

March 3, 1998

Mr. E. E. Fitzpatrick, Vice President
Indiana Michigan Power Company
Nuclear Generation Group
500 Circle Drive
Buchanan, MI 49107

SUBJECT: DONALD C. COOK NUCLEAR PLANT, UNITS 1 AND 2 - EXEMPTION TO
10 CFR 50.71(e)(4) (TAC NOS. M99494 AND M99495)

Dear Mr. Fitzpatrick:

The Commission has issued the enclosed exemption from certain requirements of 10 CFR 50.71(e)(4) regarding submission of revisions to the final safety analysis report (FSAR) and design change reports for facility changes made under 10 CFR 50.59 for the Donald C. Cook Nuclear Plant, Units 1 and 2. This exemption is related to your application dated August 5, 1997, to schedule updates to the single, unified FSAR for the two units that comprise the Donald C. Cook Nuclear Plant after each Unit 1 refueling outage, not to exceed 24 months between successive revisions.

Pursuant to 10 CFR 50.12(a)(2)(ii), we find that application of the regulation is not necessary to achieve the underlying purpose of the rule and that granting this exemption from the requirements of 10 CFR 50.71(e)(4) is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. The staff's safety evaluation in support of this exemption is also enclosed.

A copy of the exemption is being forwarded to the Office of the Federal Register for publication.

Sincerely,

Original signed by D. Pickett for:
John B. Hickman, Project Manager
Project Directorate III-3
Division of Reactor Projects III/IV
Office of Nuclear Reactor Regulation

NRC FILE NUMBER COPY

Docket Nos. 50-315 and 50-316
Enclosures: 1. Exemption
2. Safety Evaluation
cc w/encls: See next page



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NAME	EAdensam*		RZimmerman*				BCollins
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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 3, 1998

Mr. E. E. Fitzpatrick, Vice President
Indiana Michigan Power Company
Nuclear Generation Group
500 Circle Drive
Buchanan, MI 49107

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Pursuant to 10 CFR 50.12(a)(2)(ii), we find that application of the regulation is not necessary to achieve the underlying purpose of the rule and that granting this exemption from the requirements of 10 CFR 50.71(e)(4) is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. The staff's safety evaluation in support of this exemption is also enclosed.

A copy of the exemption is being forwarded to the Office of the Federal Register for publication.

Sincerely,

A handwritten signature in black ink, appearing to read "Douglas V. Pickett for".

John B. Hickman, Project Manager
Project Directorate III-3
Division of Reactor Projects III/IV
Office of Nuclear Reactor Regulation

Docket Nos. 50-315 and 50-316

Enclosures: 1. Exemption
2. Safety Evaluation

cc w/encls: See next page

E. E. Fitzpatrick
Indiana Michigan Power Company

Donald C. Cook Nuclear Plant
Units 1 and 2

cc:

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P.O. Box 366
Bridgman, MI 49106

Special Assistant to the Governor
Room 1 - State Capitol
Lansing, MI 48909

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
Indiana Michigan Power Company)	Docket Nos. 50-315 and 50-316
)	
(Donald C. Cook Nuclear Plant,)	
Units 1 and 2))	

EXEMPTION

I.

Indiana Michigan Power Company (the licensee) is the holder of Facility Operating License Nos. DPR-58 and DPR-74, which authorize operation of the Donald C. Cook Nuclear Plant, Units 1 and 2, respectively. The Donald C. Cook facilities are pressurized-water reactors located at the licensee's site in Berrien County, Michigan. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

II.

Section 50.71(e)(4) of Title 10 of the *Code of Federal Regulations*, "Maintenance of records, making of reports," states, in part, that "Subsequent revisions [to the final safety analysis report (FSAR)] must be filed annually or 6 months after each refueling outage provided the interval between successive updates [to the FSAR] does not exceed 24 months." The two Donald C. Cook facilities share a common FSAR; therefore, this rule requires the licensee to update the same document within 6 months after a refueling outage for either unit.

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III.

Section 50.12(a), "Specific exemptions," makes the following statement:

The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of this part, which are-

- (1) Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security.
- (2) The Commission will not consider granting an exemption unless special circumstances are present.

Section 50.12(a)(2)(ii) states that special circumstances are present whenever--

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.

IV.

As noted in the staff's safety evaluation, the licensee's proposed schedule for FSAR updates will ensure that the FSAR for the Donald C. Cook Nuclear Plant will be kept current within 24 months of the last revision and will not exceed a 24-month maximum interval for submission of updates to the FSAR pursuant to 10 CFR 50.71(e)(4). The Commission has determined that, pursuant to 10 CFR 50.12(a), an exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with common defense or security, and is otherwise in the public interest. The Commission has also determined that there are special circumstances as defined in 10 CFR 50.12(a)(2)(ii) since the recent revision to 10 CFR 50.71(e), intended to decrease the burden associated with submittal of revisions to the FSAR, did not address multiple-unit sites with a common FSAR and provides that FSAR updates must be filed every 24 months. The licensee's proposed exemption provides the decrease in burden which was intended by the revision and, therefore, achieves the underlying

purpose of the rule. The Commission hereby grants the licensee an exemption from the requirement of 10 CFR 50.71(e)(4) to submit updates to the FSAR for the Donald C. Cook Nuclear Plant within 6 months of each outage. The licensee will be required to submit updates to the Donald C. Cook Nuclear Plant FSAR once every Unit 1 fuel cycle, but not to exceed 24 months from the last submittal.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (62 FR 59753).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 3d day of March 1998.

FOR THE NUCLEAR REGULATORY COMMISSION


Samuel J. Collins, Director
Office of Nuclear Reactor Regulation



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

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

EXEMPTION FROM FINAL SAFETY EVALUATION REPORT UPDATE

REQUIREMENTS OF 10 CFR 50.71(e)(4)

INDIANA MICHIGAN POWER COMPANY

DONALD C. COOK NUCLEAR PLANT, UNITS 1 AND 2

DOCKET NOS. 50-315 AND 50-316

1.0 INTRODUCTION

By letter dated August 5, 1997, the Indiana Michigan Power Company (the licensee) submitted a request for an exemption from the requirements of 10 CFR Section 50.71(e)(4), "Maintenance of records, making of reports." Section 50.71(e)(4) requires, in part, that "Subsequent revisions [to the final safety analysis report (FSAR)] must be filed annually or 6 months after each refueling outage provided the interval between successive updates to the FSAR does not exceed 24 months." The two Donald C. Cook units share a common FSAR; therefore, this rule requires the licensee to update the same document within 6 months after a refueling outage for either unit.

2.0 EVALUATION

Section 50.71(e)(4) ensures that all licensees update their FSARs at least every refueling outage and no less frequently than every 2 years. When two units share a common FSAR, the rule has the effect of making the licensee update the FSAR roughly every 12 to 18 months.

A recent revision to 10 CFR 50.71(e), which added the option to update the FSAR 6 months after each refueling outage provided the interval between successive updates to the FSAR does not exceed 24 months, was intended to provide some reduction in regulatory burden by limiting the frequency of required updates. Unfortunately, the burden reductions provided in the revised regulation can only be realized by single-unit facilities or multiple-unit facilities that maintain separate updated FSARs for each unit. For multiple-unit facilities with a common updated FSAR, the requirement pertaining to "each refueling outage" increases rather than decreases the regulatory burden. The authors of the revised rule recognized this concern for multiple-unit plants when the following statement was made in response to a petitioner's comment:

"With respect to petitioner's concern about multiple facilities sharing a common FSAR, licensees will have maximum flexibility for scheduling updates on a case-by-case basis. This final rule does not address multiple facilities." (57 FR 39353, August 31, 1992)

The requested exemption would require periodic updates annually or once every fuel cycle (based on the unit with the shortest interval between scheduled refueling outages), but not to exceed 24 months from the last submittal. The requirement that the update be submitted within 6 months of each outage is not retained. This exemption is consistent with the underlying purpose of the rule change which recognized that annual updates were not necessary and intended to reduce this burden so long as successive updates do not exceed 24-months, as indicated in 10 CFR 50.71(e)(4). Allowing the exemption would keep the Donald C. Cook FSAR current within 24 months of the last revision and would not exceed the 24-month interval for submission of the 10 CFR 50.59 design change report for either unit.

3.0 CONCLUSION

The staff finds that the proposed exemption will allow the licensee to submit FSAR updates on a schedule consistent with the 24-month period contemplated by 50.71(e)(4). Therefore, the proposed exemption from 10 CFR 50.71(e)(4) for the Donald C. Cook Nuclear Plant, Units 1 and 2, is acceptable pursuant to 10 CFR 50.12(a)(2)(ii).

Principal Contributors: J. Hickman
E. Fuentes
G. Wunder

Dated: March 3, 1998