions are excluded from the requirement to prepare an environmental assessment or environmental impact statement provided that any ground disturbance is limited to previously disturbed areas and there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite, no significant increase in individual or cumulative public or occupational radiation exposure, and no significant increase in the potential for or consequences from radiological accidents." In

accordance with 10 CFR 51.22(d)(5), this action meets the eligibility criteria for categorical exclusion because it consists only of a change to scheduling requirements and, therefore, no environmental impact statement or environmental assessment need be prepared in connection with the action.

Based on the above, the NRC staff concludes that the requested exemption meets the eligibility criteria for a categorical exclusion set forth in 10 CFR 51.22(d)(5). Therefore, pursuant to 10 CFR 51.22(d), no environmental impact statement or environmental assessment need to be prepared in connection with the granting of this exemption request.

IV. Conclusion.

Accordingly, the NRC has determined that, pursuant to 10 CFR 54.15 and 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. Also, the NRC has determined that special circumstances, as defined in 10 CFR 50.12(a)(2), are present. Therefore, the NRC hereby grants the licensee a one-time exemption from 10 CFR 2.109(b) to allow Entergy to submit a subsequent license renewal application for ANO, Units 1 and 2, less than 5 years prior to the expiration of the renewed facility operating licenses, but no later than May 20, 2031, for ANO, Unit 1, and by July 17, 2035, for ANO, Unit 2.

The decision to issue Entergy an exemption from 10 CFR 2.109(b) does not constitute approval of the subsequent license renewal application that Entergy intends to submit by May 20, 2031, for ANO, Unit 1, and by July 17, 2035, for ANO, Unit 2. Rather, this exemption provides that if Entergy submits an application by these dates, and the application is sufficient for docketing, the licensee will receive timely renewal protection under 10 CFR 2.109(b) while the NRC evaluates that application. Should the application be docketed, the NRC will provide an opportunity for the public to seek a hearing and will review the application using its normal

license renewal review processes and standards to determine whether the application meets all applicable regulatory requirements.

This exemption is effective upon issuance.

Dated: August 24, 2026.

For the Nuclear Regulatory Commission.

Mahmoud Jardaneh, Acting Director,
Division of Licensing Projects I,
Office of Nuclear Reactor Regulation.