

SAFEGUARDS INFORMATION

October 28, 2004

Mr. Mark A. Bezilla
Vice President - Nuclear
c/o Mr. Dave Kline
FirstEnergy Nuclear Operating Company
Davis-Besse Nuclear Power Station
5501 North State, Route 2
Oak Harbor, OH 43449

SUBJECT: DAVIS-BESSE NUCLEAR POWER STATION - ADMINISTRATIVE CHANGE TO FACILITY OPERATING LICENSE IN CONJUNCTION WITH THE COMMISSION ORDER EA-03-086 REGARDING REVISED DESIGN BASIS THREAT (DBT); AND REVISIONS TO PHYSICAL SECURITY PLAN, TRAINING AND QUALIFICATIONS PLAN, AND SAFEGUARDS CONTINGENCY PLAN (TAC NO. MC2912)

Dear Mr. Bezilla:

By letter dated April 29, 2004, FirstEnergy Nuclear Operating Company submitted a supplemental response in accordance with Order EA-03-086, the Order requiring compliance with the revised design basis threat, dated April 29, 2003, (DBT Order) for the Davis-Besse Nuclear Power Station. Section III.A of the DBT Order required licensees to revise physical security plans (PSPs), training and qualification plans (T&Q Plans), and safeguards contingency plans (SCPs) in order to provide protection against the revised DBT set forth in Attachment 2 to the DBT Order. These revised plans, along with an implementation schedule, were required to be submitted to the Nuclear Regulatory Commission (NRC or the Commission) for review and approval no later than April 29, 2004.

The NRC staff's review of the Davis-Besse Nuclear Power Station PSP, SCP and T&Q Plan submitted in your letter dated April 29, 2004, as supplemented on July 1, July 13, July 26, August 16, August 30, September 10, and September 30, 2004, has focused on ensuring the necessary programmatic elements are contained in these plans in order to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety.

NOTICE: Enclosure 2 contains Safeguards Information. Upon separation from Enclosure 2, this letter and Enclosure 1 are DECONTROLLED.

SAFEGUARDS INFORMATION

The NRC staff has determined that these plans contain the necessary programmatic elements that, when effectively implemented, will provide the required high assurance that Davis-Besse Nuclear Power Station will be protected against the revised DBT. The NRC staff, therefore approves the **PSP, SCP, and T&Q Plan** for Davis-Besse Nuclear Power Station. However, ultimately the effectiveness of these plans will be judged on your ability to meet regulatory requirements through facility implementing procedures and site practices. As such your facility implementing procedures and practices will continue to be subject to future NRC review and inspection, including NRC conducted force-on-force exercises.

In addition, the NRC staff noted that your PSP included alternatives to certain requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Section 73.55. In each case, the NRC staff found that the alternative provides an equivalent level of protection to that of the associated requirement and meets the high assurance objective of 10 CFR 73.55(a). The NRC staff, therefore, approves the alternatives shown in the table below. The NRC staff's evaluation is discussed further in the enclosed Safety Evaluation (SE).

Approved Alternatives to the Requirements of 10 CFR Part 73

| SE Section | PSP Section | Alternative to 10 CFR | Description |
|------------|-------------|----------------------------------|---|
| 3.6.2 | 6.2 | 73.55(c)(3) | Isolation Zones |
| 3.9.4.3 | 9.4.3 | 73.55(d)(4) | Protected area (PA) vehicle search requirements |
| 3.9.4.4 | 9.4.4 | 73.55(d)(1) | PA personnel search requirements |
| 3.9.5.2 | 9.5 | 73.55(d)(4) | PA access control requirements |
| 3.10.1 | 10.1 | 73.55(c)(5) | PA illumination requirements |
| 3.13.1 | 14.1 | 73.55(c)(1) 73.55(d)(7)(i)(B) | Temporary reclassification of Vital Areas to PA status (devitalization) |

Finally, consistent with the DBT Order, conforming administrative changes to Facility Operating Licenses (FOLs) are required to ensure implementation of DBT Order requirements.

Therefore, administrative license changes to FOL No. NPF-3 are being made to incorporate the reference to the revised PSP, SCP, and T&Q Plan required by the DBT Order. The changes comply with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I.

M. A. Bezilla

- 3 -

Please replace the enclosed page to your FOL as indicated in Enclosure 1.

A copy of our SE with regards to your security plans (designated as Safeguards Information) is provided in Enclosure 2.

Sincerely,

/RA/

John A. Nakoski, Chief
Security Plan Review Team
Project Directorate II
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-346

Enclosures: 1. Administrative Change to FOL No. NPF-3
2. Safety Evaluation Regarding the Security Plans. **(SAFEGUARDS INFORMATION)**

cc w/encl 1 only: See next page

cc w/encls 1 and 2: Mr. David Kline

M. A. Bezilla

- 3 -

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John A. Nakoski, Chief
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cc w/encl 1 only: See next page
cc w/encls 1 and 2: Mr. David Kline

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* See previous concurrence

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FIRSTENERGY NUCLEAR OPERATING COMPANY

DOCKET NO. 50-346

DAVIS-BESSE NUCLEAR POWER STATION

ADMINISTRATIVE LICENSE CHANGE TO FACILITY OPERATING LICENSE

License No. NPF-3

1. The Nuclear Regulatory Commission (the Commission) has found that:
 - A. Consistent with Order EA-03-086, the Order requiring compliance with the revised design basis threat, (DBT Order) issued on April 29, 2003, conforming administrative changes to Facility Operating Licenses (FOLs) are required to ensure implementation of DBT Order requirements. Therefore, an administrative license change to FOL No. NPF-3 is being made to incorporate the reference to the revised Physical Security Plan, Safeguards Contingency Plan, and Training and Qualification Plan required by the DBT Order. These changes comply with the standards and requirements of the Atomic Energy Act of 1954, as amended and the Commission's rules and regulations set forth in 10 CFR Chapter I;
 - B. The facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission;
 - C. There is reasonable assurance (i) that the activities authorized by this administrative license change can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations;
 - D. The issuance of this administrative license change will not be inimical to the common defense and security or to the health and safety of the public; and
 - E. The issuance of this administrative license change is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

2. Accordingly, the FOL is changed, as indicated in the Attachment.
3. This administrative license change is effective as of its date of issuance and shall be implemented on or before October 29, 2004.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

John A. Nakoski, Chief
Security Plan Review Team
Project Directorate II
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Attachment: Changes to the FOL

Date of Issuance: October 28, 2004

CHANGES TO FOL

FACILITY OPERATING LICENSE NO. NPF-3

DOCKET NO. 50-346

Replace the following page of the Facility Operating License No. NPF-3 with the attached revised page as indicated. The revised page is identified by revision date and contains marginal lines indicating the area of change.

Remove Page

7

Insert Page

7

2. D. FENOC shall fully implement and maintain in effect all provisions of the Commission-approved physical security, training and qualification, and safeguards contingency plans including amendments made pursuant to provisions of the Miscellaneous Amendments and Search Requirements revisions to 10 CFR 73.55 (51 FR 27817 and 27822) and to the authority of 10 CFR 50.90 and 10 CFR 50.54(p). The combined set of plans, which contain Safeguards Information protected under 10 CFR 73.21, is entitled: "Davis-Besse Nuclear Power Station Physical Security Plan, Training and Qualification Plan, and Safeguards Contingency Plan Revision 0," submitted by letter dated September 10, 2004, and supplemented on September 30, 2004.
- E. This license is subject to the following antitrust conditions:

Definitions

Entity shall mean any electric generation and/or distribution system or municipality or cooperative with a statutory right or privilege to engage in either of these functions.

Wheeling shall mean transportation of electricity by a utility over its lines for another utility, including the receipt from and delivery to another system of like amounts but not necessarily the same energy. Federal Power Commission, The 1970 National Power Survey, Part 1, p. I-24-8.

License Conditions Approved By the Atomic Safety and Licensing Appeal Board*

- (1) Applicants shall not condition the sale or exchange of wholesale power or coordination services upon the condition that any other entity:
- (a) enter into any agreement or understanding restricting the use of or alienation of such energy or services to any customers or territories;

* "Applicants" as used by the Appeal Board refers to the Toledo Edison Company, Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company and Pennsylvania Power Company although among the preceding only the Toledo Edison Company and Cleveland Electric Illuminating Company are Licensees for this facility.