

July 5, 1994

Docket No. 50-277

Mr. George A. Hunger, Jr.  
Director-Licensing, MC 52A-5  
PECO Energy Company  
Nuclear Group Headquarters  
Correspondence Control Desk  
P.O. Box No. 195  
Wayne, Pennsylvania 19087-0195

Dear Mr. Hunger:

SUBJECT: EXEMPTION FROM 10 CFR PART 50, APPENDIX J, SECTIONS III.D.2.(a) AND III.D.3, PEACH BOTTOM ATOMIC POWER STATION, UNIT 2 (TAC NO. M89374)

The Commission has issued the enclosed exemption for the Peach Bottom Atomic Power Station, Unit 2, from certain requirements of Appendix J to 10 CFR Part 50, in response to your letter dated April 18, 1994.

The exemption grants a 60-day extension to the 2-year test interval for Type B and C leak rate tests required by 10 CFR Part 50, Appendix J, Sections III.D.2(a) and III.D.3.

The exemption is enclosed. A copy of the exemption is being filed with the Office of the Federal Register for publication.

Sincerely,

/s/

Stephen Dembek, Project Manager  
Project Directorate I-2  
Division of Reactor Projects- I/II  
Office of Nuclear Reactor Regulation

Enclosure:  
Exemption

cc w/enclosure:  
See next page

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UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

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The exemption is enclosed. A copy of the exemption is being filed with the Office of the Federal Register for publication.

Sincerely,

A handwritten signature in cursive script that reads "Stephen Dembek".

Stephen Dembek, Project Manager  
Project Directorate I-2  
Division of Reactor Projects- I/II  
Office of Nuclear Reactor Regulation

Enclosure:  
Exemption

cc w/enclosure:  
See next page

Mr. George A. Hunger, Jr.  
PECO Energy Company

Peach Bottom Atomic Power Station,  
Units 2 and 3

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
Philadelphia Electric Company	)	Docket No. 50-277
(Peach Bottom Atomic Power Station,	)	
Unit 2)	)	

EXEMPTION

I.

Philadelphia Electric Company (the licensee), is the holder of Facility Operating License No. DPR-44, which authorizes operation of the Peach Bottom Atomic Power Station (PBAPS), Unit 2. The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission) now and hereafter in effect.

The PBAPS, Unit 2 facility consists of a boiling water reactor located in York County, Pennsylvania.

II.

In its letter dated April 18, 1994, the licensee requested an exemption from the Commission's regulations. The subject exemption is from a requirement in Appendix J to 10 CFR Part 50 that Type B and C containment penetration leak rate tests be performed at intervals no greater than 2 years. The exemption would allow a one-time 60-day extension of the 2-year requirement. Hence, this one-time exemption would allow the licensee to perform the testing in Sections III.D.2.(a) and III.D.3 during Unit 2's Cycle 10 refueling outage scheduled to begin no later than September 24, 1994.

The licensee is utilizing a new core design at PBAPS, Unit 2, which allows the intervals between reactor shutdowns for refueling to extend beyond the maximum allowable 2-year interval. Accordingly, the licensee is unable to comply with the testing intervals specified in Appendix J of 10 CFR Part 50. Prior to the current operating cycle, local leak rate tests were performed in conjunction with an operating cycle of 18 months. The 18-month operating cycle was more conducive to the 2-year testing interval.

Use of extended cycle core designs has been recognized as a growing trend in the industry as discussed in the staff's Generic Letter 91-04, "Changes in Technical Specification Surveillance Intervals to Accommodate a 24-Month Fuel Cycle," dated April 2, 1991. The staff previously granted the licensee two license amendments to allow PBAPS, Unit 2 to perform selected surveillances on a 24-month interval (see Amendment 169 dated August 19, 1992, and Amendment 179 dated August 2, 1993). However, the regulations cited by the licensee in the exemption request have not yet been revised to reflect the use of a 24-month operating cycle by some licensees. Therefore, the licensee has requested an exemption in order to avoid a premature shutdown, which would be needed to accomplish the testing, and also to properly schedule the testing during the refueling outage.

### III.

Pursuant to 10 CFR 50.12, the Commission 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 public health or safety, and are consistent

with the common defense and security; and (2) when special circumstances are present. Special circumstances are present whenever, according to 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 underlying purpose of the requirement to perform Type B and Type C containment leak rate tests at intervals not to exceed 2 years, is to ensure that any potential leakage pathways through the containment boundary are identified within a time span that prevents significant degradation from continuing or being unknown, and long enough to allow the tests to be conducted during scheduled refueling outages. This interval was originally published in Appendix J when refueling cycles were conducted at approximately annual intervals and has not been changed to reflect 18-month or 2-year operating cycles. It is not the intent of the regulation to require a plant shutdown solely for the purpose of conducting the periodic leak rate tests.

Based on the information presented in the licensee's application, the proposed extended test interval would not result in a non-detectable leakage rate in excess of the value established by 10 CFR Part 50, Appendix J, or in any changes to the containment structure or plant systems. Therefore, the containment integrity would be maintained. As a result, the application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule.

On this basis, the NRC staff finds that the licensee has demonstrated that special circumstances are present as required by 10 CFR 50.12(a)(2)(ii). Since the licensee has justified the leaktight integrity of the containment

based on previous leakage test results, the staff concludes that a one-time extension of no more than 60 days beyond the 2-year permitted interval will not have a significant safety impact. Therefore, the staff also finds that extending the interval between tests will not present an undue risk to the public health and safety.

#### IV.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and that there are special circumstances present, as specified in 10 CFR 50.12(a)(2), such that application of 10 CFR Part 50, Appendix J, Sections III.D.2(a) and III.D.3 are not necessary in order to achieve the underlying purpose of this regulation; and hereby grants the following exemption with respect to the requirements of 10 CFR Part 50, Appendix J, Sections III.D.2.(a) and III.D.3.

For the Peach Bottom Atomic Power Station, Unit 2, the testing intervals specified in 10 CFR Part 50, Appendix J, Sections III.D.2.(a) and III.D.3 are extended to allow the testing to be performed during the Unit 2 cycle 10 refueling outage. This one-time extension is granted for a maximum of 60 days from the 2 year interval required by 10 CFR Part 50, Appendix J, Sections III.D.2.(a) and III.D.3.

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 (59 FR 33312).

This exemption is effective upon issuance.

FOR THE NUCLEAR REGULATORY COMMISSION

Original signed by:

Steven A. Varga, Director  
Division of Reactor Projects - I/II  
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland  
this 5th day of July, 1994

\*PREVIOUS CONCURRENCE

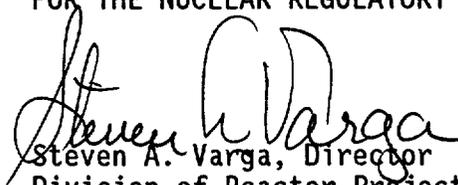
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Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (59 FR 33312).

This exemption is effective upon issuance.

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in cursive script, appearing to read "Steven A. Varga".

Steven A. Varga, Director  
Division of Reactor Projects - I/II  
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland  
this 5th day of July, 1994