



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

March 30, 2009

Mr. Joseph N. Jensen
Senior Vice President and
Chief Nuclear Officer
Indiana Michigan Power Company
Nuclear Generation Group
One Cook Place
Bridgman, MI 49106

SUBJECT: DONALD C. COOK NUCLEAR PLANT, UNITS 1 AND 2 – ONE-TIME
EXEMPTION FROM THE REQUIREMENTS OF 10 CFR PART 50, SECTION
36a(a)(2), SUBMITTAL DATE FOR THE 2008 RADIOACTIVE EFFLUENT
RELEASE REPORT (TAC NOS. ME0002 and ME0003)

Dear Mr. Jensen:

The Commission has approved the enclosed one-time exemption from the specific requirements of Title 10 of the *Code of Federal Regulations*, Part 50, Section 36a(a)(2), for the Donald C. Cook Nuclear Plant, Units 1 and 2. This action is in response to your letter dated October 21, 2008, Agencywide Documents Access and Management System Accession No. ML082970187.

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

Sincerely,

A handwritten signature in black ink, which appears to read "Terry A. Beltz", is written over a horizontal line.

Terry A. Beltz, Senior Project Manager
Plant Licensing Branch III-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-315 and 50-316

Enclosure:
Exemption

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
INDIANA MICHIGAN POWER COMPANY
DONALD C. COOK NUCLEAR PLANT, UNITS 1 AND 2
DOCKET NOS. 50-315 AND 50-316
EXEMPTION

1.0 BACKGROUND

The Indiana Michigan Power Company (the licensee) is the holder of Facility Operating License Nos. DPR-58 and DPR-74, which authorizes operation of the Donald C. Cook Nuclear Plant, Units 1 and 2. The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of two pressurized-water reactors located in Berrien County in Michigan.

2.0 REQUEST/ACTION

Title 10 of the *Code of Federal Regulations*, Part 50, Section 36a(a)(2) (10 CFR 50.36a(a)(2)) requires each licensee to submit a report to the Commission annually that specifies the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in gaseous effluents during the previous 12 months, including any other information as may be required by the Commission to estimate maximum potential annual radiation doses to the public resulting from effluent releases. The report must be submitted as specified in Section 50.4, and the time between report submittals must be no longer than 12 months.

The licensee has proposed an amendment to Technical Specification 5.6.3 to change the submittal date for the report from "within 90 days of January 1 of each year" to "prior to May 1 of

each year.” Therefore, the licensee has requested a one-time exemption from the 12-month reporting criteria specified in 10 CFR 50.36a(a)(2) for its submittal of the 2008 Radioactive Effluent Release Report.

In summary, the exemption does not affect the information required to be submitted or the time period the report covers, only the date the report is submitted.

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 circumstances are present. These circumstances include the special circumstances that would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation.

Authorized by Law

This exemption would allow the licensee to submit the 2008 Radioactive Effluent Release Report prior to May 1, 2009, which would exceed the report submittal requirement of no longer than 12 months specified in 10 CFR 50.36a(a)(2). As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR Part 50. The NRC staff has determined that granting of the licensee’s proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission’s regulations. Therefore, the exemption is authorized by law.

No Undue Risk to Public Health and Safety

The underlying purpose of the reporting requirements specified in 10 CFR 50.36a(a)(2) is to report to the Commission annually the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in gaseous effluents during the previous 12 months, including

any other information as may be required by the Commission to estimate maximum potential annual radiation doses to the public resulting from effluent releases. This exemption does not affect the information required to be submitted or the time period the report covers, only the date the report is submitted. Based on the above, no new accident precursors are created by extending the submittal date for the 2008 Radioactive Effluent Release Report to prior to May 1, 2009. Thus, the probability of postulated accidents is not increased. Also, based on the above, the consequences of postulated accidents are not increased. Therefore, there is no undue risk to public health and safety.

Consistent with Common Defense and Security

The proposed exemption would allow the licensee to submit the 2008 Radioactive Effluent Release Report prior to May 1, 2009, which would exceed the report submittal requirement of no longer than 12 months specified in 10 CFR 50.36a(a)(2). This change has no relation to security issues. Therefore, the common defense and security is not impacted by this exemption.

Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(v), are present whenever application of the regulation would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation. The underlying purpose of the reporting requirement specified in 10 CFR 50.36a(a)(2) is to require each licensee to submit a report to the Commission annually that specifies the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in gaseous effluents, including any other information as may be required by the Commission to estimate maximum potential annual radiation doses to the public resulting from effluent releases. The proposed amendment does not affect the information required to be submitted or the time period the report covers, only the date the report is to be submitted. The requested exemption provides temporary relief from the regulation in that it affords a one-time extension for submitting the

annual report. The proposed amendment is an appropriate means to ensure that future reports are submitted on an annual basis as required by 10 CFR 50.36a(a)(2). Therefore, since the underlying purpose of 10 CFR 50.36a(a)(2) is achieved, the special circumstances of 10 CFR 50.12(a)(2)(v) for the granting of an exemption from 10 CFR 50.36a(a)(2) exists.

4.0 CONCLUSION

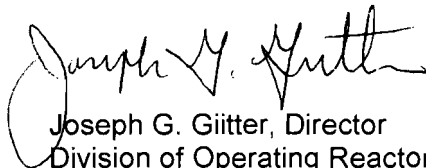
Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants Indian Michigan Power Company a one-time exemption from the requirements of 10 CFR 50.36a(a)(2), for Donald C. Cook Nuclear Plant, Units 1 and 2.

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 (74 FR 9315).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 30th day of March 2009.

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in black ink, appearing to read "Joseph G. Gitter", is written over the printed name and title.

Joseph G. Gitter, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

March 30, 2009

Mr. Joseph N. Jensen
Senior Vice President and
Chief Nuclear Officer
Indiana Michigan Power Company
Nuclear Generation Group
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Sincerely,

/RA/

Terry A. Beltz, Senior Project Manager
Plant Licensing Branch III-1
Division of Operating Reactor Licensing
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NRR-106

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