

However, BSEP, Unit 1, experienced an extended shutdown during the period between April 1992 and February 1994, and the licensee notified the NRC in a letter dated August 5, 1994, that the second 10-year period end date was being extended by one year due to this outage. Because of this shutdown, the licensee also rescheduled the remaining two BSEP-1 refueling outages (reloads 9 and 10) during the second 10-year service period. The reload 9 outage was rescheduled to begin in April 1995, and the reload 10 outage was rescheduled to begin in September 1996.

Unlike Section XI, IWA-2400(c), of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code), appendix J to 10 CFR part 50 does not contain any provisions for adjusting the 10-year service period due to extended outages. The licensee has already performed two of the Type A tests at BSEP-1 required during the second 10-year service period. If a Type A test is conducted during the next refueling outage, Appendix J could be interpreted to require a fourth test to satisfy the requirement that the final test of the set be conducted when the plant is shutdown for the 10-year plant inservice inspections. Due to the extension of the inservice inspection period, the final refueling outage of the current inservice inspection period is scheduled for September 1996. This action would eliminate the need to perform an extra Type A test, which could otherwise be required (one test in 1995 and another in 1996) while recoupling the Type A test period with the inservice inspection interval.

V

The Commission has determined that, pursuant to 10 CFR 50.12(a)(1), this 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. The Commission further determines that special circumstances, as provided for in 10 CFR 50.12(a)(2)(ii), are present and justify the exemption; namely, that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. The underlying purpose of Section III.D.1.(a) of appendix J to 10 CFR part 50 is to provide an interval short enough to prevent serious deterioration from occurring between tests and long enough to permit testing to be performed during regular plant outages.

The last two Type A tests at BSEP-1 for the second 10-year period were

performed in May 1987 and in February 1991. Delaying the third Type A test until the 1996 refueling outage would result in a test interval of approximately 68 months rather than the stipulated 40 months plus or minus 10 months interval. The licensee has presented the following information which gives a high degree of confidence that the containment will not degrade to an unacceptable extent while this exemption is in effect:

1. The most recent Type A test data show that the "as left" leakage rates (0.2150 weight percent per day and 0.3408 weight percent per day, respectively) were well within the acceptance limit of 0.75 L_a (0.375 weight percent per day).

2. A review of the potential primary containment degradation mechanisms, including both activity-based and time-based causes, concluded that there has not been any alteration or challenge to the primary containment since the last Type A test.

3. No modifications are scheduled that have the potential to adversely affect the integrity of the primary containment boundary.

4. Modification and maintenance activities that will affect the containment leakage rates during the next refueling outage will include administrative controls requiring the performance of local leak rate testing, Type B or Type C tests, as appropriate.

5. The licensee has committed to perform an inspection of the containment barrier during the reload 9 outage.

6. The Type B and Type C local leak rate testing programs will effectively determine containment leakage caused by degradation of containment penetrations.

The NRC staff has reviewed the licensee's request and basis and finds that there is adequate assurance that there will not be any significant undetected degradation in primary containment leakage during the extended Type A test interval in that the primary contributors to potentially excessive leakage paths will be measured during the required Type B and Type C tests. These latter tests will be conducted at least during each 18-month refueling outage, but in no case at intervals greater than 2 years (Sections III.D.2 and III.D.3 of appendix J to 10 CFR part 50).

The NRC staff agrees that the subject exemption request does not pose any undue risk to the public health and safety in that (1) the last as-left Type A test leakage rate was below 0.75 L_a , (2) no modifications are scheduled that have the potential to adversely affect the

primary containment integrity, and (3) there will not be any future maintenance activity during the proposed interval extension that would adversely affect the primary containment leakage rate without administrative control requiring the performance of local leak rate testing. The licensee will continue to demonstrate that the test results from the Type B and C local leak rate tests will be no greater than their specified values in the BSEP Technical Specifications prior to restart after a refueling outage. Any potentially excessive leakage paths will continue to be repaired and/or adjusted prior to restart and at intervals of 18 months, thereby continuing to ensure the integrity of the containment. Based on these considerations, the NRC staff concludes that the licensee's request for a one-time exemption to Section III.D.1.(a) of appendix J to 10 CFR part 50 should be granted.

VI

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, this 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. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are present justifying the exemption; namely that the application of this regulation is not necessary to achieve the underlying purpose of the rule. Further, the NRC staff also finds that the protection provided by the licensee against potentially excessive containment leakage will not present an undue risk to the public health and safety. The application of the regulation is not necessary to assure the integrity of the containment in the event of a postulated design basis loss-of-coolant accident.

The Commission hereby grants the one-time Exemption with respect to the requirements of 10 CFR part 50, appendix J, Section III.D.1.(a), to extend the interval between the second and third Type A test for BSEP-1 until the September 1996 refueling outage.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of the subject Exemption will not have a significant effect on the quality of the human environment (60 FR 6567).

This Exemption is effective upon issuance and shall expire at the completion of the 1996 refueling outage (B111R1).

Dated at Rockville, Maryland this 9th day of February.