

Dated at Rockville, Maryland, this 6th day of November 2009.

For the Nuclear Regulatory Commission.

**Joseph G. Giitter,**

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

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## NUCLEAR REGULATORY COMMISSION

[NRC-2009-0503I; Docket No. 50-315]

### Indiana Michigan Power Company; Donald C. Cook Nuclear Plant, Unit 1; Exemption

#### 1.0 Background

The Indiana Michigan Power Company (the licensee) is the holder of Facility Operating License Nos. DPR-58, which authorizes operation of the Donald C. Cook Nuclear Plant, Unit 1 (CNP-1). 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 two pressurized-water reactors located in Berrien County in Michigan.

#### 2.0 Request/Action

Title 10 of the *Code of Federal Regulations* (10 CFR), part 26, section 205(d)(4) [10 CFR 26.205(d)(4)] provides that during the first 60 days of a unit outage, licensees need not meet the requirements of 10 CFR 26.205(d)(3) for individuals specified in 10 CFR 26.4(a)(1) through 10 CFR 26.4(a)(4), while those individuals are working on outage activities. However, 10 CFR 26.205(d)(4) also provides that the licensee shall ensure that the individuals specified in 10 CFR 26.4(a)(1) through (a)(3) have at least 3 days off in each successive (i.e., non-rolling) 15-day period and that the individuals specified in 10 CFR 26.4(a)(4) have at least 1 day off in any 7-day period.

The less restrictive requirements of 10 CFR 26.205(d)(4) would be applied following a period of normal plant operation in which the workload and overtime levels are controlled by 10 CFR 26.205(d)(3). As stated in 10 CFR 26.205(d)(4), the less restrictive work hour requirements are permitted during the first 60 days of a unit outage. Since the current CNP-1 extended outage commenced in September 2008, the first 60 days of the unit outage have already elapsed.

The licensee adopted the regulations of 10 CFR 26, subpart I, on October 1, 2009, and has been controlling work hours accordingly. The proposed scheduler exemption would allow the less restrictive working hours of 10 CFR 26.205(d)(4) during a 60-day period beginning within three days of issuance of the exemption, rather than during the first 60 days of the current unit outage (which commenced in September 2008). The exemption would include those operations and maintenance personnel required to support outage-related activities, including preparations for unit restart. The licensee would ensure that the affected individuals in these departments would not work excessive overtime during the period immediately preceding the application of 10 CFR 26.205(d)(4).

The exemption would continue to serve the underlying purpose of 10 CFR 26, subpart I, in that assurance would be provided such that cumulative fatigue of individuals to safely and competently perform their duties will not be compromised.

#### 3.0 Discussion

Pursuant to 10 CFR 26.9, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 26 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, are consistent with the common defense and security, and are otherwise in the public interest.

##### *Authorized by Law*

This scheduler exemption would allow the licensee to use the less restrictive working hour limitations provided in 10 CFR 26.205(d)(4) during a 60 day period beginning within three days of issuance of the exemption. Because CNP-1 was already in an extended outage during the implementation of 10 CFR part 26, Subpart I, the licensee has not been able to apply the less restrictive working hours provided for in 10 CFR 26.205(d)(4). This scheduler exemption would merely place CNP-1 in a similar position as licensees with outages that commenced after implementing Subpart I. As stated above, 10 CFR 26.9 allows the NRC to grant exemptions from the requirements of 10 CFR Part 26. 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 26.205(d)(4) is to provide licensees flexibility in scheduling required days off while accommodating the more intense work schedules associated with a unit outage, while assuring that cumulative fatigue does not compromise the abilities of individuals to safely and competently perform their duties. Therefore, no new accident precursors are created by invoking the less restrictive work hour limitations on a date commensurate with the start of those activities supporting the restart of CNP-1, provided that the licensee has effectively managed fatigue for the affected individuals prior to this date. Thus, the probability of postulated accidents is not increased. Also, based on the above, the consequences of postulated accidents are not increased. Therefore, there is no undue risk to public health and safety.

##### *Consistent With Common Defense and Security*

The proposed scheduler exemption would allow for the use of the less restrictive work hour requirements of 10 CFR 26.205(d)(4) for operations and maintenance personnel to support restart activities for CNP-1, which has been in an extended outage since September 20, 2008. This change to the operation of the plant has no relation to security issues. Therefore, the common defense and security is not impacted by this exemption.

##### *Consistent With the Public Interest*

The proposed scheduler exemption would allow the licensee to implement the less restrictive work hour requirements of 10 CFR 26.205(d)(4) to allow flexibility in scheduling required days off while accommodating the more intensive work schedules that accompany a unit outage. During the CNP-1 restart period, the workload for operations and maintenance personnel will undergo a temporary but significant increase due to filling, venting, flushing, calibration, and testing evolutions necessitated by the repairs to the secondary and electrical generation systems and components. These evolutions are in addition to the normal unit startup activities involving operation and surveillance testing of primary systems and components. Ensuring a sufficient number of qualified personnel are available to support these activities is in the interest of overall public health and safety. Therefore, this scheduler exemption is consistent with the public interest.

#### 4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 26.9, the exemption is authorized by law, will not endanger life or property nor present an undue risk to the public health and safety, is consistent with the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants Indiana Michigan Power Company an exemption from the requirements of 10 CFR 26.205(d)(4) for the Donald C. Cook Nuclear Plant, Unit 1.

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 (74 FR 58063).

This exemption is effective upon issuance, and implementation of the work hour limitations as specified in 10 CFR 26.205(d)(4) for CNP-1 operations and maintenance personnel working on outage activities associated with unit restart will commence no later than November 13, 2009. The licensee may implement the work hour provisions of 10 CFR 26.205(d)(4) for 60 days or until completion of the current CNP-1 forced outage, whichever is shorter. The licensee may implement the provisions of 10 CFR 26.205(d)(6), if applicable.

Dated at Rockville, Maryland, this 10th day of November 2009.

For the Nuclear Regulatory Commission.

**Joseph G. Giitter,**

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

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## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on December 3-5, 2009, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Monday, October 14, 2009, (74 FR 52829-52830).

#### Thursday, December 3, 2009, Conference Room T2-B3, Two White Flint North, Rockville, Maryland

*8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman* (Open)—The ACRS Chairman will make

opening remarks regarding the conduct of the meeting.

*8:35 a.m.–10 a.m.: License Renewal Application for the Prairie Island Nuclear Generating Plant, Units 1 and 2* (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and Northern States Power Company regarding the license renewal application for the Prairie Island Nuclear Generating Plant, Units 1 and 2, the associated NRC staff's final Safety Evaluation Report (SER), and related matters.

*10:15 a.m.–12:15 p.m.: Draft Final Regulatory Guide 1.205, "Risk-Informed, Performance-Based Fire Protection for Existing Light-Water Nuclear Power Plants," and Draft Final Standard Review Plan (SRP) Section 9.5.1.2, "Risk-Informed, Performance-Based Fire Protection"* (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the industry regarding draft final Regulatory Guide 1.205, "Risk-Informed, Performance-Based Fire Protection for existing Light-Water Nuclear Power Plants," draft final SRP Section 9.5.1.2, "Risk-Informed, Performance-Based Fire Protection," NRC staff's resolution of public comments, and related matters.

*1:15 p.m.–3:15 p.m.: Long-Term Core Cooling Approach for the Economic Simplified Boiling Water Reactor (ESBWR) Design* (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and General Electric—Hitachi Nuclear Energy (GEH) regarding the long-term core cooling approach for the ESBWR design. [**Note:** A portion of this session may be closed to protect information that is proprietary to GEH or its contractors pursuant to 5 U.S.C. 552b (c)(4).]

*3:30 p.m.–5 p.m.: Draft Final Revision 1 to Regulatory Guide 1.151 (DG-1178), "Instrument Sensing Lines"* (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding draft final Revision 1 to Regulatory Guide 1.151 (DG-1178), "Instrument Sensing Lines," NRC staff's resolution of public comments, and related matters.

*5:15 p.m.–5:45 p.m.: Subcommittee Reports* (Open)—The Committee will hear reports by and hold discussions with the Chairmen of the Reliability & PRA and the AP1000 Subcommittees regarding: NRC's proposed policy statement on Safety Culture, and Chapters 7 and 9 of the draft SER associated with the AP1000 Design

Control Document Amendment that were discussed on November 12, and November 19–20, 2009, respectively.

*5:45 p.m.–7 p.m.: Preparation of ACRS Reports* (Open)—The Committee will discuss proposed ACRS reports on matters discussed during this meeting.

#### Friday, December 4, 2009, Conference Room T2-B3, Two White Flint North, Rockville, Maryland

*8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman* (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

*8:35 a.m.–9:15 a.m.: Discussion of topics for Meeting with the Commission* (Open)—The Committee will discuss the following topics scheduled for the meeting with the Commission: Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC)/Design Acceptance Criteria (DAC) Closure Process; Amendment to the AP1000 Design Control Document; Three-Dimensional Finite Element Analysis of the Oyster Creek Drywell Shell; Beaver Valley Containment Liner Corrosion; and Cyber Security Programs for Nuclear Power Plants.

*9:30 a.m.–11:30 a.m.: Meeting with the Commission—Commissioner's Conference Room, One White Flint North* (Open)—The Committee will meet with the Commission to discuss topics listed under the previous item.

*1:15 p.m.–2:30 p.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee* (Open/Closed)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS meetings, including anticipated workload and member assignments, and related matters. [**Note:** A portion of this session may be closed pursuant to 5 U.S.C. 552b (c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

*2:30 p.m.–2:45 p.m.: Reconciliation of ACRS Comments and Recommendations* (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

*2:45 p.m.–3 p.m.: Election of ACRS Officers for CY-2010* (Open)—The Committee will elect the Chairman and Vice-Chairman for the ACRS and