

May 22, 2006

Mr. Dennis L. Koehl
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and

Mr. Thomas J. Palmisano
Site Vice President
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Nuclear Management Company, LLC
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SUBJECT: POINT BEACH NUCLEAR PLANT, UNITS 1 AND 2, AND PRAIRIE ISLAND
NUCLEAR GENERATING PLANT, UNITS 1 AND 2 - EXEMPTION TO 10
CFR 50.71(e)(4) (TAC NOS. MC8654, MC8655, MC8656, AND MC8657)

Dear Mr. Koehl and Mr. Palmisano:

The Commission has approved the enclosed exemption from specific requirements of Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.71(e)(4), for the Point Beach Nuclear Plant (PBNP), Units 1 and 2, and Prairie Island Nuclear Generating Plant (PINGP), Units 1 and 2. This action is in response to your letter of October 12, 2005, that proposed exemptions from the requirements of 10 CFR 50.71(e)(4) to allow periodic updates of the PBNP and PINGP updated final safety analysis reports once per fuel cycle, within 6 months following completion of each PBNP, Unit 1, refueling outage and within 6 months of each PINGP, Unit 2, refueling outage, respectively, not to exceed 24 months from the last submittal for either site.

A copy of the exemption has been forwarded to the Office of the Federal Register for publication.

Sincerely,

/RA by L. Raghavan for/

Carl F. Lyon, Project Manager

Plant Licensing Branch III-1

Division of Operating Reactor Licensing

Office of Nuclear Reactor Regulation

Docket Nos. 50-266, 50-301,
50-282, and 50-306

Enclosure:
Exemption

cc w/encl: See next page

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
NUCLEAR MANAGEMENT COMPANY, LLC
DOCKET NOS. 50-266, 50-301, 50-282, AND 50-306
POINT BEACH NUCLEAR PLANT, UNITS 1 AND 2
PRAIRIE ISLAND NUCLEAR GENERATING PLANT, UNITS 1 AND 2
EXEMPTION

1.0 BACKGROUND

The Nuclear Management Company, LLC (NMC, licensee) is the holder of Facility Operating License Nos. DPR-24, DPR-27, DPR-42, and DPR-60, which authorize operation of the Point Beach Nuclear Plant (PBNP), Units 1 and 2, and the Prairie Island Nuclear Generating Plant (PINGP), Units 1 and 2. The licenses provide, among other things, that the facilities are subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC, Commission) now or hereafter in effect.

The PBNP facility consists of two pressurized-water reactors located in Manitowoc County, Wisconsin, and the PINGP facility consists of two pressurized-water reactors located in Goodhue County, Minnesota.

2.0 REQUEST/ACTION

Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.71, "Maintenance of records, making of reports," paragraph (e)(4) states, in part, "Subsequent revisions [to the updated Final Safety Analysis Report (FSAR)] must be filed annually or 6 months after each refueling outage provided the interval between successive updates does not exceed

24 months.” When two units share a common FSAR, the rule has the effect of making the licensee update the FSAR about every 12 to 18 months. The current rule, as revised on August 31, 1992 (57 FR 39353), was intended to provide some reduction in regulatory burden by limiting the frequency of required updates. The burden reduction, however, can only be realized by single-unit facilities or multiple-unit facilities that maintain separate FSARs for each unit. For multiple-unit facilities with a common FSAR, the phrase “each refueling outage” increases rather than decreases the regulatory burden. While the NRC did not provide in the rule for multiple-unit facilities sharing a common FSAR, it stated that, “[w]ith respect to the concern about multiple facilities sharing a common FSAR, licensees will have maximum flexibility for scheduling updates on a case-by-case basis” (57 FR 39355). PBNP and PINGP are two-unit sites, each site sharing a common updated FSAR¹. This rule requires the licensee to update the PBNP FSAR and PINGP FSAR annually or within 6 months after each unit's refueling outage.

In summary, the exemption from the requirements of 10 CFR 50.71(e)(4) would allow periodic updates of the PBNP and PINGP updated FSARs once per fuel cycle, within 6 months following completion of each PBNP, Unit 1, refueling outage and within 6 months of each PINGP, Unit 2, refueling outage, respectively, not to exceed 24 months from the last submittal for either site.

3.0 DISCUSSION

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

¹The updated FSAR at PINGP is called the Updated Safety Analysis Report (USAR).

circumstances are present. Section 50.12(a)(2)(ii) of 10 CFR states that special circumstances are present when “[a]pplication 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 rule was to relieve licensees of the burden of filing annual FSAR revisions while assuring that such revisions are made at least every 24 months.

The NRC staff examined the licensee’s rationale to support the exemption request and concluded that it would meet the underlying purpose of 10 CFR 50.71(e)(4). The licensee’s proposed schedule for the PBNP FSAR and PINGP FSAR updates will ensure that the FSAR will be kept current for all units within 24 months of the last revision. The proposed schedule satisfies the maximum 24-month interval between FSAR revisions specified by 10 CFR 50.71(e)(4). The requirement to revise the FSAR annually or within 6 months after refueling outages for each unit, therefore, is not necessary to achieve the underlying purpose of the rule.

Based on a consideration of the licensee’s proposed exemption, the NRC staff concludes that literal application of 10 CFR 50.71(e)(4) would require the licensee to update the same document within 6 months after a refueling outage for either unit at each site, a more burdensome requirement than intended by the regulation.

Therefore, the NRC staff concludes that, pursuant to 10 CFR 50.12(a)(2)(ii), special circumstances are present.

4.0 CONCLUSION

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the 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, special circumstances are present. Therefore, the Commission hereby grants NMC an exemption from the

requirements of 10 CFR 50.71(e)(4) to submit updates to the PBNP FSAR and PINGP FSAR annually or within 6 months of each unit's refueling outage. The licensee will be required to submit updates of the PBNP and PINGP updated FSARs once per fuel cycle, within 6 months following completion of each PBNP, Unit 1, refueling outage and within 6 months of each PINGP, Unit 2, refueling outage, respectively, not to exceed 24 months from the last submittal for either site.

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 (71 FR 28889).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 22nd day of May 2006.

FOR THE NUCLEAR REGULATORY COMMISSION

Catherine Haney, Director */RA/*
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Office of Nuclear Reactor Regulation

Point Beach Nuclear Plant, Units 1 and 2

cc:

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