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Emergency Management Agency
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April 9, 2010

Mr. Allan Barker
State and Government Affairs for Region III
Nuclear Regulatory Commission
2443 Warrensville Road
Lisle, Illinois 60605-4351

Dear Mr. Barker:

This letter requests permission to observe the NRC inspection concerning Radiological Hazard Assessment & Exposure Controls Program, Occupational ALARA Planning & Controls, In-Plant Airborne Radioactivity Control & Mitigation Program and Occupational Dose Assessment at Davis Besse Nuclear Power Station scheduled for the week of April 19-23, 2010. Mr. Michael Rubadue of the Ohio Department of Health has been selected by the Utility Radiological Safety Board to be the designated observer. Coordination will be made with the NRC Inspector, Tony Go. Mr. Rubadue has obtained unescorted access authorization; therefore, a plant escort will not be necessary.

Enclosed is a copy of Mr. Rubadue's signed NRC/State Protocol Statement.

Sincerely,

Carol O'Claire

CAROL O'CLAIRE
State Liaison Officer

COC/arb

Enclosure

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Protocol Agreement for State Observation of NRC Inspections

NRC Protocol:

- The Regional State Liaison Officer (RSLO) will normally be the lead individual responsible for tracking requests for State observation, assuring consistency regarding these requests, and for advising the Regional Administrator on the dispositions of these requests. The appropriate technical representative or Division Director will communicate with the State on specific issues concerning the inspections(s).
- Requests for observations of Headquarter-based inspections will also be coordinated through the RSLO. Headquarters-based inspections should be referred through the RSLO to a technical representative designated by the Region.
- NRC will process written requests to the Regional Administrator through the State Liaison Officer (SLO). Requests should identify the type of inspection activity and facility the State wishes to observe.
- Limits on scope and duration of the observation period may be imposed if, in the view of the Regional Administrator, they compromise the efficiency or effectiveness of the inspection. Regions should use their discretion as to which, if any, inspections will be excluded from observations.
- State will be informed they must not release information concerning the time and purpose of unannounced inspections.
- The Region will make it clear to the licensee that the State views are not necessarily endorsed by NRC. The Region will also make it clear that only NRC has regulatory authority for inspection findings and enforcement actions regarding radiological health and safety.

State Protocol:

- A State will make advance arrangements with the licensee for site access training and badging (subject to fitness for duty requirements), prior to the actual inspection.
- Normally, no more than one individual will be allowed to observe an NRC inspection.
- The State will be responsible for determining the technical and professional competence of its representatives who accompany NRC inspectors.
- An observer's communication with the licensee will be through the appropriate NRC team member, usually the senior resident inspector or the team leader.
- When informed of an unannounced inspection, a State must not release information concerning its time and purpose.
- An observer will remain in the company of NRC personnel throughout the course of the inspection.
- State observation may be terminated by the NRC if the observer's conduct interferes with a fair and orderly inspection.
- An observer will not be provided with proprietary or safeguards information. Observers will not remove any material from the site without NRC or licensee approval.

- The State observer, in accompanying the NRC inspectors, does so at his or her own risk. NRC will not be responsible for injuries or exposures to harmful substances which may occur to the accompanying individual during the inspection and will assume no liability for any incidents associated with the accompaniment.
- The State observer will be expected to adhere to the same conduct as NRC inspectors during an inspection accompaniment.
- If the State observer notices any apparent non-conformance with safety or regulatory requirements during the inspections, he/she will make those observations promptly known to the NRC team leader or lead inspector. Likewise, when overall conclusions or views of the State observer are substantially different from those of the NRC inspectors, the State will advise the team leader or lead inspector and forward those views, in writing, to the NRC Region. This will allow NRC to take any necessary regulatory actions.
- Under no circumstances should State communications regarding these inspections be released to the public or the licensee before they are reviewed by the NRC and the inspection report is issued. State communications may be made publicly available, similar to NRC inspection reports, after they have been transmitted to and reviewed by NRC.

Adjacent State Protocol:

- An adjacent State is a State within the plume exposure pathway emergency planning zone (EPZ) (within approximately a 10-mile radius) of an NRC-licensed facility located in another State. A host State is a State in which an NRC-licensed facility is located. An adjacent State may request permission to observe NRC inspections at an NRC-licensed facility in a host State.
- The adjacent State SLO must communicate his/her request for observation to the Regional Administrator for the region in which the facility is located.
- The adjacent State SLO must also communicate his/her request to the host State SLO so that each State is aware of the other's intentions.
- If a host State and an adjacent State request observation of the same inspection, the Regional Administrator will make the final determination on the number of State observers who may attend the inspection. If there is a need to limit the numbers of observers, the Regional Administrator will routinely give preference to the host State observers.

* Adjacent State observers will abide by the same protocol in all aspects of the inspection as host States under this agreement.

Signature of State Observer

4/5/10
Date