

operating experience report with the Institute of Nuclear Power Operations.

4. As a result of Mr. Probasco's actions, he recognized an opportunity for licensed operators at Pilgrim, as well as licensed operators at other nuclear facilities, to learn from his violation. Mr. Probasco agreed to participate in future training sessions at Pilgrim, including crew training, teamwork training, lifestyle training, and requalification module development, to convey his personal lessons-learned from this matter. Mr. Probasco also agreed to convey his personal lessons-learned to other licensed operators at other nuclear power plants by issuance of a letter, within 90 days of issuance of the Letter of Reprimand referenced in Section III.5 below, to the Communicator (the publication of the Professional Reactor Operator Society) requesting publication therein, and making a presentation at a future symposium at a meeting of the Professional Reactor Operator Society, if invited.

5. In light of the actions Mr. Probasco has taken as described in Item 3 above, those actions he has committed to do as described in Item 4 above, and his agreement to a Letter of Reprimand, the NRC agrees not to issue an Order or a Notice of Violation to Mr. Probasco. However, Mr. Probasco agreed to placement of this Letter of Reprimand into ADAMS as a publically available document, and its placement on the NRC "Significant Enforcement Actions—Individuals" Web site for a period of 1 year (the period of time the NRC routinely places Notices of Violation at Severity Level III and above to individuals).

Since Mr. Probasco has agreed to take additional actions to address NRC concerns, as set forth in Section III, the NRC has concluded that its concerns can be resolved through the NRC's confirmation of the commitments as outlined in this Confirmatory Order.

I find that Mr. Probasco's commitments as set forth in Section III above are acceptable. However, in view of the foregoing, I have determined that these commitments be confirmed by this Confirmatory Order. Based on the above and Mr. Probasco's consent, this Confirmatory Order is immediately effective upon issuance.

V

Accordingly, pursuant to Sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 55, *it is hereby ordered, effective immediately that:*

1. Mr. Probasco participate in future training sessions at Pilgrim, including crew training, teamwork training, lifestyle training, and requalification module development, to convey his personal lessons-learned from this matter. Mr. Probasco will also convey his personal lessons-learned to other licensed operators at other nuclear power plants by issuance of a letter, within 90 days, to the Communicator (the publication of the Professional Reactor Operator Society) requesting publication therein, and making a presentation at a future symposium at a meeting of the Professional Reactor Operator Society, if invited.

2. Mr. Probasco provide the NRC with one letter detailing his completion of all actions specified in Item 1 above, within 30 days of completion of these actions.

The Director, Office of Enforcement may relax or rescind, in writing, any of the above conditions upon a showing by Mr. Probasco of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than Mr. Probasco, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and must include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Rulemaking and Adjudications Staff, Washington, DC 20555. Copies of the hearing request shall also be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement, to the Director of the Division of Regulatory Improvement Programs at the same address, and to Baxter. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to hearingdocket@nrc.gov and also to the Office of the General Counsel by means of facsimile transmission to 301-415-3725 or e-mail to OGCMailCenter@nrc.gov. If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and

shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order shall be sustained.

An answer or a request for a hearing shall not stay the effectiveness date of this Order.

Dated this 14th day of July, 2005.

For the Nuclear Regulatory Commission.

Michael R. Johnson,

Director, Office of Enforcement.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-483]

Union Electric Company; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Union Electric Company (the licensee) to withdraw its June 27, 2003, revised by letter dated December 19, 2003, application for proposed amendment to Facility Operating License No. NPF-30 for the Callaway Plant, Unit 1, located in Callaway County, Missouri.

The proposed amendment would have revised Technical Specification (TS) 3.8.1, "AC Sources—Operating." The proposed change would revise Required Actions A.3 and B.4 for TS 3.8.1 to allow a longer required Action Completion Time (allowed outage time) for an inoperable diesel generator, when removing the diesel generator from service to perform voluntary, planned maintenance.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on July 22, 2003 (68 FR 43396). However, by letter dated June 28, 2005, the licensee withdrew the proposed change.

For further details with respect to this action, see the licensee's application for amendment dated June 27, 2003, as revised by letter dated December 19, 2003, and the licensee's letter dated June 28, 2005, which withdrew the application for a license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One

White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams/html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, or 301-415-4737 or by e-mail to pdr@nrc.gov.

Dated in Rockville, Maryland, this 11th day of July, 2005.

For the Nuclear Regulatory Commission.

Jack Donohew,

Senior Project Manager, Section 2, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-346]

FirstEnergy Nuclear Operating Company; Davis-Besse Nuclear Power Station, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the Code of Federal Regulations (10 CFR) Part 50, Appendix R, Section III.G.3 for Facility Operating License No. NPF-3, issued to FirstEnergy Nuclear Operating Company (FENOC or the licensee), for operation of the Davis-Besse Nuclear Power Station, Unit 1 (DBNPS), located in Ottawa County, Ohio. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would be an exemption to certain requirements of 10 CFR Part 50, Appendix R, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979," Section III.G.3, "Fire Protection of Safe Shutdown Capability." Specifically, the licensee would be exempt from the requirements to install a fixed fire suppression system in Fire Area HH for DBNPS and to install fire detection in the approximately 4

percent of Fire Area HH not currently covered by a fire detection system.

The proposed action is in accordance with the licensee's application dated January 20, 2004 (Agencywide Documents Access Management System (ADAMS) Accession No. ML0420220470), as supplemented by letters dated September 3, 2004 (ADAMS Accession No. ML0402520326), and February 25, 2005 (ADAMS Accession No. ML050610249).

The Need for the Proposed Action

The requirements specified in 10 CFR 50, Appendix R, Section III.G.3, require fire detection and fixed fire suppression in areas for which alternate shutdown capability is provided. The total combustible loading in Fire Area HH is less than 20,000 BTU/ft². Existing fire protection capability in the area consists of a fire detection system, protecting Room 603 (approximately 96 percent of Fire Area HH, not including Rooms 603A and 603B) and manual fire suppression capability consisting of portable fire extinguishers and standpipe hose stations for the protection of the entire area. The exemption is needed because the current fire detection and fire suppression capability is sufficient to protect the health and safety of the public.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the proposed exemption does not involve radioactive wastes, release of radioactive material into the atmosphere, solid radioactive waste, or liquid effluents released to the environment. The details of the staff's safety evaluation will be provided in the exemption that will be issued as part of the letter to the licensee approving the exemption to the regulation.

The DBNPS systems were evaluated in the Final Environmental Statement (FES) dated October 1975 (NUREG 75/097). The proposed exemption will not involve any change in the waste treatment systems described in the FES.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed

action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in the DBNPS FES dated October 1975.

Agencies and Persons Consulted

On April 8, 2005, the staff consulted with Ohio State official, Ms. Carol O'Claire of the Ohio Emergency Management Agency, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letters dated January 20, 2004, September 3, 2004, and February 25, 2005. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-