

The licensee requested the exemption pursuant to 10 CFR 50.12. This regulation allows the Commission to grant exemptions from the requirements of 10 CFR part 50 which are "[a]uthorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security." However, the "Commission will not consider granting an exemption unless special circumstances are present." Section 50.12(a)(2) lists the criteria for qualifying as a special circumstance. On the basis of the information submitted by the licensee, the NRC staff evaluated the licensee's request against 10 CFR 50.12(a)(2)(ii), which states "[a]pplication 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."

III

The underlying purpose of the requirement to perform Type B and Type C testing at intervals not to exceed 2 years is to protect the public by assuring that leakage through the primary reactor containment does not exceed allowable values. The licensee's facility is currently in an extended outage. During this outage, primary containment integrity is not required to be maintained. The primary containment, along with the emergency core cooling system, was designed to limit the offsite doses to values less than those specified in 10 CFR Part 100 in the event of a break in the primary system piping. Thus, containment integrity is required whenever the potential for loss of the primary reactor system integrity could result in significant offsite doses. Concern about such a condition exists whenever the reactor is critical and above atmospheric pressure. In this case, MNPS1 has been shut down for an extended period of time and primary containment integrity is not required. Primary containment integrity will not be required until MNPS1 restarts (currently scheduled for June 1998). As long as MNPS1 remains shut down, containment integrity is not required and, therefore, testing for containment integrity is not required to adequately protect the public. The public will continue to be adequately protected as long as the Type B and Type C testing is satisfactorily completed prior to restarting from RF015.

IV

On the basis of the above discussion, the staff finds that the licensee's request

for 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 as specified in 10 CFR 50.12(a)(1). Additionally, the staff finds that application of the regulations in this particular circumstance would not serve, nor is it necessary to achieve, the underlying purpose of the rule. Therefore, the licensee's requested scheduler exemption from the 2-year testing requirements of Sections III.D.2.(a) and III.D.3 of Option A of Appendix J to 10 CFR part 50 is granted.

V

Pursuant to 10 CFR 51.32, the Commission has determined that granting this exemption will not have a significant impact on the environment (62 FR 63736).

This exemption is effective upon issuance and shall expire when containment integrity is required for startup from the current refueling outage.

Dated at Rockville, Maryland, this 2nd day of December 1997.

For the Nuclear Regulatory Commission.

Roy P. Zimmerman,

Acting Director, Office of Nuclear Reactor Regulation

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NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of December 8, 15, 22, and 29, 1997.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of December 8

Thursday, December 11

2:00 p.m.—Affirmation Session (public meeting)

a. Final Rule—Deliberate Misconduct by Unlicensed Persons

b. Order Denying a Motion to Quash Six Subpoenas Issued by the Office of Investigations (Contact: Bob McOsker, 301-415-1651)

2:05 p.m.—Briefing on Investigative Matters (Closed—Ex. 5 & 7)

Friday, December 12

9:00 a.m.—Meeting with Northeast Nuclear on Millstone (Public meeting) (Contact: Bill Travers, 301-415-1200)

Week of December 15—Tentative

Wednesday, December 17

2:00 p.m.—Briefing on Integration and Evaluation of Results from Recent Lessons-Learned Reviews (including 50.09 Process Improvements) (public meeting) (Contact: Eileen McKenna, 301-415-2189)

3:30 p.m.—Affirmation Session (public meeting) (if needed)

Thursday, December 18

10:00 a.m.—Meeting with Advisory Committee on Nuclear Waste (ACNW) (public meeting) (Contact: John Larkins, 301-415-7360)

Week of December 22—Tentative

There are no meetings the week of December 22.

Week of December 29—Tentative

There are no meetings the week of December 29.

* The schedule for commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415-1292. Contact person for more information: Bill Hill (301) 415-1661.

The NRC Commission Meeting Schedule can be found on the Internet at:

<http://www.nrc.gov/SECY/smj/schedule.htm>

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301-415-1661).

In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: December 4, 1997.

William M. Hill, Jr.,

SECY, Tracking Officer, Office of the Secretary.

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