

exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852-2738, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <http://ehd1.nrc.gov/ehd/>, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 20 days from the date of publication of this notice. Filings submitted after that date will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)-(iii).

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a

hearing will be published in the **Federal Register** and served on the parties to the hearing.

For further details with respect to this license transfer application, see the application dated March 1, 2012, available for public inspection at the NRC's PDR, Room O1-F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852-2738. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. The accession number for the application is ML12072A091. The application is also available at <http://www.nrc.gov/reactors/new-licensing/col.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR Reference staff by telephone at 1-800-397-4209, or 301-415-4737 or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

Dated at Rockville, Maryland, this 31st day of August 2012.

For the Nuclear Regulatory Commission.

**Amy M. Snyder,**

*Acting Chief, Projects Licensing Branch 2,  
Division of New Reactor Licensing, Office of  
New Reactors.*

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## **NUCLEAR REGULATORY COMMISSION**

**[NRC-2012-0199; Docket No. 50-316]**

### **Indiana Michigan Power Company; Donald C. Cook Nuclear Plant, Unit 2; Exemption**

#### **1.0 Background**

Indian Michigan Power Company (the licensee) is the holder of Renewed Facility Operating License No. DPR-74, which authorizes operation of the Donald C. Cook Nuclear Plant, Unit 2 (CNP-2). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, or the Commission) now or hereafter in effect.

The facility consists of a pressurized-water reactor located in Berrien County in Michigan.

#### **2.0 Request/Action**

Pursuant to Title 10 of the Code of Federal Regulations (10 CFR), Section 50.12, "Specific exemptions," the licensee has, by letter dated September 29, 2011 (Agencywide Documents Access and Management System (ADAMS) Accession No.

ML1286A198), requested an exemption from 10 CFR 50.46, "Acceptance criteria for emergency core cooling systems for light-water nuclear power reactors," and Appendix K to 10 CFR 50, "ECCS Evaluation Models." The regulations in 10 CFR 50.46 contain acceptance criteria for the emergency core cooling system (ECCS) for reactors fueled with zircaloy or ZIRLO™ cladding. In addition, Appendix K to 10 CFR part 50 requires that the Baker-Just equation be used to predict the rates of energy release, hydrogen concentration, and cladding oxidation from the metal/water reaction. The Baker-Just equation assumes the use of a zirconium alloy, which is a material different from Optimized ZIRLO™. The licensee's requested exemption relates solely to the specific types of cladding material specified in these regulations. As written, the regulations presume the use of zircaloy or ZIRLO™ fuel rod cladding. Thus, an exemption from the requirements of 10 CFR 50.46 and Appendix K is needed to support the use of a different fuel rod cladding material. Accordingly, the licensee requested an exemption that would allow the use of Optimized ZIRLO™ fuel rod cladding at CNP-2.

### **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. Under 10 CFR 50.12(a)(2), special circumstances include, among other things, when application of the specific regulation in the particular circumstance would not serve, or is not necessary to achieve, the underlying purpose of the rule.

#### *Authorized by Law*

This exemption would allow the use of Optimized ZIRLO™ fuel rod cladding material at CNP-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 10 CFR 50.46 is to establish acceptance criteria for adequate ECCS performance. As previously documented in the NRC staff's review of topical reports submitted by Westinghouse Electric Company, LLC (Westinghouse), and subject to compliance with the specific conditions of approval established therein, the NRC staff finds that the applicability of these ECCS acceptance criteria to Optimized ZIRLO™ has been demonstrated by Westinghouse. Ring compression tests performed by Westinghouse on Optimized ZIRLO™ proved topical report WCAP-12610-P-A & CENPD-404-P-A, Addendum 1-A, "Optimized ZIRLO™," July 2006, ADAMS Accession No. ML062080576; the public version is WCAP-14342-A & CENPD-404-NP-A at ADAMS Accession No. ML062080569) demonstrate an acceptable retention of post-quench ductility up to 10 CFR 50.46 limits of 2,200 °F and 17 percent equivalent clad reacted (ECR). Furthermore, the NRC staff has concluded that oxidation measurements previously provided by Westinghouse ("SER Compliance with WCAP-12610-P-A & CENPD-404-P-A Addendum 1-A 'Optimized ZIRLO™,'" November 2007, non-public version at ADAMS Accession No. ML073130562, public version at ADAMS Accession No. ML073130560) illustrate that oxide thickness (and associated hydrogen pickup) for Optimized ZIRLO™ at any given burnup would be less than both zircaloy-4 and ZIRLO™. Hence, the NRC staff concludes that Optimized ZIRLO™ would be expected to maintain better post-quench ductility than ZIRLO™. This finding is further supported by an ongoing loss-of-coolant accident (LOCA) research program at Argonne National Laboratory, which has identified a strong correlation between cladding hydrogen content (due to in-service corrosion) and post-quench ductility.

In addition, the provisions of 10 CFR 50.46 require the licensee to periodically evaluate the performance of the emergency core cooling system (ECCS), using currently approved LOCA models and methods, to ensure that the fuel rods will continue to satisfy 10 CFR 50.46 acceptance criteria. Granting the exemption to allow the licensee to use Optimized ZIRLO™ fuel rods in addition to the current mix of fuel rods does not diminish this requirement of periodic evaluation of ECCS performance. Thus, the underlying purpose of the rule will continue to be

achieved for Donald C. Cook Nuclear Plant, Unit 2.

Paragraph I.A.5 of Appendix K to 10 CFR part 50 states that the rates of energy release, hydrogen concentration, and cladding oxidation from the metal-water reaction shall be calculated using the Baker-Just equation. Since the Baker-Just equation presumes the use of zircaloy clad fuel, strict application of this provision of the rule would not permit use of the equation for Optimized ZIRLO™ cladding for determining acceptable fuel performance. However, the NRC staff previously found that metal-water reaction tests performed by Westinghouse on Optimized ZIRLO™ (see Appendix B of WCAP-12610-P-A & CENPD-404-P-A, Addendum 1-A) demonstrate conservative reaction rates relative to the Baker-Just equation. Thus, the NRC staff agrees that application of Appendix K, paragraph I.A.5 is not necessary to achieve the underlying purpose of the rule in these circumstances. Since these evaluations demonstrate that the underlying purpose of the rule will be met, there will be no undue risk to the public health and safety.

### *Consistent With Common Defense and Security*

The proposed exemption would allow the use of Optimized ZIRLO™ fuel rod cladding material at CNP-2. This change to the plant configuration 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)(ii), are present whenever application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. The underlying purpose of 10 CFR 50.46 and Appendix K to 10 CFR part 50 is to establish acceptance criteria for ECCS performance. The wording of the regulations in 10 CFR 50.46 and Appendix K is not directly applicable to Optimized ZIRLO™, even though the evaluations above show that the intent of the regulation is met. Therefore, since the underlying purposes of 10 CFR 50.46 and Appendix K are achieved through the use of Optimized ZIRLO™ fuel rod cladding material, the special circumstances required by 10 CFR 50.12(a)(2)(ii) for the granting of an exemption exist.

### **4.0 Conclusion**

Accordingly, the Commission has determined that, pursuant to 10 CFR

50.12, 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 the licensee an exemption from the requirements of 10 CFR 50.46 and Appendix K to 10 CFR Part 50, to allow the use of Optimized ZIRLO™ fuel rod cladding material at CNP-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 and has published an environmental assessment for this exemption on August 23, 2012 (77 FR 51071).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 23rd day of August, 2012.

For the Nuclear Regulatory Commission.

### **Michele Evans,**

*Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

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## **NUCLEAR REGULATORY COMMISSION**

[NRC-2012-0209]

### **Guidance on Performing a Seismic Margin Assessment**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft Japan Lessons-Learned Project Directorate guidance; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment the draft Japan Lessons-Learned Project Directorate Interim Staff Guidance (JLD-ISG), JLD-ISG-2012-04, "Guidance on Performing a Seismic Margin Assessment in response to the March 2012 Request for Information Letter." This draft JLD-ISG provides guidance on an acceptable method for licensees to carry out a Seismic Margins Analysis (SMA) method referred to in the seismic portion of a letter requiring recipients (licensees) to submit information under oath and affirmation to the NRC.

**DATES:** Comments must be filed no later than October 10, 2012. Comments received after this date will be considered, if it is practical to do so, but the NRC staff is able to ensure