

APPENDIX B

TO FACILITY OPERATING LICENSE NO. NPF-45
PERRY NUCLEAR POWER PLANT
UNITS 1 AND 2

CLEVELAND ELECTRIC ILLUMINATING COMPANY
DOCKET NOS. 50-440 AND 50-441

ENVIRONMENTAL PROTECTION PLAN
(NONRADIOLOGICAL)

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1.0 Objectives of the Environmental Protection Plan

The Environmental Protection Plan (EPP) is to provide for protection of nonradiological environmental values during operation of the nuclear facility. The principal objectives of the EPP are as follows:

- (1) Verify that the facility is operated in an environmentally acceptable manner, as established by the Final Environmental Statement - Operating Licensing Stage (FES-OL) and other NRC environmental impact assessments.
- (2) Coordinate NRC requirements and maintain consistency with other Federal, State and local requirements for environmental protection.
- (3) Keep NRC informed of the environmental effects of facility construction and operation and of actions taken to control those effects.

Environmental concerns identified in the FES-OL which relate to water quality matters are regulated by way of the licensee's NPDES permit.

2.0 Environmental Protection Issues

In the FES-OL dated August 1982, the staff considered the environmental impacts associated with the operation of the two unit Perry Nuclear Power Plant. Certain environmental issues were identified which required study or license conditions to resolve environmental concerns and to assure adequate protection of the environment.

2.1 Aquatic Issues

- (1) No specific nonradiological aquatic impact issues were identified by NRC staff in the FES-OL.
- (2) The presence of Asiatic clams (Corbicula sp) in western Lake Erie renders their eventual presence near Perry as likely. Should the presence of Corbicula in the vicinity of Perry threaten the operation of a safety system, due to biofouling, measures to control Corbicula will be undertaken (FES Section 4.3.6.2).

Section 9.2.1 of the SER (May 1982) recognizes the potential safety-related problem of biofouling by Corbicula, and cites the licensee's monitoring program that consists of: (a) sampling of the lake for the presence of Corbicula, both at Perry and at one of the licensee's nearby fossil-fueled power plants; (b) maintenance inspections; and (c) surveillance testing. This EPP addresses the lake sampling in (a) above.

2.2 Terrestrial Issues

- (1) Cooling tower drift was not expected to cause adverse effects but the need for operational data to confirm this conclusion was identified by the staff. (FES Section 5.5.1.5)
- (2) Herbicide use should conform with current Federal and state regulation. (FES Section 5.5.1.4)

3.0 Consistency Requirements

3.1 Plant Design and Operation

The licensee may make changes in station design or operation or perform tests or experiments affecting the environment provided such activities do not involve an unreviewed environmental question and do not involve a change in the EPP*. Changes in station design or operation or performance of tests or experiments which do not affect the environment are not subject to the requirements of this EPP. Activities governed by Section 3.3 are not subject to the requirements of this Section.

Before engaging in additional construction or operational activities which may significantly affect the environment, the licensee shall prepare and record an environmental evaluation of such activity. Activities are excluded from this requirement if all measurable nonradiological environmental effects are confined to the on-site areas previously disturbed during site preparation and plant construction. When the evaluation indicates that such activity involves an unreviewed environmental question, the licensee shall provide a written evaluation of such activity and obtain prior NRC approval. When such activity involves a change in the EPP, such activity and change to the EPP may be implemented only in accordance with an appropriate license amendment as set forth in Section 5.3 of this EPP.

A proposed change, test or experiment shall be deemed to involve an unreviewed environmental question if it concerns: (1) a matter which may result in a significant increase in any adverse environmental impact previously evaluated in the FES-OL, environmental impact appraisals, or in any decisions of the Atomic Safety and Licensing Board; or (2) a significant change in effluents or power level; or (3) a matter, not previously reviewed and evaluated in the documents specified in (1) of this Subsection, which may have a significant adverse environmental impact.

The licensee shall maintain records of changes in facility design or operation and of tests and experiments carried out pursuant to this Subsection. These records shall include written evaluations which provide bases for the determination that the change, test, or experiment does not involve an unreviewed environmental question or constitute a decrease in the effectiveness of this EPP to meet the objectives specified in Section 1.0. The licensee shall include as part of the Annual Environmental Operating Report (per Subsection 5.4.1) brief descriptions, analyses, interpretations, and evaluations of such changes, tests and experiments.

* This provision does not relieve the licensee of the requirements of 10 CFR 50.59.

3.2 Reporting Related to the NPDES Permit and State Certification

Changes to, or renewals of, the NPDES Permits or the State certification shall be reported to the NRC within 30 days following the date the change or renewal is approved. If a permit or certification, in part or in its entirety, is appealed and stayed, the NRC shall be notified within 30 days following the date the stay is granted.

The licensee shall notify the NRC of changes to the effective NPDES Permit proposed by the licensee by providing NRC with a copy of the proposed change at the same time it is submitted to the permitting agency. The licensee shall provide the NRC a copy of the application for renewal of the NPDES Permit at the same time the application is submitted to the permitting agency.

3.3 Changes Required for Compliance with Other Environmental Regulations

Changes in plant design or operation and performance of tests or experiments which are required to achieve compliance with other Federal, State, and local environmental regulations are not subject to the requirements of Section 3.1.

4.0 Environmental Conditions

4.1 Unusual or Important Environmental Events

Any occurrence of an unusual or important event that indicates or could result in significant environmental impact causally related to plant operation shall be recorded and reported to the NRC within 24 hours followed by a written report per Subsection 5.4.2. The following are examples: excessive bird impaction events, onsite plant or animal disease outbreaks, mortality or unusual occurrence of any species protected by the Endangered Species Act of 1973, fish kills, increase in nuisance organisms or conditions, and unanticipated or emergency discharge of waste water or chemical substances.

No routine monitoring programs are required to implement this condition.

4.2 Environmental Monitoring

4.2.1 Aquatic Monitoring

- (1) The certifications and permits required under the Clean Water Act provide mechanisms for protecting water quality and, indirectly, aquatic biota. The NRC will rely on the decisions made by the U.S. Environmental Protection Agency and the State of Ohio under the authority of the Clean Water Act for any requirements for aquatic monitoring.
- (2) Semi-annual (late spring and early fall) sampling of areas adjacent to the Perry intake and discharge structures and the licensee's Eastlake plant intake and discharge shall be conducted to detect the presence of Corbicula.

The sampling methodology shall be that committed to and described by the licensee in his December 3, 1982 affidavit of R.S. Nugent ^{1/}, that was reviewed and found to be acceptable by the ASLB in its Memorandum and Order of December 22, 1982 [16 NRC 1909 (1982)].

^{1/} Affidavit of Dr. Richard S. Nugent in Support of NRC Staff's Motion for Summary Disposition of Issue No. 7, in the Matter of The Cleveland Electric Illuminating Company, et. al. Perry Nuclear Power Plant Units 1 and 2.

4.2.2 Terrestrial Monitoring

4.2.2.1 Aerial Remote Sensing

Vegetative communities of the site and vicinity within 1 kilometer of the cooling towers in all directions shall be aerially photographed to detect and assess the significance of damage, or lack thereof, as related to cooling tower drift dispersions. Photography shall be done by aerial overflight during August or September. Monitoring shall include a program of low altitude color infrared photography. The scale for full coverage shall be adequate to enable identification of vegetative damage over relatively small areas of terrain. Some circumstances may warrant inspection of photographs discerning individual trees. Such scale should be adequate to resolve impacted features. Photographs shall be compared with baseline to ascertain changes in vegetation. Photographic interpretations shall be verified by ground inspection surveys to confirm areas of stress and non-stress. This program shall require aerial photographic monitoring during the first August-September period after the station has been in operation for one year and the program shall be repeated once the following year and alternate years for three (3) additional periods. A report shall be submitted as part of the annual report following each aerial photographic monitoring period. The report shall contain a description of the program, results, and interpretative analyses of environmental impacts. Results reported shall contain information encompassing but not limited to the following: sampling date; time of day; film types; and one (1) set of resultant color transparencies encompassing an area within approximately a one kilometer (1 km) radius of the Unit 1 and 2 towers.

4.2.2.2 Herbicide Use

If herbicides are used, their use shall conform to the U.S. EPA regulations printed on the labels. Records of which herbicide was used, date of application, where herbicide was applied and quantity applied shall be made available for a five year period for inspection by NRC.

5.0 Administrative Procedures

5.1 Review and Audit

The licensee shall provide for review and audit of compliance with the EPP. The audits shall be conducted independently of the individual or groups responsible for performing the specific activity. A description of the organization structure utilized to achieve the independent review and audit function and results of the audit activities shall be maintained and made available for inspection.

5.2 Records Retention

Records and logs relative to the environmental aspects of station operation shall be made and retained in a manner convenient for review and inspection. These records and logs shall be made available to NRC on request.

Records of modifications to station structures, systems and components determined to potentially affect the continued protection of the environment shall be retained for the life of the station. All other records, data and logs relating to this EPP shall be retained for five years or, where applicable, in accordance with the requirements of other agencies.

5.3 Changes in Environmental Protection Plan

Requests for changes in the EPP shall include an assessment of the environmental impact of the proposed change and a supporting justification. Implementation of such changes in the EPP shall not commence prior to NRC approval of the proposed changes in the form of a license amendment incorporating the appropriate revision to the EPP.

5.4 Plant Reporting Requirements

5.4.1 Routine Reports

An Annual Environmental Operating Report describing implementation of this EPP for the previous year shall be submitted to the NRC prior to May 1 of each year. The initial report shall be submitted prior to May 1 of the year following issuance of the operating license.

The report shall include summaries and analyses of the results of the environmental protection activities required by Subsection 4.2 of this EPP for the report period, including a comparison with related preoperational studies, operational controls (as appropriate), and previous nonradiological environmental monitoring reports, and an assessment of the observed impacts of the plant operation on the environment. If harmful effects or evidence of trends toward irreversible damage to the environment are observed, the licensee shall provide a detailed analysis of the data and a proposed course of mitigating action.

The Annual Environmental Operating Report shall also include:

- (1) A list of EPP noncompliances and the corrective actions taken to remedy them.
- (2) A list of all changes in station design or operation, tests, and experiments made in accordance with Subsection 3.1 which involved a potentially significant unreviewed environmental question.
- (3) A list of nonroutine reports submitted in accordance with Subsection 5.4.2.

In the event that some results are not available by the report due date, the report shall be submitted noting and explaining the missing results. The missing results shall be submitted as soon as possible in a supplementary report.

5.4.2 Nonroutine Reports

A written report shall be submitted to the NRC within 30 days of occurrence of a nonroutine event. The report shall (a) describe, analyze, and evaluate the event, including extent and magnitude of the impact, and plant operating characteristics, (b) describe the probable cause of the event, (c) indicate the action taken to correct the reported event, (d) indicate the corrective action taken to preclude repetition of the event and to prevent similar occurrences involving similar components or systems, and (e) indicate the agencies notified and their preliminary responses.

Events reportable under this subsection which also require reports to other Federal, State or local agencies shall be reported in accordance with those reporting requirements in lieu of the requirements of this subsection. The NRC shall be provided with a copy of such report at the same time it is submitted to the other agency.

APPENDIX C

PERRY NUCLEAR POWER PLANT, UNIT 1

ANTITRUST CONDITIONS

FOR

CLEVELAND ELECTRIC ILLUMINATING COMPANY

DUQUESNE LIGHT COMPANY

OHIO EDISON COMPANY

PENNSYLVANIA POWER COMPANY

TOLEDO EDISON COMPANY

- A. The licensees are subject to the following antitrust conditions:

Definitions

Applicants shall mean the five companies listed above.

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.

Licensing Conditions

- (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;
 - (b) enter into any agreement or understanding requiring the receiving entity to give up any other power supply alternatives or to deny itself any market opportunities;

- (c) withdraw any petition to intervene or forego participation in any proceeding before the Nuclear Regulatory Commission or refrain from instigating or prosecuting any antitrust action in any other forum.
- (2) Applicants, and each of them, shall offer interconnections upon reasonable terms and conditions at the request of any other electric entity(ies) in the Combined CAPCO Company Territories (CCCT), such interconnection to be available (with due regard for any necessary and applicable safety procedures) for operation in a closed-switch synchronous operating mode if requested by the interconnecting entity(ies). Ownership of transmission lines and switching stations associated with such interconnection shall remain in the hands of the party funding the interconnection subject, however, to any necessary safety procedures relating to disconnection facilities at the point of power delivery. Such limitations on ownership shall be the least necessary to achieve reasonable safety practices and shall not serve to deprive purchasing entities of a means to effect additional power supply options.
- (3) Applicants shall engage in wheeling for and at the request of other entities in the CCCT:
- (a) of electric energy from delivery points of Applicants to the entity(ies); and,
- (b) of power generated by or available to the other entity, as a result of its ownership or entitlements* in generating facilities, to delivery points of Applicants designated by the other entity.

Such wheeling services shall be available with respect to any unused capacity on the transmission lines of Applicants, the use of which will not jeopardize Applicants' system. In the event Applicants must reduce wheeling services to other entities due to lack of capacity, such reduction shall not be effected until reductions of at least 5 percent have been made in transmission capacity allocations to other Applicants in these proceedings and thereafter shall be made in proportion to reductions** imposed upon other Applicants to this proceeding.

* "Entitlement" includes but is not limited to power made available to an entity pursuant to an exchange agreement.

** The objective of this requirement is to prevent the pre-emption of unused capacity on the lines of one Applicant by other Applicants or by entities the transmitting Applicant deems noncompetitive. Competitive entities are to be allowed opportunity to develop bulk power services options even if this results in re-allocation of CAPCO (Central Area Power Coordination Group) transmission channels. This relief is required in order to avoid prolongation of the effects of Applicants' illegally sustained dominance.

Applicants shall make reasonable provisions for disclosed transmission requirements of other entities in the CCCT in planning future transmission either individually or within the CAPCO grouping. By "disclosed" is meant the giving of reasonable advance notification of future requirements by entities utilizing wheeling services to be made available by Applicants.

- (4) (a) Applicants shall make available membership in CAPCO to any entity in the CCCT with a system capability of 10 Mw or greater;
- (b) A group of entities with an aggregate system capability of 10 Mw or greater may obtain a single membership in CAPCO on a collective basis;*
- (c) Entities applying for membership in CAPCO pursuant to License Condition 4 shall become members subject to the terms and conditions of the CAPCO Memorandum of Understanding of September 14, 1967, and its implementing agreements; except that new members may elect to participate on an equal percentage of reserve basis rather than a P/N allocation formula for a period of twelve years from date of entrance.** Following the twelfth year of entrance, new members shall be expected to adhere to such allocation methods as are then employed by CAPCO (subject to equal opportunity for waiver or special consideration granted to original CAPCO members which then are in effect).

* E.g., Wholesale Customer of Ohio Edison (WCOE).

** The selection of the 12-year period reflects our determination that an adjustment period is necessary since the P/N formula has a recognized effect of discriminating against small systems and forcing them to forego economies of scale in generation in order to avoid carrying excessive levels of reserves. We also found that P/N is not entirely irrational as a method of reserve allocation. We have observed that Applicants themselves provided adjustment periods and waivers to integrate certain Applicants into the CAPCO reserve requirement program. The 12-year period should permit new entrants to avoid initial discrimination but to accommodate and adjust to the CAPCO system over some reasonable period of time. Presumably new entrants will be acquiring ownership shares and entitlements during the 12-year period so that adverse consequences of applying the P/N formula will be mitigated.

- (d) New members joining CAPCO pursuant to this provision of relief shall not be entitled to exercise voting rights until such time as the system capability of the joining member equals or exceeds the system capability of the smallest member of CAPCO which enjoys voting rights.*
- (5) Applicants shall sell maintenance power to requesting entities in the CCCT upon terms and conditions no less favorable than those Applicants make available: (a) to each other either pursuant to the CAPCO agreements or pursuant to bilateral contract; or (b) to non-Applicant entities outside the CCCT.
- (6) Applicants shall sell emergency power to requesting entities in the CCCT upon terms and conditions no less favorable than those Applicants make available: (a) to each other either pursuant to the CAPCO agreements or pursuant to bilateral contract; or (b) to non-Applicant entities outside the CCCT.
- (7) Applicants shall sell economy energy to requesting entities in the CCCT, when available, on terms and conditions no less favorable than those available: (a) to each other either pursuant to the CAPCO agreements or pursuant to bilateral contract; or (b) to non-Applicant entities outside the CCCT.
- (8) Applicants shall share reserves with any interconnected generation entity in the CCCT upon request. The requesting entity shall have the option of sharing reserves on an equal percentage basis or by use of the CAPCO P/N allocation formula or on any other mutually agreeable basis.
- (9) (a) Applicants shall make available to entities in the CCCT access to the Davis-Besse 1, 2 and 3 and the Perry 1 and 2 nuclear units and any other nuclear units for which Applicants or any of them, shall apply for a construction permit or operating license during the

* Our objective is to prevent impediments to the operation and development of an area-wide power pool through the inability of lesser entities to respond timely or to make necessary planning commitments. While we grant new member entities the opportunity to participate in CAPCO it is not our intent to relieve joining entities of responsibilities and obligations necessary to the successful operation of the pool. For those smaller entities which do not wish to assume the broad range of obligations associated with CAPCO membership we have provided for access to bulk power service options which will further their ability to survive and offer competition in the CCCT.

next 25 years. Such access, at the option of the requesting entity, shall be on an ownership share, or unit participation or contractual pre-purchase of power basis.* Each requesting entity (or collective group of entities) may obtain up to 10% of the capacity of the Davis-Besse and Perry Units and 20% of future units (subject to the 25-year limitation) except that once any entity or entities have contracted for allocations totaling 10% or 20%, respectively, no further participation in any given units need be offered.

- (b) Commitments for the Davis-Besse and Perry Units must be made by requesting entities within two years after this decision becomes final. Commitments for future units must be made within two years after a construction permit application is filed with respect to such a unit (subject to the 25-year limitation) or within two years after the receipt by a requesting entity of detailed written notice of Applicants' plans to construct the unit, whichever is earlier; provided, however, that the time for making the commitment shall not expire until at least three months after the filing of the application for a construction permit. Where an Applicant seeks to operate a nuclear plant with respect to which it did not have an interest at the time of filing the application for the construction permit, the time periods for commitments shall be the same except that reference should be to the operating license, not the construction permit.
- (10) Applicants shall sell wholesale power to any requesting entity in the CCCT, in amounts needed to meet all or part of such entity's requirements. The choice as to whether the agreement should cover all or part of the entity's requirements should be made by the entity, not the Applicant or Applicants.

* Requesting entities' election as to the type of access may be affected by provisions of State law relating to dual ownership of generation facilities by municipalities and investor-owned utilities. Such laws may change during the period of applicability of these conditions. Accordingly, we allow requesting entities to be guided by relevant legal and financial considerations (including Commission regulations on nuclear power plant ownership) in fashioning their requests.

- (ii) These conditions are intended as minimum conditions and do not preclude Applicants from offering additional wholesale power or coordination services to entities within or without the CCCT. However, Applicants shall not deny wholesale power or coordination services required by these conditions to non-Applicant entities in the CCCT based upon prior commitments arrived at in the CAPCO Memorandum of Understanding or implementing agreements. Such denial shall be regarded as inconsistent with the purpose and intent of these conditions.

The above conditions are to be implemented in a manner consistent with the provisions of the Federal Power Act and all rates, charges or practices in connection therewith are to be subject to the approval of regulatory agencies having jurisdiction over them.