

November 19, 2003

Mr. William R. Kanda  
Vice President - Nuclear  
FirstEnergy Nuclear Operating Company  
Perry Nuclear Power Plant  
10 Center Road  
Perry, OH 44081

SUBJECT: ORDERS MODIFYING LICENSES FOR REVISED DESIGN BASIS THREAT  
AND FOR TRAINING AND PHYSICAL FITNESS ENHANCEMENTS  
APPLICABLE TO SECURITY FORCE PERSONNEL (TAC NOS. MB9326 AND  
MB9430)

Dear Mr. Kanda:

On April 29, 2003, the U.S. Nuclear Regulatory Commission (NRC or the Commission) issued Orders modifying the operating license for Perry Nuclear Power Plant to: (1) require compliance with a revised design basis threat (DBT); (2) implement new security force personnel training and physical fitness requirements; and (3) prescribe compensatory measures related to fitness-for-duty enhancements applicable to security force personnel.

When it issued the Orders, the Commission recognized that you voluntarily and responsibly implemented additional security measures following the events of September 11, 2001. However, as part of the Commission's review of the security and safeguards program, the Commission determined that enhancements to the DBT, as currently specified in Title 10 of the *Code of Federal Regulations* (10 CFR), Section 73.1(a), were required. The NRC further determined that security force personnel tactical and firearms proficiency, physical fitness, and fitness-for-duty requirements needed to be enhanced. The Commission also concluded that, based on the current threat environment, these Orders were to be effective immediately.

The Orders require responses and actions within specified time frames. This letter addresses your response to the Orders pertaining to the revised DBT and the new security force personnel training and physical fitness requirements. The Commission replied to your response to the fitness-for-duty Order in separate correspondence, dated July 10, 2003.

Section III.A.1 of the Order implementing new security force personnel training and physical fitness requirements states that licensees must comply with the new requirements described in the Order, except to the extent that more stringent requirements are set forth in the licensee's security plan and security training and qualifications plan. Section III.A.1 of the DBT Order requires licensees to submit revised physical security plans, safeguards contingency plans, and guard training and qualification plans, including an implementation schedule, based on the revised DBT, to the Commission for review and approval no later than April 29, 2004. The Order requires licensees to implement the revised physical security plans, revised safeguards contingency plans, and revised security force personnel training and qualification plans no later than October 29, 2004. Section IV of both Orders noted that, in accordance with

10 CFR 2.202, licensees must submit an answer to the Orders and may request a hearing on the Orders, within thirty-five (35) days of the date of the Orders and, where good cause is shown, consideration would be given to extend the time to request a hearing.

The Orders also required licensees to notify the Commission within thirty-five (35) days if: (1) the licensee was unable to comply with the requirements specified in the attachments to the Orders; (2) compliance with the requirements is unnecessary; (3) implementation of any of the requirements would result in a violation of the provisions of any Commission regulation of the facility license; or (4) implementation of any of the requirements described in the attachments to the Orders would adversely impact safe operation of the facility. Section III.C.1 of the security force personnel training and physical fitness Order required licensees to submit to the Commission, within thirty-five (35) days of the date of the Order, a schedule for achieving compliance with each requirement described in Attachment 2 to the Order.

By letters dated June 2, 2003, you submitted responses to the Orders for the Perry Nuclear Power Plant. In your responses, you indicated that you consented to the DBT and security force personnel training Orders and did not request a hearing. The NRC staff has reviewed your responses, and finds that you have satisfied the thirty-five (35) day reporting requirements for both Orders.

In your response to the DBT Order, you also requested that the NRC provide clarification of five DBT-related issues described in the safeguards attachment to a letter from Mr. Colvin, President and CEO of the Nuclear Energy Institute, to Chairman Diaz dated May 16, 2003. By letter dated September 25, 2003, the NRC provided you a copy of Chairman Diaz's response to Mr. Colvin, dated July 18, 2003, which clarified the five DBT-related issues.

Please contact Robert Fretz at 301-415-1324, if you have any other questions on these issues.

Sincerely,

*/RA/*

Ledyard B. Marsh, Director  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Docket No. 50-440

cc: See next page

10 CFR 2.202, licensees must submit an answer to the Orders and may request a hearing on the Orders, within thirty-five (35) days of the date of the Orders and, where good cause is shown, consideration would be given to extend the time to request a hearing.

The Orders also required licensees to notify the Commission within thirty-five (35) days if: (1) the licensee was unable to comply with the requirements specified in the attachments to the Orders; (2) compliance with the requirements is unnecessary; (3) implementation of any of the requirements would result in a violation of the provisions of any Commission regulation of the facility license; or (4) implementation of any of the requirements described in the attachments to the Orders would adversely impact safe operation of the facility. Section III.C.1 of the security force personnel training and physical fitness Order required licensees to submit to the Commission, within thirty-five (35) days of the date of the Order, a schedule for achieving compliance with each requirement described in Attachment 2 to the Order.

By letters dated June 2, 2003, you submitted responses to the Orders for the Perry Nuclear Power Plant. In your responses, you indicated that you consented to the DBT and security force personnel training Orders and did not request a hearing. The NRC staff has reviewed your responses, and finds that you have satisfied the thirty-five (35) day reporting requirements for both Orders.

In your response to the DBT Order, you also requested that the NRC provide clarification of five DBT-related issues described in the safeguards attachment to a letter from Mr. Colvin, President and CEO of the Nuclear Energy Institute, to Chairman Diaz dated May 16, 2003. By letter dated September 25, 2003, the NRC provided you a copy of Chairman Diaz's response to Mr. Colvin, dated July 18, 2003, which clarified the five DBT-related issues.

Please contact Robert Fretz at 301-415-1324, if you have any other questions on these issues.

Sincerely,

*/RA/*

Ledyard B. Marsh, Director  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Docket No. 50-440

cc: See next page

DISTRIBUTION:

PUBLIC	TMarsh	DLPM Project Directors	GGrant, Region III
OGC	CHolden	DLPM Section Chiefs	PD Reading Files
ACRS	JClifford	DLPM Project Managers	GTracy, NSIR
RFretz	VNerses	DLPM Licensing Assistants	JPeralta, NSIR

ADAMS Accession Number: ML032970119

\* See previous concurrence

OFFICE	PDI-2/LPM	PDI-2/LA	PDI-2/SC*	NSIR/DNS*	PDI/D*	DLPM/D
NAME	RFretz	CRaynor	JClifford	GTracy	CHolden	LMarsh
DATE	11/13/03	11/13/03	10/30/03	11/03/03	11/07/03	11/14/03

**OFFICIAL RECORD COPY**

Perry Nuclear Power Plant, Unit 1

cc:

Mary E. O'Reilly  
FirstEnergy Corporation  
76 South Main St.  
Akron, OH 44308

Resident Inspector's Office  
U.S. Nuclear Regulatory Commission  
P.O. Box 331  
Perry, OH 44081-0331

Regional Administrator, Region III  
U.S. Nuclear Regulatory Commission  
801 Warrenville Road  
Lisle, IL 60532-4531

Sue Hiatt  
OCRE Interim Representative  
8275 Munson  
Mentor, OH 44060

Mr. Vernon K. Higaki  
Manager - Regulatory Affairs  
FirstEnergy Nuclear Operating Company  
Perry Nuclear Power Plant  
P.O. Box 97, A210  
10 Center Road  
Perry, OH 44081

Timothy Rausch, Plant Manager  
FirstEnergy Nuclear Operating Company  
Perry Nuclear Power Plant  
P.O. Box 97, SB306  
Perry, OH 44081

Mayor, Village of North Perry  
North Perry Village Hall  
4778 Lockwood Road  
North Perry Village, OH 44081

Donna Owens, Director  
Ohio Department of Commerce  
Division of Industrial Compliance  
Bureau of Operations & Maintenance  
6606 Tussing Road  
P. O. Box 4009  
Reynoldsburg, OH 43068-9009

Carol O'Claire, Chief, Radiological Branch  
Ohio Emergency Management Agency  
2855 West Dublin Granville Road  
Columbus, OH 43235-7150

Mayor, Village of Perry  
P.O. Box 100  
Perry, OH 44081-0100

Dennis Clum  
Radiological Assistance Section Supervisor  
Bureau of Radiation Protection  
Ohio Department of Health  
P.O. Box 118  
Columbus, OH 43266-0118

Zack A. Clayton  
DERR  
Ohio Environmental Protection Agency  
ATTN: Mr. Zack A. Clayton  
P.O. Box 1049  
Columbus, OH 43266-0149

Chairman  
Perry Township Board of Trustees  
3750 Center Road, Box 65  
Perry, OH 44081

Daniel Z. Fisher  
Transportation Department  
Public Utilities Commission  
180 East Broad Street  
Columbus, OH 43215-3793

Mr. William R. Kanda  
Vice President - Nuclear, Perry  
FirstEnergy Nuclear Operating Company  
Perry Nuclear Power Plant  
P.O. Box 97, A200  
10 Center Road  
Perry, OH 44081