

*Estimated Total Burden Hours:*  
119,497 hours.

*Estimated Cost (Operation and Maintenance):* \$0.

#### IV. Authority and Signature

R. Davis Layne, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No. 3-2000 (65 FR 50017).

Signed at Washington, DC on May 1st, 2001.

**R. Davis Layne,**

*Acting Assistant Secretary of Labor.*

[FR Doc. 01-11389 Filed 5-4-01; 8:45 am]

BILLING CODE 4510-26-M

## NUCLEAR REGULATORY COMMISSION

[50-305]

### Nuclear Management Company, LLC; Kewaunee Nuclear Power Plant; Exemption

#### 1.0 Background

Nuclear Management Company, LLC (the licensee) is the holder of Facility Operating License No. DPR-43, which authorizes operation of the Kewaunee Nuclear Power Plant (KNPP). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility consists of a pressurized water reactor located on the licensee's KNPP site in Kewaunee County, Wisconsin.

#### 2.0 Request

By letter dated June 7, 1999, as supplemented February 4, September 26, December 18, 2000, and March 12, 2001, Wisconsin Public Service Corporation (WPSC) proposed three exemptions and a license amendment which affect the licensing basis of the KNPP reactor pressure vessel (RPV). Subsequently, WPSC was succeeded by Nuclear Management Company, LLC (NMC), as the licensed operator of the KNPP. By letter dated October 5, 2000, NMC (the licensee) requested the Nuclear Regulatory Commission (NRC) staff continue to process and disposition licensing actions previously docketed and requested by WPSC. By letter dated December 18, 2000, the licensee withdrew the license amendment.

The three exemptions requested by the licensee address portions of the

following regulations: (1) Appendix G to 10 CFR Part 50, which sets forth fracture toughness requirements for ferritic materials of pressure-retaining components of the reactor coolant pressure boundary of light water nuclear power reactors to provide adequate margins of safety during any condition of normal operation, including anticipated operational occurrences and system hydrostatic tests, to which the pressure boundary may be subjected over its service lifetime; (2) 10 CFR 50.61, which sets forth fracture toughness requirements for protection against pressurized thermal shock (PTS) events; and (3) Appendix H to 10 CFR Part 50, which requires the establishment of a RPV material surveillance program.

The licensee requested an exemption from Appendix G to 10 CFR Part 50 to replace the required use of the existing Charpy V-notch and drop weight-based methodology and allow the use an alternate methodology to incorporate the use of fracture toughness test data for evaluating the integrity of the KNPP RPV circumferential beltline weld based on the use of the 1997 Edition of American Society for Testing and Materials (ASTM) Standard Test Method E 1921 (E 1921-97) and American Society for Mechanical Engineering (ASME) Code Case N-629. The exemption is required since Appendix G to 10 CFR Part 50, through reference to Appendix G to Section XI of the ASME Code pursuant to 10 CFR 50.55(a), requires the use of a methodology based on Charpy V-notch and drop weight data.

The licensee requested an exemption from 10 CFR 50.61 to use an alternate methodology to allow the use of fracture toughness test data for evaluating the integrity of the KNPP RPV circumferential beltline weld based on the use of the 1997 Edition of ASTM E 1921-97 and ASME Code Case N-629. The exemption is required since the methodology for evaluating RPV material fracture toughness in 10 CFR 50.61 requires the use of the Charpy V-notch and drop weight data for establishing the PTS reference temperature (RT<sub>PTS</sub>).

The licensee requested an exemption from Appendix H to 10 CFR Part 50 to modify the basis for the KNPP RPV surveillance program to allow the acquisition and use of fracture toughness data instead of the Charpy V-notch impact testing required by Appendix H to 10 CFR Part 50. The exemption is required since Appendix H to 10 CFR Part 50 does not address the testing of surveillance specimens for

direct measurement of fracture toughness.

#### 3.0 Discussion

10 CFR 50.12(a)(2)(ii) enables the Commission to grant exemptions from the requirements of Part 50 when special circumstances are present such that 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.

The underlying purpose of Appendix G to 10 CFR Part 50 is to set forth fracture toughness requirements for ferritic materials of pressure-retaining components of the reactor coolant pressure boundary of light water nuclear power reactors to provide adequate margins of safety during any condition of normal operation, including anticipated operational occurrences and system hydrostatic tests, to which the pressure boundary may be subjected over its service lifetime.

The methodology underlying the requirements of Appendix G to 10 CFR Part 50 is based on the use of Charpy V-notch and drop weight data. The licensee proposes to replace the use of the existing Charpy V-notch and drop weight-based methodology by a fracture toughness-based methodology to demonstrate compliance with Appendix G to 10 CFR Part 50. The NRC staff has concluded that the exemption is justified based on the licensee utilizing the fracture toughness methodology specified in Appendix A of the NRC staff safety evaluation (SE), dated May 1, 2001. The use of the methodology specified in Appendix A of the NRC staff SE will ensure that P-T limits developed for the KNPP RPV will continue to be based on an adequately conservative estimate of RPV material properties and ensure that the pressure-retaining components of the reactor coolant pressure boundary retain adequate margins of safety during any condition of normal operation, including anticipated operational occurrences. Also, when additional fracture toughness data relevant to the evaluation of the KNPP RPV circumferential weld is acquired as part of the KNPP surveillance program, this data must be incorporated into the evaluation of the KNPP RPV using the methodology of Appendix A of the NRC staff SE. With these conditions, which were agreed to by licensee letter, dated March 12, 2001, the licensee's requested exemption from the use of the Charpy V-notch and drop weight-based methodology required by Appendix G to 10 CFR Part 50 may be granted in accordance with 10 CFR 50.12(ii) in that

special circumstances are present since application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. The foregoing exemption only modifies the methodology to be used by the licensee for demonstrating compliance with the requirements of Appendix G to 10 CFR Part 50, and does not exempt the licensee from meeting any other requirement of Appendix G to 10 CFR Part 50.

The underlying purpose of 10 CFR 50.61 is to establish requirements which ensure that a licensee's RPV will be protected from failure during a PTS event by evaluating the fracture toughness of RPV materials.

The licensee seeks an exemption to 10 CFR 50.61 requirement to use a methodology for the "determination of adjusted/indexing reference temperatures." The licensee proposes to use ASME Code Case N-629 and the methodology outlined in its submittal, which are based on the use of fracture toughness data, as an alternative to the Charpy V-notch and drop weight-based methodology required by 10 CFR 50.61 for establishing the PTS RT<sub>PTS</sub>. The NRC staff has concluded that the exemption is justified based on the licensee utilizing the methodology specified in Appendix A of the NRC staff SE, dated May 1, 2001. The use of the methodology specified in Appendix A of the NRC staff SE will ensure the PTS evaluation developed for the KNPP RPV will continue to be based on an adequately conservative estimate of RPV material properties and ensure the RPV will be protected from failure during a PTS event. Also, when additional fracture toughness data relevant to the evaluation of the KNPP RPV circumferential weld is acquired as part of the KNPP surveillance program, this data must be incorporated into the evaluation of the KNPP RPV using the methodology of Appendix A of the NRC staff SE. With these conditions, which were as agreed to by licensee letter, dated March 12, 2001, the licensee's requested exemption from the use of the Charpy V-notch and drop weight-based methodology required by 10 CFR 50.61 may be granted in accordance with 10 CFR 50.12(ii) in that special circumstances are present since application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. The foregoing exemption only modifies the methodology to be used by the licensee for demonstrating compliance with the requirements of 10 CFR 50.61, and does

not exempt the licensee from meeting any other requirement of 10 CFR 50.61.

Appendix H to 10 CFR Part 50 requires that, "[f]or each capsule withdrawal, the test procedures and reporting requirements must meet the requirements of ASTM E 185-82 [the 1982 edition] to the extent practicable for the configuration of the specimens in the capsule." ASTM Standard Practice E 185-82 requires Charpy V-notch impact testing, but does not address the testing of surveillance specimens for direct measurement of fracture toughness, either as a requirement or as an optional action. The exemption would permit the licensee to utilize alternative surveillance program testing requirements and permit the acquisition of fracture toughness data for the surveillance weld as the basis for the KNPP RPV surveillance program.

The underlying purpose of Appendix H to 10 CFR Part 50 is to acquire data to, "\* \* \* monitor changes in the fracture toughness properties of ferritic materials in the reactor vessel beltline region of light water nuclear power reactors which result from exposure of these materials to neutron irradiation and the thermal environment." As discussed in the NRC staff SE, dated May 1, 2001, the licensee's alternate surveillance program requirements and the acquisition of data will adequately monitor the change in RPV fracture toughness and provide input to the approved fracture toughness-based methodology for RPV integrity. Therefore, the NRC staff concludes that this exemption may be granted because the special circumstances required by 10 CFR 50.12(a)(ii) are present in that application of the regulation [i.e., the Charpy V-Notch-based testing practices specified by Appendix H to 10 CFR Part 50] in the particular circumstances is not necessary to achieve the underlying purpose of the rule.

#### 4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemptions are authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Therefore, the Commission hereby grants Nuclear Management Company, LLC, exemptions from portions of the requirements of Appendix G to 10 CFR Part 50; 10 CFR 50.61; and, Appendix H to 10 CFR Part 50, to allow an alternative methodology that is based on using of fracture toughness test data for evaluating the integrity of the KNPP RPV circumferential beltline weld with the following conditions:

(1) The licensee must utilize the methodology specified in Appendix A of the NRC staff SE, dated May 1, 2001;

(2) When additional fracture toughness data relevant to the evaluation of the KNPP RPV circumferential weld is acquired as part of the KNPP surveillance program, this data must be incorporated into the evaluation of the KNPP RPV using the methodology of Appendix A of the NRC staff SE; and

(3) The licensee must obtain the following regarding the next surveillance capsule: (a) a valid measurement of the fracture toughness-based T<sub>0</sub> parameter for the KNPP RPV surveillance weld, (b) an estimate of the Charpy V-notch 30 ft-lb transition temperature shift for the surveillance weld, and (c) an estimate of the upper shelf energy drop for the surveillance weld.

Pursuant to 10 CFR 51.32, an environmental assessment and finding of no significant impact has been prepared and published in the **Federal Register** (66 FR 21787). Accordingly, based upon the environmental assessment, the Commission has determined that the granting of this exemption will not result in any significant effect on the quality of the human environment.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 1st day of May 2001.

For the Nuclear Regulatory Commission.

**John A. Zwolinski,**

*Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

Docket No. 72-5

### Nuclear Management Corporation; Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an exemption, pursuant to 10 CFR 72.7, from the provisions of 10 CFR 72.48 to Nuclear Management Corporation (NMC). The requested exemption would allow NMC to implement the amended 10 CFR 72.48 requirements on September 7, 2001, for the Independent Spent Fuel Storage Installation (ISFSI) at the Point Beach Nuclear Plant (PBNP) in Manitowoc County, Wisconsin.