

(scfh) to 30.0 scfh when tested at 25 psig, in accordance with Technical Specification Surveillance Requirement 4.7.D.6.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on September 23, 1998 (63 FR 50935). However, by letter dated December 17, 1999, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated August 31, 1998, and the licensee's letter dated December 17, 1999, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland, this 17th day of March 2000.

For the Nuclear Regulatory Commission.

**Stewart N. Bailey,**

*Project Manager, Section 2, Project Directorate III, 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); Exemption

#### I

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

The facility consists of a pressurized-water reactor at the licensee's site in Ottawa County, Ohio.

#### II

Section 50.44 of Title 10 of the Code of Federal Regulations, "Standard for Combustible Gas Control System in Light-Water-Cooled Power Reactors," requires, among other items, that each boiling or pressurized light-water nuclear power reactor fueled with oxide

pellets within cylindrical zircaloy or ZIRLO cladding, must, as provided in paragraphs (b) through (d) of that section, include means for control of hydrogen gas that may be generated, following a postulated loss-of-coolant accident (LOCA) by—(1) Metal-water reaction involving the fuel cladding and the reactor coolant, (2) Radiolytic decomposition of the reactor coolant, and (3) Corrosion of metals.

Section 50.46 of Title 10 of the Code of Federal Regulations, "Acceptance Criteria for Emergency Core Cooling Systems for Light-Water Nuclear Power Reactors," requires, among other items, that each boiling or pressurized light-water nuclear power reactor fueled with uranium oxide pellets within cylindrical zircaloy or ZIRLO cladding must be provided with an emergency core cooling system (ECCS) that must be designed so that its calculated cooling performance following postulated LOCAs conform to the criteria set forth in paragraph (b) of that section. ECCS cooling performance must be calculated in accordance with an acceptable evaluation model and must be calculated for a number of postulated LOCAs of different sizes, locations, and other properties sufficient to provide assurance that the most severe postulated LOCAs are calculated.

Appendix K to Part 50 of Title 10 of the Code of Federal Regulations, "ECCS Evaluation Models," requires, among other items, that the rate of energy release, hydrogen generation, and cladding oxidation from the metal/water reaction shall be calculated using the Baker-Just equation.

10 CFR 50.44, 10 CFR 50.46, and 10 CFR part 50, Appendix K, make no provisions for use of fuel rods clad in a material other than Zircaloy or ZIRLO. The licensee has requested the use of Framatome Cogema Fuels (FCF) "M5" advanced alloy for fuel rod cladding for the DBNPS operating Cycle 13. The M5 alloy is a proprietary zirconium-based alloy comprised of primarily zirconium (~99 percent) and niobium (~1 percent). The elimination of tin has resulted in superior corrosion resistance and reduced irradiation induced growth relative to both standard Zircaloy (1.7% tin) and low-tin Zircaloy (1.2% tin). The addition of niobium increases ductility which is desirable to avoid brittle failures. Since the chemical composition of the M5 alloy differs from the specifications for Zircaloy or ZIRLO, a plant-specific exemption is required to allow the use of the M5 alloy as a cladding material at the DBNPS.

Section 50.12 of Title 10 of the Code of Federal Regulations, "Specific Exemptions," states, among other items,

that the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of this part, which are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.

#### III

The underlying purpose of 10 CFR 50.46 is to ensure that facilities have adequate acceptance criteria for ECCS. In its topical report BAW-10227P, "Evaluation of Advanced Cladding and Structural Material (M5) in PWR Reactor Fuel," Framatome Cogema Fuels (FCF) demonstrated that the effectiveness of the ECCS will not be affected by a change from Zircaloy fuel rod cladding to M5 fuel rod cladding. Analysis described in the topical report also demonstrates that the ECCS acceptance criteria applied to reactors fueled with Zircaloy clad fuel are also applicable to reactors fueled with M5 fuel rod cladding.

The underlying purposes of 10 CFR 50.44 and 10 CFR part 50, Appendix K, paragraph I.A.5, are to ensure that cladding oxidation and hydrogen generation are appropriately limited during a LOCA and conservatively accounted for in the ECCS evaluation model. Specifically, Appendix K requires that the Baker-Just equation be used in the ECCS evaluation model to determine the rate of energy release, cladding oxidation, and hydrogen generation. In their topical report, FCF demonstrated that the Baker-Just model is conservative in all post-LOCA scenarios with respect to the use of the M5 advanced alloy as a fuel rod cladding material, and that the amount of hydrogen generated in an M5-clad core during a LOCA will remain within the DBNPS design basis.

The staff has reviewed the FCF's advanced cladding and structural material, M5, for pressurized water reactor fuel mechanical designs as described in BAW-10227P. In a Safety Evaluation dated February 4, 2000, the staff concluded that, to the extent and limitations specified in the staff's evaluation, the M5 properties and mechanical design methodology are acceptable for referencing in fuel reload

licensing applications. Therefore, since the underlying purposes of 10 CFR 50.44, 10 CFR 50.46, and 10 CFR part 50, Appendix K, paragraph I.A.5 are achieved through the use of the M5 advanced alloy as a fuel rod cladding material, the special circumstances required by 10 CFR 50.12(a)(2)(ii) for the granting of exemptions to 10 CFR 50.44 and 10 CFR part 50, Appendix K, paragraph I.A.5 exist.

#### IV

The Commission has determined that, pursuant to 10 CFR 50.12, this exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants FENOC an exemption from the requirements of 10 CFR 50.44, 10 CFR 50.46, and 10 CFR part 50, Appendix K.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (65 FR 794).

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 15th day of March 2000.

**John A. Zwolinski,**

*Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-309]

### Maine Yankee Atomic Power Company, et al., Maine Yankee Atomic Power Station; Notice of Receipt and Availability for Comment of License Termination Plan

The Nuclear Regulatory Commission (NRC) is in receipt of and is making available for public inspection and comment the License Termination Plan (LTP) for the Maine Yankee Atomic Power Station (MYAPS) located in Lincoln County, Maine.

Maine Yankee Atomic Power Company (MYAPC, or the licensee) announced permanent cessation of power operations of MYAPS on August 7, 1997. In accordance with NRC regulations, MYAPC submitted a Post-Shutdown Decommissioning Activities Report (PSDAR) for MYAPS to the NRC on August 27, 1997. The facility is undergoing active decontamination and dismantlement.

In accordance with 10 CFR 50.82(a)(9), all power reactor licensees must submit an application for termination of their license. The application for termination of license must be accompanied or preceded by an LTP to be submitted for NRC approval. If found acceptable by the NRC staff, the LTP is approved by license amendment, subject to such conditions and limitations as the NRC staff deems appropriate and necessary. MYAPC submitted the proposed LTP for MYAPS by application dated January 13, 2000. In accordance with 10 CFR 20.1405 and 10 CFR 50.82(a)(9)(iii), the NRC is providing notice to individuals in the vicinity of the site that the NRC is in receipt of the MYAPS LTP, and will accept comments from affected parties. In accordance with 10 CFR 50.82(a)(9)(iii), the NRC is also providing notice that the NRC staff will conduct a meeting to discuss the MYAPS LTP on Monday, May 15, 2000, at 7:00 p.m. at Wiscasset High School, Wiscasset, Maine.

The MYAPS LTP is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, N.W., Washington, DC 20037. An electronic version of the LTP may be viewed through the NRC ADAMS system, accession number ML003676560 or the Maine Yankee Atomic Power Company web site, [www.maineyankee.com](http://www.maineyankee.com).

Comments regarding the MYAPS LTP may be submitted in writing and addressed to Mr. Michael Webb, Mail Stop O-11-D19, Project Directorate IV and Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-1347 or e-mail [mkw@nrc.gov](mailto:mkw@nrc.gov).

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 16th day of March 2000.

**Michael T. Masnik,**

*Chief, Decommissioning Section, Project Directorate IV and Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[DOCKET NO. 50-354]

### Public Service Electric and Gas Company; Notice of Consideration of Issuance of Amendment to Facility Operating License No. NPF-57, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-57 issued to Public Service Electric and Gas Company (the licensee) for operation of the Hope Creek Generating Station, located in Salem County, New Jersey.

The proposed amendment would change Technical Specification definition 1.7, CORE ALTERATION. The definition would be revised to be similar to the definition of CORE ALTERATION that is documented in NUREG-1433, Revision 1, "Standard Technical Specifications, General Electric Plants, BWR/4."

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS change does not involve any physical changes to plant structures, systems or components (SSC) and there is no direct effect on plant operation. The proposed changes do not affect any accident initiators or precursors and do not change or alter the design assumptions for systems or components used to mitigate the