

The as-found results of the first two tests (1978 and 1979) did not meet the acceptable leakage limit due to excessive leakage from one valve in 1978 and from four valves in 1979. The as-found results of the next six tests were below the acceptable leakage limit. The as-found results of the 1989 and 1990 tests did not meet the acceptable leakage limit due to excessive leakage from three valves in 1989 and from one valve in 1990. For each of the tests that did not meet the leakage limits, repairs to the noted valves were conducted, and the as-left values were well below acceptable leakage limits. The licensee reviewed the results of these ten LLRTs and concluded that the failures, except for one valve which was replaced in 1990, were random and non-recurring. The licensee concluded that these failures were not indicative of a poor performance trend. The staff reviewed the LLRT data provided by the licensee as well as the methodology used by the licensee to extrapolate LLRT data to a 30-month test interval and the staff concluded that there is reasonable assurance that the containment leakage rate would be maintained within acceptable limits with an LLRT interval increase to 30 months.

Since the request for the exemption allowing a 30-month LLRT test interval, two more tests have been conducted. In the first such test, conducted in 1992, the leakage for all valves was less than the minimum detectable for the test rig in use. In the second such test, conducted in 1994, the total leakage was 88 percent of the allowable value. The test rig used in the 1994 LLRT allowed the licensee to identify the valves that contributed most to total leakage. Maintenance was performed on these valves and the as-left leakage was less than 40 percent of the allowable limit. Based on its review of all of the LLRT data, the staff has concluded that there is reasonable assurance that the containment leak rate will remain within acceptable limits if the LLRT interval is extended by 4½ months; therefore, the application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule.

#### IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, that (1) the exemption described in Section III are authorized by law, will not endanger life or property, and are otherwise in the public interest and (2) special circumstances exist pursuant to 10 CFR 50.12(a)(2)(ii). Therefore, the Commission hereby grants the following

amendment to the exemption dated February 19, 1993: The Power Authority of the State of New York is exempt from the requirement of 10 CFR Part 50, Appendix J, Paragraph III.D.3, in that the current interval between Type C tests may be extended beyond 30 months for the Indian Point Nuclear Generating Unit No. 3. The Type C tests must be conducted during an outage beginning no later than May 31, 1997. This amendment applies to the current test interval only.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (62 FR 3538).

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.  
Frank J. Miraglia,  
*Acting Director, Office of Nuclear Reactor Regulation.*

Dated at Rockville, Maryland, this 28th day of January 1997.

[FR Doc. 97-2688 Filed 2-3-97; 8:45 am]

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[Docket No. 30-02764-MLA; ASLBP No. 97-722-01-MLA]

#### University of Cincinnati; Designation of Presiding Officer

Pursuant to delegation by the Commission dated December 29, 1972, published in the Federal Register, 37 F.R. 28710 (1972), and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.1207 of the Commission's Regulations, a single member of the Atomic Safety and Licensing Board Panel is hereby designated to rule on petitions for leave to intervene and/or requests for hearing and, if necessary, to serve as the Presiding Officer to conduct an informal adjudicatory hearing in the following proceeding.

University of Cincinnati (Denial of License Amendment)

The hearing, if granted, will be conducted pursuant to 10 C.F.R. Subpart L of the Commission's Regulations, "Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings." This proceeding concerns a denial by NRC Staff of a request by the University of Cincinnati for a license amendment and a hearing petition pursuant to 10 C.F.R. Section 2.1205(b).

The Presiding Officer in this proceeding is Administrative Judge G. Paul Bollwerk III. Pursuant to the provisions of 10 C.F.R. 2.722, Administrative Judge Jerry R. Kline has

been appointed to assist the Presiding Officer in taking evidence and in preparing a suitable record for review.

All correspondence, documents and other materials shall be filed with Judge Bollwerk and Judge Kline in accordance with C.F.R. 2.701. Their addresses are:

Administrative Judge G. Paul Bollwerk III, Presiding Officer, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555  
Administrative Judge Jerry R. Kline, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Issued at Rockville, Maryland, this 29th day of January 1997.

B. Paul Cotter, Jr.,  
*Chief Administrative Judge, Atomic Safety and Licensing Board Panel.*

[FR Doc. 97-2690 Filed 2-3-97; 8:45 am]

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[Docket Nos. 50-266 and 50-301]

#### Wisconsin Electric Power Company; Notice of Consideration of Issuance of Amendments to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-24 and DPR-27 issued to Wisconsin Electric Power Company (the licensee), for operation of the Point Beach Nuclear Power Plant, Units 1 and 2, located in Manitowoc County, Wisconsin.

The proposed amendments would change Technical Specification requirements related to the low temperature overpressure protection (LTOP) system. Specifically, the reactor coolant system (RCS) temperature below which LTOP is required to be enabled and the temperature below which one high pressure safety injection pump is required to be rendered inoperable would be changed from less than 275 degrees Fahrenheit to less than 355 degrees Fahrenheit. Additionally, the restriction of "less than the minimum pressurization temperature for the inservice pressure test as defined in Figure 15.3.1-1" would be deleted and the specific temperature limit of less than 355 degrees Fahrenheit would be specified. The setpoint for the pressurizer power-operated relief valves (PORVs) would be changed from less than or equal to 425 pounds per square inch gage (psig) to less than or equal to 440 psig to allow for instrument

inaccuracies and increased margin allowed by the use of American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code Case N-514. These modified requirements for LTOP ensure that RCS materials meet the requirements of Title 10 of the Code of Federal Regulations, Section 50.60, "Acceptance Criteria for Fracture Prevention Measures for Lightwater Nuclear Power Reactors for Normal Operation" (10 CFR 50.60) in accordance with 10 CFR Part 50, Appendices G and H, and in accordance with the exemption granted on January 27, 1997, which allows the use of ASME Code Case N-514 as an acceptable alternative. Finally, editorial changes would be made to rename the "Overpressure Mitigating System" to the "Low Temperature Overpressure Protection System." The proposed amendment requests revise a previous submittal dated September 19, 1996, as supplemented November 18, 1996. The September 19, 1996, application was noticed in the Federal Register on October 1, 1996 (61 FR 51308).

On January 27, 1997, the NRC granted an exemption request submitted by the licensee on July 1, 1996. The licensee submitted the revised amendment requests, based on receiving the exemption, to eliminate the restriction on reactor coolant pump operation and to revise PORV setpoints. The licensee's January 13, 1997, submittal, as supplemented on January 27, 1997, stated that the conclusions provided in the September 19, 1996, "No Significant Hazards Consideration" were not altered by the additional information provided in its January 13, 1997, submittal, as supplemented on January 27, 1997.

The January 27, 1997, submittal requested the proposed amendments be handled on an exigent basis based on the current schedule which indicates that reactor vessel head tensioning will begin on February 10, 1997. An operable LTOP system is required after the head is tensioned to ensure safe operation unless adequate venting capability is provided.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in

accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes will explicitly define the temperature at which LTOP is required to be enabled, raise the temperature at which one high pressure safety injection pump is required to be rendered inoperable, and increase the setpoint of the PORVs. The changes do not affect any accident analyses since the LTOP is required only when RCS temperatures are low. LTOP is not required during power operation. The consequences or probability of a previously evaluated accident will, therefore, not significantly be increased.

(2) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes will still meet the requirements for fracture toughness requirements required by 10 CFR 50.60 as modified by the use of ASME Code Case N-514 which was approved as an alternative to describe requirements in 10 CFR Part 50, Appendices G and H. Therefore, a new or different kind of accident is not created.

(3) The proposed changes do not result in a significant reduction in the margin of safety.

The proposed changes increase the range of the temperature region where the LTOP system is needed, while increasing the allowed setpoint pressure by only 3.5 percent. Therefore, these changes do not involve a significant reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be

considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 15-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the Federal Register a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 6, 1997, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin. If a request for a hearing or petition for leave to intervene is filed by the above date, the

Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to

relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendments are issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment requests involve no significant hazards consideration, the Commission may issue the amendments and make them immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendment requests involve a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John N. Hannon: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests

for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the applications for amendment dated September 19, 1996, as supplemented November 18, 1996, and revised January 13, 1997, and supplemented on January 27, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Dated at Rockville, Maryland, this 30th day of January 1997.

For the Nuclear Regulatory Commission.  
Linda L. Gundrum,  
*Project Manager, Project Directorate III-1,  
Division of Reactor Projects—III/IV, Office of  
Nuclear Reactor Regulation.*

[FR Doc. 97-2685 Filed 2-3-97; 8:45 am]

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## Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Nuclear Regulatory Commission.

**DATE:** Weeks of February 3, 10, 17, and 24, 1997.

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

**STATUS:** Public and Closed.

Matters To Be Considered:

*Week of February 3*

Tuesday, February 4

9:30 a.m. Briefing by Maine Yankee, NRR and Region I (Public Meeting) (Contact: Daniel Dorman, 301-415-1429)

Wednesday, February 5

NOON Affirmation Session (Public Meeting) (if needed)

*Week of February 10—Tentative*

Thursday, February 13

2:00 p.m. Briefing on Operating Reactor Oversight Program and Status of Improvements in NRC Inspection Program (Public Meeting) (Contact: Bill Borchart, 301-415-1257)

3:30 p.m. Affirmation Session (Public Meeting) (if needed)

*Week of February 17—Tentative*

Tuesday, February 18

1:00 p.m. Briefing on BPR Project on Redesignated Materials Licensing Process (Public Meeting) (Contact: Don Cool, 301-415-7197)