



Indiana Michigan  
Power Company  
Nuclear Generation Group  
One Cook Place  
Bridgman, MI 49106  
aep.com

April 7, 2020

AEP-NRC-2020-14  
10 CFR 50.90  
10 CFR 50.12  
10 CFR 54.15

Docket Nos.: 50-315  
50-316

U. S. Nuclear Regulatory Commission  
Document Control Desk  
Washington, D.C. 20555-0001

**Donald C. Cook Nuclear Plant Units 1 and 2  
License Amendment Requests and Exemption Requests Regarding Changes to the Routine  
Reporting Requirements Subject to Plant Technical Specifications and 10 CFR 50.71(e)**

**References:**

1. Letter, E. E. Fitzpatrick, Indiana Michigan Power Company (I&M), to U. S. Nuclear Regulatory Commission, ATTN Document Control Desk, Donald C. Cook Nuclear Plant Units 1 and 2, Request for Exemption From 10 CFR 50.71(e), Regulatory Burden Reduction, 10 CFR 50.12, dated August 5, 1997.
2. Letter, John B. Hickman, USNRC to Mr. E. E. Fitzpatrick, I&M, Donald C. Cook Nuclear Plant Units 1 and 2 – Exemption to 10 CFR 50.71(e), dated March 3, 1998.

Pursuant to 10 CFR 50.90, 10 CFR 50.12, and 10 CFR 54.15, Indiana Michigan Power Company (I&M), licensee for Donald C. Cook Nuclear Plant (CNP) Units 1 and 2, is submitting requests for amendments to the Technical Specifications (TS) for CNP Units 1 and 2 and exemption from regulations that collectively establish reporting frequencies and schedules related to: Updated Final Safety Analysis Report updates, Quality Assurance Program Description changes, Technical Specification Bases changes, and newly identified systems structures and components subject to aging management under 10 CFR 54.

This application for amendments to the CNP Units 1 and 2 TS proposes to revise TS 5.5.12, "Technical Specifications (TS) Bases Control Program", within each Unit's TS, to coincide with the CNP Updated Final Safety Analysis Report (UFSAR) update frequency and schedule established in References 1 and 2.

In addition, in accordance with 10 CFR 50.12 and 10 CFR 54.15, I&M requests permanent schedular exemptions from portions of the following regulations:

1. 10 CFR 54.37, Additional records and recordkeeping requirements, paragraph (b), which requires in part that, certain "newly identified" items be included with "the UFSAR update required by 10 CFR 50.71(e),"
2. 10 CFR 50.54, Conditions of licenses, paragraph (a)(3), which requires in part that, "Changes to the quality assurance program description that do not reduce commitments must be submitted to the NRC in accordance with the requirements of Sec. 50.71(e)."

Enclosure 1 to this letter provides an affirmation statement. Enclosure 2 is an evaluation of the proposed change to Sections 5.5.12.d of the Units 1 and 2 TS. Enclosure 3 contains marked up copies of the applicable Unit 1 and Unit 2 TS pages. Enclosure 4 provides the request for exemption from the reporting schedule established by the reference to 10 CFR 50.71(e) in 10 CFR 54.37. Enclosure 5 provides the request for exemption from the reporting schedule established by the reference to 10 CFR 50.71(e) in 10 CFR 50.54(a)(3).

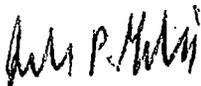
There are no regulatory commitments contained in this submittal.

I&M requests review and approval of this application by December 31, 2020, in order to support the coordination of the related reports with the next required CNP Updated Final Safety Analysis Report update. The license amendments and exemptions will be implemented within 60 days of U.S. Nuclear Regulatory Commission approval.

Copies of this letter and its enclosures are being transmitted to the Michigan Public Service Commission and Michigan Department of Environment, Great Lakes, and Energy, in accordance with the requirements of 10 CFR 50.91.

Should you have any questions, please contact Mr. Michael K. Scarpello, Regulatory Affairs Director, at (269) 466-2649.

Sincerely,



Joel P. Gebbie  
Senior Vice President &  
Chief Nuclear Officer

MDS/ml

**Enclosures:**

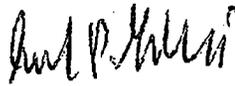
1. Affirmation
  2. Evaluation of Proposed Changes to Sections 5.5.12.d of Unit 1 and Unit 2 Technical Specifications
  3. Donald C. Cook Nuclear Plant Units 1 and 2 Technical Specification Pages Marked to Show Proposed Changes
  4. Request for Exemption from the Reporting Schedule Established by the Reference to 10 CFR 50.71(e) in 10 CFR 54.37
  5. Request for Exemption from the Reporting Schedule Established by the Reference to 10 CFR 50.71(e) in 10 50.54(a)(3)
- c: R. J. Ancona – MPSC  
EGLE – RMD/RPS  
J. B. Giessner – NRC Region, III  
NRC Resident Inspector  
D. J. Roberts – NRC Region, III  
S. P. Wall – NRC Washington, D.C.  
A. J. Williamson – AEP Ft. Wayne, w/o enclosures

Enclosure 1 to AEP-NRC-2020-14

AFFIRMATION

I, Joel P. Gebbie, being duly sworn, state that I am Senior Vice President and Chief Nuclear Officer of Indiana Michigan Power Company (I&M), that I am authorized to sign and file this request with the U. S. Nuclear Regulatory Commission on behalf of I&M, and that the statements made and the matters set forth herein pertaining to I&M are true and correct to the best of my knowledge, information, and belief.

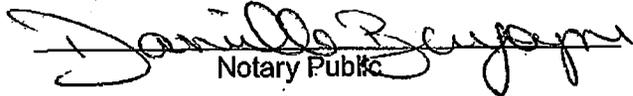
Indiana Michigan Power Company



Joel P. Gebbie  
Senior Vice President &  
Chief Nuclear Officer

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 7 DAY OF April 2020



Notary Public

My Commission Expires 04-04-2024



DANIELLE BURGOYNE  
Notary Public, State of Michigan  
County of Berrien  
My Commission Expires 04-04-2024  
Acting in the County of ~~Berrien~~

**Enclosure 2 to AEP-NRC-2020-14**

**Evaluation of the Proposed Changes to Specification 5.5.12.d in the Unit 1 TS and Specifications**

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## 1.0 SUMMARY DESCRIPTION

Indiana Michigan Power Company (I&M), licensee for Donald C. Cook Nuclear Plant (CNP) Units 1 and 2, is submitting this license amendment request (LAR) to amend Operating License Number DPR-58 for CNP Unit 1 and Operating License Number DPR-74 for CNP Unit 2. Documents referenced in this enclosure are identified in Section 7.0 of this enclosure.

I&M requests amendments to the CNP Unit 1 Operating License DPR-58 and the CNP Unit 2 Operating License DPR-74 by incorporating the proposed changes for the CNP Unit 1 and Unit 2 Technical Specifications (TS). The proposed changes are to revise TS 5.5.12.d in each Unit TS.

The changes requested will require I&M to submit Technical Specifications Bases Control Program (TSBCP) change reports to the U.S. Nuclear Regulatory Commission (NRC) at a frequency and schedule coincident with the CNP Updated Final Safety Analysis Report (UFSAR) update frequency and schedule established in References 1 and 2.

I&M requests review and approval of this application by December 31, 2020, in order to support the coordination of the related reports with the next required CNP Updated Final Safety Analysis Report update. The license amendments will be implemented within 60 days of NRC approval.

## 2.0 PROPOSED CHANGE

The proposed amendments would revise the CNP Unit 1 and Unit 2 TS 5.5.12.d, changing the reporting frequency and schedule to be consistent with that of the CNP Updated Final Safety Analysis Report periodic update requirements (References 1 and 2) rather than with the reporting frequency and schedule established in 10 CFR 50.71(e). Specifically, each TS 5.5.12.d would be revised as follows.

The original Technical Specification language in TS 5.5.12.d would be changed from:

Proposed changes that meet the criteria of Specification 5.5.12.b above shall be reviewed and approved by the NRC prior to implementation. Changes to the Bases implemented without prior NRC approval shall be provided to the NRC on a frequency consistent with 10 CFR 50.71(e).

The Technical Specification language in TS 5.5.12.d would be changed to:

Proposed changes that meet the criteria of Specification 5.5.12.b above shall be reviewed and approved by the NRC prior to implementation. Changes to the Bases implemented without prior NRC approval shall be provided to the NRC on a frequency consistent with required UFSAR updates submitted pursuant to 10 CFR 50.71.

Enclosure 3 contains the existing Unit 1 TS 5.5.12 and Unit 2 TS 5.5.12 marked up to show the proposed changes. Text deletion is indicated by striking through the applicable text. Text to be added is indicated using a callout box. New clean Unit 1 and Unit 2 TS pages with proposed changes incorporated will be provided to the NRC Licensing Project Manager when requested.

### 3.0 BACKGROUND

#### Technical Specifications Bases Control Program

The TSBCP for each CNP nuclear unit provides a means for processing changes to the Bases of the TS under appropriate administrative controls and reviews.

#### Reason for Requested Change

The CNP TSBCPs were added to the CNP Unit 1 and CNP Unit 2 TS by means of CNP Unit 1 License Amendment No. 281 and CNP Unit 2 License Amendment No. 265, dated June 25, 2004 (Reference 3). The NRC found the proposed TSBCP TS acceptable, in part, because the requested TS aligned with the related specification recommended by the NRC in Reference 4 (STS). In Reference 3, the NRC stated, "The staff finds the incorporation of the TS Bases Control Program into the TS for D. C. Cook is consistent with the NRC staff's recommended approach defined in the STS and numerous plant-specific amendments." STS, and therefore CNP Unit 1 and Unit 2 TS 5.5.12.d, require routine TSBCP change report frequencies and schedules to be provided to the NRC consistent with the regulatory requirement for providing UFSAR updates (i.e., per 10 CFR 50.71(e)).

However, I&M provides routine UFSAR updates to the NRC consistent with the reporting frequency and schedule established in References 1 and 2, wherein CNP UFSAR updates were exempted from the change report frequency and schedule prescribed in 10 CFR 50.71(e). This results in an unintended disconnect between the CNP UFSAR update submittal frequency and schedule and the more recently established TSBCP change report frequency and schedule. To align the requirements for reporting CNP TSBCP changes to the NRC to the CNP UFSAR update report frequency and schedule, I&M is requesting that CNP Unit 1 and Unit 2 TS 5.5.12.d be amended to specifically require I&M to provide TSBCP change reports at the frequency and schedule required for CNP UFSAR updates as established in References 1 and 2.

### 4.0 TECHNICAL ANALYSIS

#### 4.1 Specific Analysis and Justification

The CNP UFSAR update frequency approved in Reference 2 is, for both CNP Unit 1 and CNP Unit 2, consistent with that required by 10 CFR 50.71(e)(4). That is, the duration between updates is not allowed to exceed 24 months. The CNP UFSAR update schedule approved in Reference 2 is, for CNP Unit 1, consistent with the reporting frequency required by 10 CFR 50.71(e)(4), in that the schedule is driven, in part, by the occurrence of CNP Unit 1 refueling outages. The CNP UFSAR update schedule approved in Reference 2 is, for CNP Unit 2, different from the schedule otherwise required by 10 CFR 50.71(e)(4) in that the CNP Unit 2 UFSAR update reporting schedule is driven, in part, by the occurrence of CNP Unit 1 refueling outages rather than by CNP Unit 2 refueling outages.

The proposed amendments will simplify the TSBCP required reporting schedule for each Unit by allowing each to be aligned with the UFSAR update report frequency and schedule approved in Reference 2.

The original Technical Specification language in TS 5.5.12.d would be changed from:

Proposed changes that meet the criteria of Specification 5.5.12.b above shall be reviewed and approved by the NRC prior to implementation. Changes to the Bases implemented without prior NRC approval shall be provided to the NRC on a frequency consistent with 10 CFR 50.71(e).

The Technical Specification language in TS 5.5.12.d would be changed to:

Proposed changes that meet the criteria of Specification 5.5.12.b above shall be reviewed and approved by the NRC prior to implementation. Changes to the Bases implemented without prior NRC approval shall be provided to the NRC on a frequency consistent with required UFSAR updates submitted pursuant to 10 CFR 50.71.

This change is administrative.

#### **4.2 Conclusions**

The proposed changes, being purely administrative in nature, have no technical impact upon the design or operation of the nuclear units.

#### **5.0 REGULATORY SAFETY ANALYSIS**

##### **5.1 No Significant Hazards Consideration**

Indiana Michigan Power Company (I&M), licensee for Donald C. Cook Nuclear Plant (CNP) Units 1 and 2, is submitting this license amendment request (LAR) to amend Operating License Number DPR-58 for CNP Unit 1 and Operating License Number DPR-74 for CNP Unit 2. The proposed changes will modify the Technical Specifications Bases Control Program (TSBCP) required reporting schedules for both Units by allowing TSBCP required reports to be coincident with the UFSAR update report frequency and schedule; within six months of the end of each unit 1 refueling outage, at an interval not to exceed twenty-four months.

I&M, the licensee for CNP Units 1 and 2, has evaluated the proposed changes to the Operating Licenses, Appendix A, Technical Specifications 5.5.12.d, and has determined that the proposed changes, being purely administrative in nature, do not involve a significant hazards consideration.

The following information is provided to support a finding of no significant hazards consideration.

*Does the proposed change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?*

**Response: No.**

These changes are completely administrative in nature, limited to minor alterations in the frequency and schedule of necessary reports describing changes made under the TSBCPs. There is no change proposed regarding the controls established that govern the types of changes that I&M can make without prior NRC approval. The proposed changes can have no

impact upon the design or operation of a nuclear unit. The proposed changes can have no impact upon the probability or consequences of an accident previously evaluated. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident-previously evaluated.

*Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?*

**Response: No.**

These changes are completely administrative in nature, limited to minor alterations in the frequency and schedule of necessary reports describing changes made under the TSBCPs. There is no change proposed regarding the controls established that govern the types of change that can be made without prior NRC approval. The proposed changes can have no impact upon the design or operation of a nuclear unit. Neither can they impact the possibility of a new or different kind of accident from any accident previously evaluated. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

*Does the proposed change involve a significant reduction in a margin of safety?*

**Response: No.**

There is no change proposed regarding the controls established that govern the types of change that can be made without prior NRC approval. The proposed changes can have no impact upon the design or operation of a nuclear unit. Neither can they impact the margin of safety related to the design or operation of either nuclear unit. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

## **5.2 Applicable Regulatory Requirements/Criteria**

### **Technical Specifications**

The proposed amendments would revise the CNP Unit 1 and Unit 2 TS 5.5.12.d, changing the reporting frequency and schedule to be consistent with that of the CNP Updated Final Safety Analysis Report periodic update requirements (References 1 and 2) rather than with the reporting frequency and schedule established in 10 CFR 50.71(e). With this change, the TS will continue to assure that I&M provides the NRC with timely information regarding changes made under the TSBCP, in keeping with the intent of the current reporting frequency and schedule. Therefore, the requirements of 10 CFR 50.36 continue to be met with the changes proposed in this license amendment request.

### **5.3 Conclusion**

Based on the considerations discussed above, (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the NRC's regulations, and (3) the issuance of the amendments will not be inimical to the common defense and security or to the health and safety

of the public. I&M concludes that the proposed amendments present no significant hazards consideration under the standards set forth in 10 CFR 50.92(c) and, accordingly, a finding of "no significant hazards consideration" is justified.

## **6.0 ENVIRONMENTAL CONSIDERATION**

I&M has evaluated this LAR against the criteria for identification of licensing and regulatory actions requiring environmental assessment in accordance with 10 CFR 51.21.

I&M has determined that this LAR meets the criteria for a categorical exclusion set forth in 10 CFR 51.22(c)(10)(ii). This determination is based on the fact that this change is being proposed as an amendment to a license issued pursuant to 10 CFR Part 50 that changes a requirement with respect to issuance of an amendment to a permit or license issued under this chapter which changes recordkeeping, reporting, or administrative procedures or requirements.

Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the proposed amendments.

## **7.0 REFERENCES**

1. Letter, E. E. Fitzpatrick, Indiana Michigan Power Company (I&M), to U. S. Nuclear Regulatory Commission (NRC), ATTN Document Control Desk, Donald C. Cook Nuclear Plant Units 1 and 2, Request for Exemption From 10 CFR 50.71(e), Regulatory Burden Reduction, 10 CFR 50.12, dated August 5, 1997.
2. Letter, John B. Hickman, USNRC to Mr. E. E. Fitzpatrick, I&M, Donald C. Cook Nuclear Plant Units 1 and 2 – Exemption to 10 CFR 50.71(e), dated March 3, 1998.
3. Letter, John G. Lamb, USNRC to Mr. M. K. Nazar, I&M – Donald C. Cook Nuclear Plant, Units 1 and 2 – Issuance of Amendments Re: Increasing Flexibility in Mode Restraints, dated June 25, 2004.
4. NRC NUREG-1431 Vol 1, Standard Technical Specifications Westinghouse Plants Rev. 2, June 2001.

**Enclosure 3 to AEP-NRC-2020-14**

**Donald C. Cook Nuclear Plant Units 1 and 2 Technical Specification Pages  
Marked To Show Proposed Changes**

## 5.5 Programs and Manuals

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### 5.5.11 Diesel Fuel Oil Testing Program (continued)

2. A flash point within limits and, if the gravity was not determined by comparison with the supplier's certification, a kinematic or saybolt viscosity within limits; and
  3. A clear and bright appearance with proper color;
- b. Within 31 days following addition of the new fuel oil to storage tanks, verify that the properties of the new fuel oil, other than those addressed in Specification 5.5.11.a above, are within limits; and
  - c. Total particulate concentration of the fuel oil is  $\leq 10$  mg/l when tested every 31 days in accordance with ASTM D-2276, Method A.

The provisions of SR 3.0.2 and SR 3.0.3 are applicable to the Diesel Fuel Oil Testing Program test Frequencies.

### 5.5.12 Technical Specifications (TS) Bases Control Program

This program provides a means for processing changes to the Bases of these Technical Specifications.

- a. Changes to the Bases of the TS shall be made under appropriate administrative controls and reviews.
- b. Licensees may make changes to Bases without prior NRC approval provided the changes do not require either of the following:
  1. A change in the TS incorporated in the license; or
  2. A change to the updated FSAR or Bases that requires NRC approval pursuant to 10 CFR 50.59.
- c. The Bases Control Program shall contain provisions to ensure that the Bases are maintained consistent with the UFSAR.
- d. Proposed changes that meet the criteria of Specification 5.5.12.b above shall be reviewed and approved by the NRC prior to implementation. Changes to the Bases implemented without prior NRC approval shall be provided to the NRC on a frequency consistent with ~~10 CFR 50.71(e)~~.

required UFSAR updates submitted pursuant to 10 CFR 50.71



5.5 Programs and Manuals

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5.5.11 Diesel Fuel Oil Testing Program (continued)

2. A flash point within limits and, if the gravity was not determined by comparison with the supplier's certification, a kinematic or saybolt viscosity within limits; and
3. A clear and bright appearance with proper color;
- b. Within 31 days following addition of the new fuel oil to storage tanks, verify that the properties of the new fuel oil, other than those addressed in Specification 5.5.11.a above, are within limits; and
- c. Total particulate concentration of the fuel oil is  $\leq 10$  mg/l when tested every 31 days in accordance with ASTM D-2276, Method A.

The provisions of SR 3.0.2 and SR 3.0.3 are applicable to the Diesel Fuel Oil Testing Program test Frequencies.

5.5.12 Technical Specifications (TS) Bases Control Program

This program provides a means for processing changes to the Bases of these Technical Specifications.

- a. Changes to the Bases of the TS shall be made under appropriate administrative controls and reviews.
- b. Licensees may make changes to Bases without prior NRC approval provided the changes do not require either of the following:
  1. A change in the TS incorporated in the license; or
  2. A change to the updated FSAR or Bases that requires NRC approval pursuant to 10 CFR 50.59.
- c. The Bases Control Program shall contain provisions to ensure that the Bases are maintained consistent with the UFSAR.
- d. Proposed changes that meet the criteria of Specification 5.5.12.b above shall be reviewed and approved by the NRC prior to implementation. Changes to the Bases implemented without prior NRC approval shall be provided to the NRC on a frequency consistent with ~~10 CFR 50.71(e)~~.

required UFSAR updates submitted pursuant to 10 CFR 50.71



**Enclosure 4 to AEP-NRC-2020-14**

**Request for Exemption from the Reporting Schedule Established by the Reference to  
10 CFR 50.71(e) in 10 CFR 54.37**

**10 CFR 54.37 SPECIFIC EXEMPTION REQUEST**

In accordance with 10 CFR 50.12(a)(1), Indiana Michigan Power Company (I&M), licensee for Donald C. Cook Nuclear Plant (CNP) Units 1 and 2, is requesting U.S. Nuclear Regulatory Commission (NRC) approval of a permanent schedular exemption from the report update frequency and schedule requirements of 10 CFR 54.37, specifically with regards to its reference to 10 CFR 50.71(e).

I&M requests that the required 10 CFR 54.37 report update frequency and schedule be allowed to align with the I&M CNP Updated Final Safety Analysis Report (UFSAR) update frequency and schedule. I&M UFSAR updates have been exempted from the frequency and schedule requirements of 10 CFR 50.71(e). As requested in Reference 1, and approved in Reference 2, I&M provides UFSAR updates within six months of the end of each Unit 1 refueling outage, at an interval not to exceed twenty-four months.

I&M is requesting this exemption for CNP Units 1 and 2. I&M requests approval of this exemption by December 31, 2020.

**BASIS FOR EXEMPTION REQUEST**

10 CFR 50.12(a)(1) stipulates that the NRC may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of 10 CFR Part 50 which are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security.

The reference within 10 CFR 54.37(b) to "the FSAR update required by 10 CFR 50.71(e)" can be interpreted to include the reporting frequency and schedule requirements prescribed within 10 CFR 50.71(e)(4) which states, "Subsequent revisions must be filed annually or 6 months after each refueling outage provided the interval between successive updates does not exceed 24 months."

As written, 10 CFR 54.37 and 10 CFR 50.71(e)(4) require that updated information related to newly identified systems, structures, and components at each separately licensed nuclear unit, that are subject to an aging management review or evaluation of time-limited aging analyses in accordance with 10 CFR 54.21, be included as part of an FSAR update for that nuclear unit, provided in accordance with 10 CFR 50.71(e), including the frequency and schedule requirements therein.

However, I&M maintains a single UFSAR for both Units 1 and 2, and I&M FSAR updates have been exempted from the frequency and schedule requirements of 10 CFR 50.71(e). As requested in Reference 1, and approved in Reference 2, I&M provides one UFSAR update within six months of the end of each unit 1 refueling outage, at an interval not to exceed twenty-four months to meet the 10 CFR 50.71(e) reporting requirements for both nuclear units.

In the Summary and Analysis of Public Comments accompanying the 10 CFR 50.71(e)(4) rule change (57 FR 39355), the NRC indicated that the final rule did not address multiple-unit facilities sharing a common UFSAR. However, one commenter suggested that a licensee of a multiple-unit facility should designate the refueling schedule of one of the units to establish the schedule for revision of the common UFSAR. In response to that comment, the NRC

stated that for "multiple facilities sharing a common FSAR, licensees will have maximum flexibility for scheduling updates on a case-by-case basis." This flexibility was authorized for CNP UFSAR updates in Reference 2, however that flexibility was not, at that time, extended to other regulatory reporting requirements specifically linked to the 10 CFR 50.71(e) reporting frequency and schedule requirements.

10 CFR 54.15, Specific Exemptions, states, "Exemptions from the requirements of this part may be granted by the Commission in accordance with 10 CFR 50.12."

10 CFR 50.12, Specific Exemptions, authorizes the commission, upon application by any interested person, to grant exemptions from the requirements of the regulations when special circumstances are present. I&M holds that special circumstances are present for CNP.

10 CFR 50.12(a)(2) states, in part:

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-

(2) The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever-

(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.

In summary, approving this exemption would allow I&M to align required 10 CFR 54.37 report updates to the NRC with the I&M UFSAR update schedule and frequency previously requested in Reference 1, and approved in Reference 2 - within six months of the end of each Unit 1 refueling outage, at an interval not to exceed twenty-four months.

### **SPECIAL CIRCUMSTANCES**

According to 10 CFR 50.12(a)(2)(ii), special circumstances exist when application of the regulation in the particular circumstances would not serve the underlying purpose of the rule.

I&M maintains that, in this instance, an exemption from the regulatory requirements of 10 CFR 54.37, based upon the presence of special circumstances, is warranted. Compliance with previously identified 10 CFR 54.37 reporting requirements, in the case of CNP, with one UFSAR shared by two units, updated at a frequency and schedule approved in Reference 2, creates an unintended disconnect between the report updates required by 10 CFR 54.37 and periodic reporting of changes made to the UFSAR for CNP Units 1 and 2. Ergo, compliance does not serve the underlying purpose of linking 10 CFR 54.37 report update requirements to 10 CFR 50.71(e).

Therefore, special circumstances are present.

This exemption would be consistent with the original underlying intent of the interrelated regulations – reestablishing common frequency and schedule requirements for the reporting prescribed by 10 CFR 54.37 and UFSAR updates prescribed by 10 CFR 50.71(e). Therefore, this exemption request qualifies under 10 CFR 50.12(a)(2)(ii).

**JUSTIFICATION FOR THE EXEMPTION**

In accordance with 10 CFR 50.12(a)(1), the NRC may grant exemptions from certain requirements of the 10 CFR 50 regulations that are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security.

**This exemption request is authorized by law:**

In accordance with 10 CFR 50.12, the NRC may grant an exemption from the requirements of 10 CFR 50, if the exemption is authorized by law. The proposed exemption is authorized by law in that no other prohibition of law exists to preclude the activities which would be authorized by the exemption. Rather, the proposed exemption will serve the underlying purpose of the regulation. The underlying purpose of the rule is to ensure that licensees periodically file timely revisions of their UFSARs, which include changes required pursuant to 10 CFR 54.37, to the NRC. As required by 10 CFR 50.71(e), UFSAR updates, which include changes required pursuant to 10 CFR 54.37, shall be submitted within six months of the end of each Unit 1 refueling outage, at an interval not to exceed twenty-four months. That is, timely reports will be provided to the NRC.

Therefore, this exemption request is authorized by law.

**This exemption request will not present an undue risk to the public health and safety:**

The UFSAR is used by the NRC in its regulatory oversight of a nuclear power plant, including its use as a reference for evaluating license amendment requests and in the preparation for and conduct of inspection activities. For licensees, portions of the UFSAR are used as a reference in evaluating changes to the facility and procedures under the 10 CFR 50.59 change process. The UFSAR also serves to provide the general public a description of the plant and its operation.

The proposed exemption will not alter the manner in which changes to UFSAR are evaluated in that changes to the UFSAR will continue to be reviewed through the existing applicable administrative and programmatic control processes to ensure that UFSAR changes are properly evaluated and implemented – including changes necessary to reflect 10 CFR 54.37 requirements. The methods and procedures used to evaluate changes to the UFSAR are not changed or modified. 10 CFR 50.71(e)(4) requires licensees to file their UFSARs periodically to assure that the NRC has the latest material developed. In that regulation, the NRC has indicated that an update frequency not exceeding 24 months between successive revisions is acceptable for periodic submissions of the UFSAR. The proposed exemption provides an equivalent level of protection to the existing requirements.

Therefore, this exemption request will not present an undue risk to the public health and safety.

**This exemption request is consistent with the common defense and security:**

This exemption requests NRC approval to permit periodic submittal of 10 CFR 54.37 report updates as part of required CNP UFSAR updates within six months of the end of each Unit 1 refueling outage, at an interval not to exceed twenty-four months in lieu of the frequency and schedule requirements of 10 CFR 50.71(e)(4). Therefore, the regulatory requirement that

10 CFR 54.37 required information be included in FSAR updates consistent with the frequency and schedule requirements in 10 CFR 50.71(e)(4) will not occur. However, the proposed exemption provides an equivalent level of protection to the existing regulation and should be considered acceptable.

Therefore, the common defense and security are not affected by this exemption request.

## **ENVIRONMENTAL ASSESSMENT**

I&M has determined that the requested exemption meets the categorical exclusion provision in 10 CFR 51.22(c)(25). Under 10 CFR 51.22(c)(25), the granting of an exemption from the requirements of any regulation in 10 CFR Chapter 1 (which includes 10 CFR 54.37) is an action that is a categorical exclusion provided that the necessary criteria for a categorical exclusion are met. I&M's determination that all of the criteria for this categorical exclusion are met is as follows:

10 CFR 51.22(c)(25)(i): There is no significant hazards consideration.

Analysis: The criteria for determining whether an action involves a significant hazards consideration are found in 10 CFR 50.92. The proposed action involves only a frequency and schedule change regarding the submission of revisions to the UFSAR. It does not affect the content of required UFSAR updates. Updates will still be required to include the content prescribed in 10 CFR 54.37. Neither does it adversely affect plant equipment, operation, or procedures. Therefore, there are no significant hazard considerations because granting the exemption would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

10 CFR 51.22(c)(25)(ii): There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite.

Analysis: The proposed action involves only a report update frequency and schedule change, which is administrative in nature, and does not involve any changes in the types or significant increase in the amounts of any effluents that may be released offsite.

10 CFR 51.22(c)(25)(iii): There is no significant increase in individual or cumulative public or occupational radiation exposure.

Analysis: Because the proposed action involves only a report update frequency and schedule change, which is administrative in nature, it does not contribute to any significant increase in occupational or public radiation exposure.

10 CFR 51.22(c)(25)(iv): There is no significant construction impact.

Analysis: Because the proposed action involves only a report update frequency and schedule change, which is administrative in nature, it does not involve any construction impact.

10 CFR 51.22(c)(25)(v): There is no significant increase in the potential for or consequences from radiological accidents.

**Analysis:** The proposed action involves only a report update frequency and schedule change, which is administrative in nature and does not impact the potential for or consequences from accidents.

10 CFR 51.22(c)(25)(vi)(G): The requirements from which the exemption is sought involve only scheduling requirements.

**Analysis:** The proposed action involves only schedular requirements of an administrative, managerial, or organizational nature because it is associated with the report submittal schedule requirements contained in 10 CFR 54.37 (via its reference to 10 CFR 50.71(e)) which requires that revisions to the UFSAR, reflecting 10 CFR 54.37 required changes, be filed annually or six months after each refueling outage provided the interval between successive updates does not exceed 24 months.

Based on the above, I&M concludes that the proposed exemption meets the eligibility criteria for the categorical exclusion set forth in 10 CFR 51.22(c)(25). Therefore, in accordance with 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with this exemption request.

#### **PRECEDENT**

The NRC has previously granted numerous exemptions for multi-unit sites allowing submittal of a common UFSAR six months after a selected unit's refueling outage, including Joseph M. Farley Nuclear Plant (FNP) (ADAMS Accession No. ML013130216), Vogtle Electric Generating Plant (VEGP) (ADAMS Accession No. ML012410088), and CNP Units 1 and 2 (Reference 2). These exemptions allow the common UFSARs for FNP, VEGP, and CNP Units 1 and 2 to be submitted on average every 18 months due to their 18-month fuel cycles.

#### **CONCLUSION**

I&M considers that submitting required 10 CFR 54.37 report updates for CNP Units 1 and 2, as changes within an updated UFSAR within six months of the end of each Unit 1 refueling outage, at an interval not to exceed twenty-four months, is an acceptable method for satisfying the combined intent of 10 CFR 54.37 and CFR 50.71(e)(4). As demonstrated above, I&M considers that the requested exemption complies with the criteria in 10 CFR 50.12. Specifically, the requested exemption is allowed by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Additionally, special circumstances exist in that application of the existing requirements do not serve the underlying purpose of 10 CFR 54.37. There are no adverse environmental impacts associated with this request for exemption.

**REFERENCES**

1. Letter, E. E. Fitzpatrick, Indiana Michigan Power Company, to U. S. Nuclear Regulatory Commission, ATTN Document Control Desk, Donald C. Cook Nuclear Plant Units 1 and 2, Request for Exemption From 10 CFR 50.71(e), Regulatory Burden Reduction, 10 CFR 50.12, dated August 5, 1997.
2. Letter, John B. Hickman, USNRC to Mr. E. E. Fitzpatrick, Indiana Michigan Power Company, Donald C. Cook Nuclear Plant Units 1 and 2 – Exemption to 10 CFR 50.71(e), dated March 3, 1998.

**Enclosure 5 to AEP-NRC-2020-14**

**Request for Exemption from the Reporting Schedule Established by the Reference to  
10 CFR 50.71(e) in 10 CFR 50.54(a)(3)**

**10 CFR 50.54 SPECIFIC EXEMPTION REQUEST**

In accordance with 10 CFR 50.12(a)(1), Indiana Michigan Power Company (I&M), licensee for Donald C. Cook Nuclear Plant (CNP) Units 1 and 2, is requesting U.S. Nuclear Regulatory Commission (NRC) approval of a permanent scheduler exemption from the report update frequency and schedule requirements of 10 CFR 50.54(a)(3), specifically with regards to its reference to 10 CFR 50.71(e).

I&M requests that the required 10 CFR 50.54(a)(3) report frequency and schedule be allowed to align with the I&M CNP Updated Final Safety Analysis Report (UFSAR) update frequency and schedule. I&M UFSAR updates have been exempted from the frequency and schedule requirements of 10 CFR 50.71(e). As requested in Reference 1, and approved in Reference 2, I&M provides UFSAR updates within six months of the end of each Unit 1 refueling outage, at an interval not to exceed twenty-four months.

I&M is requesting this exemption for CNP Units 1 and 2. I&M requests approval of this exemption by December 31, 2020.

**BASIS FOR EXEMPTION REQUEST**

10 CFR 50.12(a)(1) stipulates that the NRC may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of 10 CFR 50 which are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security.

The reference within 10 CFR 50.54(a)(3) to "the requirements of Sec. 50.71(e)" can be interpreted to include the reporting frequency and schedule requirements prescribed within 10 CFR 50.71(e)(4) which states, "Subsequent revisions must be filed annually or 6 months after each refueling outage provided the interval between successive updates does not exceed 24 months."

As written, 10 CFR 50.54(a)(3) and 10 CFR 50.71(e)(4) require changes to the quality assurance program description that do not reduce the commitments to be submitted to the NRC in accordance with the requirements of Sec. 50.71(e), including the frequency and schedule requirements therein.

However, I&M maintains a single UFSAR for both Units 1 and 2, and I&M FSAR updates have been exempted from the frequency and schedule requirements of 10 CFR 50.71(e). As requested in Reference 1, and approved in Reference 2, I&M provides one UFSAR update within six months of the end of each unit 1 refueling outage, at an interval not to exceed twenty-four months to meet the 10 CFR 50.71(e) reporting requirements for both nuclear units.

In the Summary and Analysis of Public Comments accompanying the 10 CFR 50.71(e)(4) rule change (57 FR 39355), the NRC indicated that the final rule did not address multiple-unit facilities sharing a common UFSAR. However, one commenter suggested that a licensee of a multiple-unit facility should designate the refueling schedule of one of the units to establish the schedule for revision of the common UFSAR. In response to that comment, the NRC stated that for "multiple facilities sharing a common FSAR, licensees will have maximum flexibility for scheduling updates on a case-by-case basis." This flexibility was authorized for CNP UFSAR updates in Reference 2, however that flexibility was not, at that time, extended to other regulatory reporting requirements specifically linked to the 10 CFR 50.71(e) reporting frequency and schedule requirements.

10 CFR 50.12, Specific Exemptions, authorizes the commission, upon application by any interested person, to grant exemptions from the requirements of the regulations when special circumstances are present. I&M holds that special circumstances are present for CNP.

10 CFR 50.12(a)(2) states, in part:

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 –

(2) The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever–

(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.

In summary, approving this exemption would allow I&M to align required 10 CFR 50.54(a)(3) reports to the NRC with the I&M UFSAR update schedule and frequency previously requested in Reference 1, and approved in Reference 2 - within six months of the end of each Unit 1 refueling outage, at an interval not to exceed twenty-four months.

#### **SPECIAL CIRCUMSTANCES**

According to 10 CFR 50.12(a)(2)(ii), special circumstances exist when application of the regulation in the particular circumstances would not serve the underlying purpose of the rule.

I&M maintains that, in this instance, an exemption from the regulatory requirements of 10 CFR 50.54(a)(3), based upon the presence of special circumstances, is warranted. Compliance with previously identified 10 CFR 50.54(a)(3) reporting requirements, in the case of CNP, with one UFSAR shared by two units, updated at a frequency and schedule approved in Reference 2, creates an unintended disconnect between the reports required by 10 CFR 50.54(a)(3) and periodic reporting of changes made to the UFSAR for CNP Units 1 and 2. Ergo, compliance does not serve the underlying purpose of linking 10 CFR 50.54(a)(3) reporting requirements to 10 CFR 50.71(e).

Therefore, special circumstances are present.

This exemption would be consistent with the original underlying intent of the interrelated regulations – reestablishing common frequency and schedule requirements for the reporting prescribed by 10 CFR 50.54(a)(3) and UFSAR updates prescribed by 10 CFR 50.71(e). Therefore, this exemption request qualifies under 10 CFR 50.12(a)(2)(ii).

#### **JUSTIFICATION FOR THE EXEMPTION**

In accordance with 10 CFR 50.12(a)(1), the NRC may grant exemptions from certain requirements of the 10 CFR 50 regulations that are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security.

This exemption request is authorized by law:

In accordance with 10 CFR 50.12, the NRC may grant an exemption from the requirements of 10 CFR 50, if the exemption is authorized by law. The proposed exemption is authorized by law in that no other prohibition of law exists to preclude the activities which would be authorized by the exemption. Rather, the proposed exemption will serve the underlying purpose of the regulation. The underlying purpose of the rule is to ensure that licensees periodically file timely revisions of their UFSARs, coincident with reports required pursuant to 10 CFR 50.54(a)(3), to the NRC. Upon approval of the exemption, CNP UFSAR updates required pursuant to 10 CFR 50.71(e), and reports required pursuant to 10 CFR 50.54(a)(3), will be submitted within six months of the end of each Unit 1 refueling outage, at an interval not to exceed twenty-four months. That is, timely reports will be provided to the NRC.

Therefore, this exemption request is authorized by law.

This exemption request will not present an undue risk to the public health and safety:

The proposed exemption will not alter the manner in which changes to CNP the Quality Assurance Program Description (QAPD) are evaluated in that changes to the QAPD will continue to be reviewed through the existing applicable administrative and programmatic control processes to ensure that changes are properly evaluated, implemented, and reported pursuant to 10 CFR 50.54(a) requirements. The methods and procedures used to evaluate changes to the QAPD are not changed or modified. 10 CFR 50.71(e)(4), as referenced in 10 CFR 50.54(a)(3), requires changes to the quality assurance program description that do not reduce the commitments to be submitted periodically to assure that the NRC has the updated information necessary to oversee the licensee's 10 CFR 50 Appendix B program. In that by referencing 10 CFR 50.71(e) in 10 CFR 50.54(a)(3), the NRC has indicated that an update frequency not exceeding 24 months between successive reports is acceptable for periodic submissions. The proposed exemption provides an equivalent level of protection to the existing requirements.

Therefore, this exemption request will not present an undue risk to the public health and safety.

This exemption request is consistent with the common defense and security:

This exemption requests NRC approval to permit periodic submittal of 10 CFR 50.54(a)(3) reports at a frequency and schedule consistent with that required for CNP UFSAR updates, within six months of the end of each Unit 1 refueling outage, at an interval not to exceed twenty-four months in lieu of the frequency and schedule requirements of 10 CFR 50.71(e)(4). Therefore, the regulatory requirement that a 10 CFR 50.54(a)(3) report describing changes to the quality assurance program description that do not reduce the commitments to be submitted consistent with the frequency and schedule requirements in 10 CFR 50.71(e)(4) will not occur. However, the proposed exemption provides an equivalent level of protection to the existing regulation and should be considered acceptable.

Therefore, the common defense and security are not affected by this exemption request.

**ENVIRONMENTAL ASSESSMENT**

I&M has determined that the requested exemption meets the categorical exclusion provision in 10 CFR 51.22(c)(25). Under 10 CFR 51.22(c)(25), the granting of an exemption from the requirements of any regulation in 10 CFR Chapter I (which includes 10 CFR 50.54(a)(3)) is an action that is a categorical exclusion provided that the necessary criteria for a categorical exclusion are met. I&M's determination that all of the necessary criteria for this categorical exclusion are met is as follows:

10 CFR 51.22(c)(25)(i): There is no significant hazards consideration.

Analysis: The criteria for determining whether an action involves a significant hazards consideration are found in 10 CFR 50.92. The proposed action involves only a frequency and schedule change regarding the submission of revisions to the 10 CFR 50.54(a)(3) report describing changes to the QAPD that do not reduce the commitments. It does not affect the content of required QAPD. Periodic reports of changes to the QAPD that do not reduce the commitments will still be required. The exemption does not adversely affect plant equipment, operation, or procedures. Therefore, there are no significant hazard considerations because granting the exemption would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

10 CFR 51.22(c)(25)(ii): There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite.

Analysis: The proposed action involves only a reporting frequency and schedule change, which is administrative in nature, and does not involve any changes in the types or significant increase in the amounts of any effluents that may be released offsite.

10 CFR 51.22(c)(25)(iii): There is no significant increase in individual or cumulative public or occupational radiation exposure.

Analysis: Because the proposed action involves only a reporting frequency and schedule change, which is administrative in nature, it does not contribute to any significant increase in occupational or public radiation exposure.

10 CFR 51.22(c)(25)(iv): There is no significant construction impact.

Analysis: Because the proposed action involves only a reporting frequency and schedule change, which is administrative in nature, it does not involve any construction impact.

10 CFR 51.22(c)(25)(v): There is no significant increase in the potential for or consequences from radiological accidents.

Analysis: The proposed action involves only a reporting frequency and schedule change, which is administrative in nature and does not impact the potential for or consequences from accidents.

10 CFR 51.22(c)(25)(vi)(G): The requirements from which the exemption is sought involve only scheduling requirements.

**Analysis:** The proposed action involves only schedular requirements of an administrative, managerial, or organizational nature because it is associated with the report submittal schedule requirements contained in 10 CFR 50.54(a)(3) (via its reference to 10 CFR 50.71(e)) which requires that changes to the quality assurance program description that do not reduce the commitments be filed annually or six months after each refueling outage provided the interval between successive updates does not exceed 24 months.

Based on the above, I&M concludes that the proposed exemption meets the eligibility criteria for the categorical exclusion set forth in 10 CFR 51.22(c)(25). Therefore, in accordance with 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with this exemption request.

### **PRECEDENT**

The NRC has previously granted numerous exemptions for multi-unit sites allowing submittal of a common UFSAR six months after a selected unit's refueling outage, including Joseph M. Farley Nuclear Plant (FNP) (ADAMS Accession No. ML013130216), Vogtle Electric Generating Plant (VEGP) (ADAMS Accession No. ML012410088), and CNP Units 1 and 2 (Reference 2). These exemptions allow the common UFSARs for FNP, VEGP, and CNP Units 1 and 2 to generally be submitted every 18 months due to their 18-month fuel cycles.

### **CONCLUSION**

I&M considers that submitting required 10 CFR 50.54(a)(3) reports, for changes to the QAPD that do not reduce the commitments, within six months of the end of each Unit 1 refueling outage, at an interval not to exceed twenty-four months, is an acceptable method for satisfying the combined intent of 10 CFR 50.54(a)(3) and CFR 50.71(e)(4). As demonstrated above, I&M considers that the requested exemption complies with the criteria in 10 CFR 50.12. Specifically, the requested exemption is allowed by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Additionally, special circumstances exist in that application of the requirements do not serve the underlying purpose of 10 CFR 50.54(a)(3). There are no adverse environmental impacts associated with this request for exemption.

### **REFERENCES**

1. Letter, E. E. Fitzpatrick, Indiana Michigan Power Company, to U. S. Nuclear Regulatory Commission, ATTN Document Control Desk, Donald C. Cook Nuclear Plant Units 1 and 2, Request for Exemption From 10 CFR 50.71(e), Regulatory Burden Reduction, 10 CFR 50.12, dated August 5, 1997.
2. Letter, John B. Hickman, USNRC to Mr. E. E. Fitzpatrick, Indiana Michigan Power Company, Donald C. Cook Nuclear Plant Units 1 and 2 – Exemption to 10 CFR 50.71(e), dated March 3, 1998.