

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

<p>In the Matter of Wisconsin Electric Power Company (Point Beach Nuclear Plant, Units 1 and 2)</p>)))))	<p>Docket Nos. 50-266 and 50-301</p>
---	-----------------------	--------------------------------------

EXEMPTION

I.

Wisconsin Electric Power Company (WEPCo, the licensee) is the holder of Facility Operating License Nos. DPR-24 and DPR-27 which authorize operation of the Point Beach Nuclear Plant (PBNP), Unit Nos. 1 and 2. The units are pressurized water reactors (PWR) located in Manitowoc County, Wisconsin. The licenses provide, among other things, that the facilities are subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II.

Section 50.54(q) of 10 CFR Part 50 requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect Emergency Plans that meet the standards of 10 CFR 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F.2.b of Appendix E requires that each licensee annually exercise its Emergency Plan.

The NRC may grant exemptions from the requirements of the regulations which, pursuant to 10 CFR 50.12, 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; and (2) present special circumstances. Special circumstances exist when the 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)(11)]. The underlying purpose of 10 CFR Part 50, Appendix E Section IV.F.2.b is to demonstrate that the state of emergency preparedness provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.

III.

By letters dated October 6, 1995 and November 3, 1995, the licensee requested a one-time exemption from the requirements of 10 CFR 50.47 and Appendix E to conduct an annual exercise of the Point Beach Emergency Plan in 1995. The Point Beach utility-only annual emergency exercise is currently scheduled for December 13, 1995. The licensee requested an exemption from the annual exercise requirement for 1995 based on: (1) their continued excellent performance in the area of emergency preparedness, (2) their conduct, earlier in the year, of a comprehensive drill involving major elements of the emergency plan, and (3) the potential for the 1995 exercise to have a negative impact on dry cask fuel storage activities.

The Point Beach Nuclear Plant, in conjunction with the State of Wisconsin, and Manitowoc and Kewaunee counties, conducted a full participation emergency preparedness exercise on December 6, 1994. Offsite emergency response activities were evaluated by the Federal Emergency Management Agency (FEMA) and the onsite emergency response activities were evaluated by the NRC. The NRC's evaluation is documented in NRC Inspection Report Nos. 50-266/94023 and 50-301/94023, dated December 16, 1994. The report states that no violations or deviations were identified and overall performance during the exercise was good. The licensee has implemented actions to correct the one exercise weakness, concerning offsite monitoring team vehicle readiness,

identified during the December 6, 1994, exercise. The licensee has received an "excellent" rating on the last two Systematic Assessment of Licensee Performance reports in the area of emergency preparedness (Inspection Report Nos: 266/93001; 301/93001, dated July 16, 1993, and 266/94001; 301/94001 dated October 21, 1994).

The licensee performed an emergency drill on August 29, 1995, involving major elements of the Point Beach Emergency Plan. All emergency response facilities were activated for the drill and communications were made to the State. The licensee performed a thorough critique of the drill to identify strengths, deficiencies, weaknesses, and areas for improvement. No deficiencies, three weaknesses, and several areas for improvement were identified during the drill. The licensee has a program for correcting the weaknesses and for implementing actions to address the areas for improvement. The licensee plans to correct weaknesses identified during the drill prior to the 1996 full-participation exercise.

Appendix E to Part 50 requires that licensees shall enable any State or local government located within the plume exposure pathway emergency planning zone (EPZ) to participate in annual exercises when requested by such State or local government. The licensee has discussed the request for exemption from the 1995 annual emergency preparedness exercise with the State and local governments within the EPZ. The State and local governments within the EPZ have informed the licensee that they do not regard the exemption as a missed opportunity for them to exercise their emergency plan. The State and local governments within the Point Beach EPZ participated in the October 11, 1995, exercise at the nearby Kewaunee Nuclear Power Plant. The licensee's next emergency preparedness exercise is scheduled for August 1996 and will include

the participation of State and local government emergency response organizations.

The licensee states that the 1995 exercise, as planned, is anticipated to have a negative impact on the licensee's oversight of the storage of spent fuel in an independent spent fuel storage installation at the Point Beach Nuclear Plant. The licensee had hoped to load their first dry storage container prior to mid-September. However, due to various reasons, they are now planning to load the first container in early December following the Point Beach Unit 2 refueling outage which is scheduled to be completed by the end of November. The licensee states that it is prudent to load a dry storage container as soon as possible in order to minimize the time that Point Beach will not have the capacity for a full-core offload. In addition, the licensee states that emergency response personnel who would be involved in the emergency exercise will be involved in oversight of the process for loading the storage containers.

IV.

Based upon a review of the licensee's request for an exemption for the requirement to conduct an exercise of the Point Beach Nuclear Plant Emergency Plan in 1995, the NRC staff finds that performance of the 1995 utility-only annual exercise is not needed to achieve the underlying purpose of the regulation, that is, to demonstrate that the state of emergency preparedness provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. The licensee has demonstrated excellent performance in the emergency preparedness area. The integrated emergency preparedness drill in August of 1995 provided a good test of the emergency preparedness program. The licensee performed a thorough

critique of the drill and no deficiencies were identified during the drill. The licensee plans to correct weaknesses which were identified during the drill prior to the 1996 full-participation exercise.

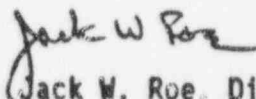
The Commission has determined, pursuant to 10 CFR Part 50.12, that this exemption as described in Section II above is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Furthermore, the Commission has determined that special circumstances as provided in 10 CFR 50.12(a)(2)(ii) are present in that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule.

The Commission hereby grants a one-time exemption from the requirements of 10 CFR Part 50, Appendix E, Section IV.F.2.b, for annually exercising the onsite Emergency Plan at the Point Beach Nuclear Plant in the year 1995.

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 (60 FR 58685).

This exemption is effective upon issuance.

FOR THE NUCLEAR REGULATORY COMMISSION



Jack W. Roe, Director
Division of Reactor Projects III/IV
Office of Nuclear Reactor Regulation



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

DISTRIBUTION
Docket File
PDIII-3 Reading
AHansen
DFoster-Curseen

November 29, 1995

MEMORANDUM TO: Rules Review and Directives Branch
Division of Freedom of Information and Publications Services
Office of Administration

FROM: Office of Nuclear Reactor Regulation

SUBJECT: POINT BEACH UNITS 1 AND 2 EXEMPTION

One signed original of the *Federal Register* Notice identified below is attached for your transmittal to the Office of the Federal Register for publication. Additional conformed copies (5) of the Notice are enclosed for your use.

- Notice of Receipt of Application for Construction Permit(s) and Operating License(s).
- Notice of Receipt of Partial Application for Construction Permit(s) and Facility License(s): Time for submission of Views on Antitrust matters.
- Notice of Consideration of Issuance of Amendment to Facility Operating License. (Call with 30-day insert date).
- Notice of Receipt of Application for Facility License(s); Notice of Availability of Applicant's Environmental Report; and Notice of Consideration of Issuance of Facility License(s) and Notice of Opportunity for Hearing.
- Notice of Availability of NRC Draft/Final Environmental Statement.
- Notice of Limited Work Authorization.
- Notice of Availability of Safety Evaluation Report.
- Notice of Issuance of Construction Permit(s).
- Notice of Issuance of Facility Operating License(s) or Amendment(s).
- Order.
- Exemption.
- Notice of Granting Exemption.
- Environmental Assessment.
- Notice of Preparation of Environmental Assessment.
- Receipt of Petition for Director's Decision Under 10 CFR 2.206.
- Issuance of Final Director's Decision Under 10 CFR 2.206.
- Other: _____

DOCKET NO.S 50-266 AND 50-301

Attachment(s): As stated

Contact: Doris J. Foster-Curseen
Telephone: 415-1379

PDIII:LA
FosterCurseen U