

**NUCLEAR REGULATORY
COMMISSION****[Docket No. 40–8968–ML]****Notice of Appointment of Adjudicatory
Employees**

Commissioners: Dale E. Klein,
Chairman; Edward McGaffigan, Jr.;
Jeffrey S. Merrifield; Gregory B.
Jaczko; Peter B. Lyons.

In the Matter of Hydro Resources, Inc.
(P.O. Box 777, Crownpoint, NM
87313)

Pursuant to 10 CFR 2.4, notice is hereby given that Mr. Jon Peckinpaugh, Commission employee of the Office of Nuclear Material Safety and Safeguards, Division of Waste Management and Environmental Protection, and Mr. Bruce Watson, Commission employee of the Office of Federal and State Materials and Environmental Management Programs, Decommissioning and Uranium Recovery Licensing Directorate, have been appointed as Commission adjudicatory employees within the meaning of Section 2.4, to advise the Commission regarding issues related to the pending Commission review of LBP–06–19. Messrs. Peckinpaugh and Watson have not previously performed any investigative or litigating function in connection with this or any related proceeding. Until such time as a final decision is issued in this matter, interested persons outside the agency and agency employees performing investigative or litigating functions in this proceeding are required to observe the restrictions of 10 CFR 2.780 and 2.781¹ in their communications with Messrs. Peckinpaugh and Watson.

It is so ordered.

Dated at Rockville, Maryland this 1st day of November 2006.

For the Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. E6–18715 Filed 11–6–06; 8:45 am]

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**NUCLEAR REGULATORY
COMMISSION****[Docket No. 50–298]****Nebraska Public Power District,
Cooper Nuclear Station; Exemption****1.0 Background**

Nebraska Public Power District (NPPD or the licensee) are the holders of Facility Operating License No. DPR–46 which authorizes operation of the Cooper Nuclear Station (CNS). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a boiling-water reactor located in Nemaha County, Nebraska.

2.0 Request/Action

Title 10 of the *Code of Federal Regulations* (10 CFR), section 50.54(o), requires primary reactor containments for water-cooled power reactors to be subject to the requirements of Appendix J to 10 CFR part 50. Appendix J specifies the leakage test requirements, schedules, and acceptance criteria for tests of the leak-tight integrity of the primary reactor containment, and systems and components that penetrate the containment. Option B of Appendix J is titled, “Performance-Based Requirements.” Option B, Section III.A., “Type A Test,” requires, among other things, that the overall integrated leakage rate must not exceed the allowable leakage rate (La) with margin, as specified in the Technical Specifications (TSs). The overall integrated leak rate, is defined in 10 CFR part 50, Appendix J as “the total leakage rate through all tested leakage paths, including containment welds, valves, fittings, and components that penetrate the containment system.” This includes the contribution from MSIV leakage. The licensee has requested exemption from Option B, Section III.A requirements to permit exclusion of MSIV leakage from the overall integrated leak rate test measurement. Main steam leakage includes leakage through all four main steam lines and the main steam drain line.

Option B, Section III.B of 10 CFR part 50, Appendix J, “Type B and C Tests,” requires, among other things, that the sum of the leakage rates at accident pressure of Type B tests and pathway leakage rates from Type C tests be less than the performance criterion (La) with margin, as specified in the TSs. The licensee also requests exemption from this requirement, to permit exclusion of

the main steam pathway leakage contributions from the sum of the leakage rates from Type B and Type C tests.

The main steam leakage effluent has a different pathway to the environment, when compared to a typical containment penetration. It is not directed into the secondary containment and filtered through the standby gas treatment system as is other containment leakage. Instead, the main steam isolation valve (MSIV) leakage is directed through the main steam drain piping into the condenser and is released into the environment as an unfiltered ground level effluent.

In summary, the licensee analyzed the MSIV leakage pathway and the containment leakage pathways separately in a dose consequences analysis. The calculated radiological consequences of the combined leakage were found to be within the criteria of 10 CFR part 100 and General Design Criterion (GDC) 19. The NRC staff reviewed the licensee’s analyses and found them acceptable as described in a safety evaluation dated September 1, 2004. By separating the MSIV leakage acceptance criteria from the overall integrated leak rate test criterion, and from the Type B and C leakage sum limitation, the CNS containment leakage testing will be made more consistent with the limiting assumptions used in the associated accident consequences analyses.

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 and safety, and are consistent with the common defense and security, and (2) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR 50.12(a)(2):

(i) Application of the regulation in the particular circumstances conflicts with other rules or requirements of the Commission; or

(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; or

(iii) Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated; or

¹ These rule designations are from our former Part 2, which has been revised and renumbered. See “Changes to Adjudicatory Process,” 69 FR 2182 (Jan. 14, 2004). For cases such as this one, docketed prior to February 13, 2004, the previous procedural rules, including 10 CFR 2.780 and 2.781, continue to apply. Substantially equivalent rules now appear at 10 CFR 2.347 and 2.348.