

the advanced zirconium-based and M5 cladding under LOCA conditions. The unique features of the LFAs were evaluated for effects on the LOCA analysis. The results showed that the LFAs would not adversely affect the ECCS performance. Since the current four LFAs will be located at non-limiting core locations, the licensee concludes that the LOCA safety analyses will remain bounding for these LTAs for Calvert Cliffs Units 1 and 2.

Paragraph I.A.5 of Appendix K to 10 CFR Part 50 states that the rates of energy, hydrogen concentration, and cladding oxidation from the metal-water reaction shall be calculated using the Baker-Just equation. Since the Baker-Just equation presumes the use of zircaloy clad fuel, strict application of the rule would not permit use of the equation for the advanced zirconium-based and M5 alloys for determining acceptable fuel performance. The underlying intent of this portion of the Appendix, is to ensure that analysis of fuel response to LOCAs is conservatively calculated. The Westinghouse safety evaluation and approved Framatome ANP topical report show that due to the similarities in the chemical composition of the advanced zirconium-based and M5 alloys and zircaloy, the application of the Baker-Just equation in the analysis of the advanced zirconium-based and M5 clad fuel rods will continue to conservatively bound all post-LOCA scenarios. Thus, application of Appendix K, Paragraph I.A.5 is not necessary for the licensee to achieve its underlying purpose in these circumstances.

Based on the above, no new accident precursors are created by the exemption to allow use of advanced zirconium-based and M5 alloy clad fuel, 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 [since risk is probability  $\times$  consequences] to public health and safety.

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

The proposed exemption would allow the use of LFAs with advanced cladding materials. This change to the plant core configuration has no relation to security issues. Therefore, the common defense and security is not impacted by this exemption.

#### *Special Circumstances*

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(ii), are present whenever application of the regulation

in the particular circumstances is not necessary to achieve the underlying purpose of the rule. The underlying purpose of 10 CFR 50.46 and Appendix K to 10 CFR Part 50 is to establish acceptance criteria for ECCS performance. The licensee stated that the wording of the regulations renders the criteria of 10 CFR 50.46 and Appendix K inapplicable to the advanced zirconium-based cladding, even though the Westinghouse safety evaluation and the approved Framatome ANP topical reports show that the intent of the regulations are met. Therefore, since the underlying purpose of 10 CFR 50.46 and Appendix K to 10 CFR Part 50 is achieved with the use of the advanced zirconium-based cladding, the special circumstances required by 10 CFR 50.12(a)(2)(ii) for granting of an exemption from 10 CFR 50.46 and Appendix K exist.

#### **4.0 Conclusion**

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the 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. Also, special circumstances are present. Therefore, the Commission hereby grants the licensee an exemption from the requirements of 10 CFR 50.46 and 10 CFR Part 50, Appendix K with respect to the use of LFAs with advanced zirconium-based alloy cladding (already irradiated for two cycles at Calvert Cliffs 1 during cycle 19 or Calvert Cliffs 2 during cycle 17).

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 (71 FR 64747).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 9th day of November 2006.

For The Nuclear Regulatory Commission  
**Catherine Haney,**

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

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## **NUCLEAR REGULATORY COMMISSION**

[DOCKET NO. 50-255]

### **Nuclear Management Company; Palisades Nuclear Plant; Notice of Consideration of Approval of Transfer of Facility Operating License and Conforming Amendment and Opportunity for a Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 approving the transfer of Facility Operating License No. DPR-20 for Palisades Nuclear Plant (Palisades) currently held by Consumers Energy Company (Consumers) and Nuclear Management Company, LLC (NMC), as licensed operator of Palisades. The transfer would be to Entergy Nuclear Palisades, LLC (Entergy Nuclear Palisades). The Commission is also considering amending the license for administrative purposes to reflect the proposed transfer.

According to an application for approval filed by Consumers, NMC, Entergy Nuclear Palisades, and ENO, Entergy Nuclear Palisades would acquire ownership of the facility following approval of the proposed license transfer, and ENO would possess, use, and operate Palisades. No physical changes to the Palisades facility or operational changes are being proposed in the application.

The proposed amendment would replace references to Consumers and NMC in the license with references to Entergy Nuclear Palisades and ENO to reflect the proposed transfer, and revise paragraph 1. B to be consistent with paragraph 2 regarding the disposition of the Provisional Operating License.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. The Commission will approve an application for the transfer of a license, if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

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

As provided in 10 CFR 2.1315, unless otherwise determined by the

Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility which does no more than conform the license to reflect the transfer action involves no significant hazards consideration. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

Within 20 days from the date of publication of this notice, any person whose interest may be affected by the Commission's action on the application may request a hearing and, if not the applicant, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart C "Rules of General Applicability: Hearing Requests, Petitions to Intervene, Availability of Documents, Selection of Specific Hearing Procedures, Presiding Officer Powers, and General Hearing Management for NRC Adjudicatory Hearings," of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.309. Untimely requests and petitions may be denied, as provided in 10 CFR 2.309(c)(1), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.309(c)(1)(i)-(viii).

Requests for a hearing and petitions for leave to intervene should be served upon Douglas E. Levanway, Wise, Carter, Child, and Caraway, P.O. Box 651, Jackson, MS 39205, 601-968-5524, facsimile: 601-968-5593, e-mail: DEL@wisecarter.com, and Sam Behrends, LeBoeuf, Lamb, Greene & MacRae, 1875 Connecticut Ave., NW., Suite 1200, Washington, DC 20009, 202-986-8108, facsimile: 202-986-8102, e-mail: Sbehrend@llgm.com; the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001 (e-mail address for filings regarding license transfer cases only: OGCLT@NRC.gov); and the

Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.302 and 2.305.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, within 30 days from the date of publication of this notice, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated August 31, 2006, available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737 or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland this 3rd day of November, 2006.

For The Nuclear Regulatory Commission.

**L. Mark Padovan,**

*Project Manager, Plant Licensing Branch III-1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-263]

### **Nuclear Management Company, LLC; Monticello Nuclear Generating Plant; Notice of Issuance of Renewed Facility; Operating License No. DPR-22; Record of Decision for an Additional 20-Year Period**

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Renewed Facility Operating License No. DPR-22 to Nuclear Management Company, LLC (licensee), the operator of the Monticello Nuclear Generating Plant (MNGP). Renewed Facility Operating License No. DPR-22 authorizes operation of MNGP by the licensee at reactor core power levels not in excess of 1775 megawatts thermal (600 megawatts electric) in accordance with the provisions of the MNGP renewed license and its Technical Specifications.

This notice also serves as the record of decision for the renewal of Facility Operating License No. DPR-22 for MNGP, Unit 1. As discussed in the final Supplemental Environmental Impact Statement (FSEIS) for MNGP, dated September 2006, the Commission has considered a range of reasonable alternatives that included generation from coal, natural gas, oil, coal-gasification, new nuclear, wind, solar, hydropower, geothermal, wood waste, municipal solid waste, other biomass-derived fuels, fuel cells, delayed retirement, utility-sponsored conservation, a combination of alternatives, and a no-action alternative. This range of alternatives was discussed in the Generic Environmental Impact Statement for License Renewal, Supplement 26 regarding Monticello Nuclear Generating Plant.

After weighing the environmental, economic, technical and other benefits of the facility against environmental costs and considering available alternatives, the Commission found that the adverse environmental impacts of license renewal are not so great that preserving the option of license renewal would be unreasonable. The Commission also has taken all practicable measures within its jurisdiction to avoid or minimize environmental harm in its decision to renew Facility Operating License No. DPR-22. No license conditions are imposed in connection with mitigation measures.

The MNGP plant is a Boiling Water Reactor located in Monticello, MN.

The application for the renewed license complied with the standards and