



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

June 24, 2010

Mr. Barry S. Allen  
Site Vice President  
FirstEnergy Nuclear Operating Company  
Davis-Besse Nuclear Power Station  
Mail Stop A-DB-3080  
5501 North State Route 2  
Oak Harbor, OH 43449-9760

SUBJECT: DAVIS-BESSE NUCLEAR POWER STATION, UNIT 1, ONE-TIME EXEMPTION  
FROM THE REQUIREMENTS OF 10 CFR PART 26, SECTION 26.205(d)(3)  
(TAC NO. ME4029)

Dear Mr. Allen:

The Commission has approved the enclosed exemption from specific requirements of Title 10 of the *Code of Federal Regulations* (10 CFR), Part 26, Section 26.205(d)(3), for the Davis-Besse Nuclear Power Station, Unit 1 (DBNPS). This action is in response to your application dated May 28, 2010, as supplemented by electronic correspondence dated June 9, 2010, June 11, 2010, and June 16, 2010. Your submittal requested the use of the less restrictive working hour limitations described in 10 CFR 26.205(d)(4) and (d)(5) to support the activities required to complete the current, extended DBNPS outage, for a period not to exceed 21 days.

A copy of the exemption is enclosed. The exemption has been forwarded to the Office of the Federal Register for publication.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Mahoney", with a long horizontal flourish extending to the right.

Michael Mahoney, Project Manager  
Plant Licensing Branch III-2  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

Docket No. 50-346

Enclosure:  
Exemption

cc w/encl: Distribution via Listserv

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
FIRSTENERGY NUCLEAR OPERATING COMPANY  
DAVIS-BESSE NUCLEAR POWER STATION  
DOCKET NO. 50-346  
EXEMPTION

1.0 BACKGROUND

FirstEnergy Nuclear Operating Company (FENOC, the licensee) is the holder of Facility Operating License No. NFP-3, which authorizes operation of the Davis-Besse Nuclear Power Station, Unit 1 (DBNPS). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of one pressurized-water reactor located in Ottawa County, Ohio.

2.0 REQUEST/ACTION

Title 10 of the *Code of Federal Regulations* (10 CFR) Part 26, "Fitness for duty programs," Section 26.205(d)(3), "Work hour controls," requires licensees to ensure that individuals have, at a minimum, the number of days off as specified in 10 CFR 26.205(d)(3). It is from portions of 10 CFR 26.205(d)(3) that DBNPS now seeks a one-time exemption.

By letter dated May 28, 2010, as supplemented by electronic correspondence dated June 9, June 11, and June 16, 2010, the licensee requested a one-time exemption in accordance with 10 CFR 26.9, "Specific exemptions." The regulation at 10 CFR 26.205(d)(4) and (d)(5) permit the use of less restrictive hour limitations during the first 60 days of a unit outage, in lieu of the requirements of 10 CFR 26.205(d)(3). The licensee has requested a

one-time exemption to allow the use of the less restrictive hour limitations described in 10 CFR 26.205(d)(4) and (d)(5). The exemption would apply to operations (who also comprise of the fire brigade), maintenance, security, chemistry and radiation protection personnel as defined in 10 CFR 26.4(a)(1) through (a)(5). Being granted this one-time exemption would allow the licensee to complete work activities to support the current, extended DBNPS refueling outage.

### 3.0 DISCUSSION OF PART 26 EXEMPTION FROM CERTAIN WORK HOUR CONTROL REQUIREMENTS

Pursuant to 10 CFR 26.9, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 26 when the exemptions are authorized by law, and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

The approval of this exemption, as noted above, would allow the licensee to use the work hour limitations as described in 10 CFR 26.205(d)(4) and (d)(5), in lieu if the requirements of 10 CFR 26.205(d)(3).

As stated above, 10 CFR 26.9 allows the NRC to grant exemptions from the requirements of 10 CFR 26. The NRC staff has determined that granting of the licensee's proposed exemption would not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemption is authorized by law.

#### Davis-Besse Nuclear Power Station Exemption Request

The licensee provided detailed information in the enclosure of its May 28, 2010 letter, as supplemented by electronic correspondence dated June 9, June 11, and June 16, 2010, requesting an exemption. Specifically, the licensee entered the current outage on February 28, 2010. The outage has been extended due need to perform modifications to several control rod drive mechanism nozzles prior to restart. Due to the extension of the

outage, plant personal performing duties defined by 10 CFR 26.4(a)(1) through (a)(5), including the fire brigade, will have been working hours in accordance with the requirements of 10 CFR 26.205(d)(3) prior to the application of the less restrictive working hour limitations of 10 CFR 26.205(d)(4) and (d)(5) that would be authorized by this exemption. This provides assurance that covered workers are not already fatigued from working an outage schedule. Granting this exemption would allow the licensee to implement the less restrictive work hour requirements of 10 CFR 26.205(d)(4) and (d)(5) to allow flexibility in scheduling required days off while accommodating the more intensive work schedules that accompany completion of a unit outage.

Notwithstanding the exemption for this specific requirement, the licensee will continue to be in compliance with all other requirements as described in 10 CFR 26.

#### 4.0 ENVIRONMENTAL CONSIDERATION

The exemption authorizes a one-time exemption from the requirements of 10 CFR 26.205(d)(3) to allow the use of the less restrictive hour limitations described in 10 CFR 26.205(d)(4) and (d)(5). The NRC has determined that this exemption involves no significant hazards considerations:

(1) The proposed exemption is administrative in nature and is limited to changing the timeframe when less restrictive hours can be worked. The proposed exemption does not make any changes to the facility or operating procedures and does not alter the design, function or operation of any plant equipment. Therefore, issuance of this exemption does not increase the probability or consequences of an accident previously evaluated.

(2) The proposed exemption is administrative in nature and is limited to changing the timeframe when less restrictive hours can be worked. The proposed exemption does not make any changes to the facility or operating procedures and would not create any

new accident initiators. The proposed exemption does not alter the design, function or operation of any plant equipment. Therefore this exemption does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed exemption is administrative in nature and is limited to changing the timeframe when less restrictive hours can be worked. The proposed exemption does not alter the design, function or operation of any plant equipment. Therefore, this exemption does not involve a significant reduction in a margin of safety.

Based on the above, the NRC concludes that the proposed exemption does not involve a significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and accordingly, a finding of "no significant hazards consideration" is justified.

The NRC staff has also determined that the exemption involves no significant increase in the amounts, and no significant change in the types, of any effluents that may be released offsite; that there is no significant increase in individual or cumulative occupational radiation exposure; that there is no significant construction impact; and there is no significant increase in the potential for or consequences from a radiological accident. Furthermore, the requirement from which the licensee will be exempted involves scheduling requirements. Accordingly, the exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(25). Pursuant to 10 CFR 51.22(b) no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the amendment.

## 5.0 CONCLUSION

The staff has reviewed the licensee's submittals and concludes that the licensee has provided adequate justification for its request for a one-time 21-day exemption from 10 CFR 26.205(d)(3) to allow the use of the less restrictive hour limitations described in

10 CFR 26.205(d)(4) and (d)(5). The NRC has determined that the need to ensure adequate numbers of qualified workers to complete unit outage activities, given that workers will have been working hours in accordance with the requirements of 10 CFR 26.205(d)(3) prior to application of this exemption, justifies granting this exemption.

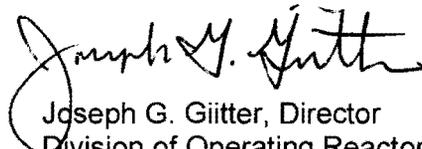
Accordingly, the Commission has determined that pursuant to 10 CFR 26.9, "Specific exemptions," an exemption from 10 CFR 26.205(d)(3) is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest.

Therefore the Commission hereby grants the licensee's request for a one-time, twenty-one day exemption from 10 CFR 26.205(d)(3) to allow the use of the work hour limitations described in 10 CFR 26.205(d)(4) and (d)(5).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 24 day of June 2010.

FOR THE NUCLEAR REGULATORY COMMISSION



Joseph G. Giitter, Director  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

June 24, 2010

Mr. Barry S. Allen  
Site Vice President  
FirstEnergy Nuclear Operating Company  
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Sincerely,  
**/RA/**  
Michael Mahoney, Project Manager  
Plant Licensing Branch III-2  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

Docket No. 50-346

Enclosure:  
Exemption

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**ADAMS Accession Nos.** LTR (NRR-106) ML101730457 Exemption FRN (NRR-042) ML 101730482 \*By Memo Dated

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