

## **SAFEGUARDS INFORMATION**

September 25, 2003

Mr. Robert P. Powers  
Executive Vice President - Generation  
Indiana Michigan Power Company  
500 Circle Drive  
Buchanan, MI 49107-1395

SUBJECT: ORDERS MODIFYING LICENSES FOR REVISED DESIGN BASIS THREAT  
AND FOR TRAINING AND PHYSICAL FITNESS ENHANCEMENTS  
APPLICABLE TO SECURITY FORCE PERSONNEL (TAC NOS. MB9281,  
MB9282, MB9385 AND MB9386)

Dear Mr. Powers:

On April 29, 2003, the U.S. Nuclear Regulatory Commission (NRC or the Commission) issued Orders modifying the operating licenses for Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2 to: (1) require compliance with a revised Design Basis Threat (DBT); (2) implement new security force personnel training and physical fitness requirements; and (3) prescribe compensatory measures related to fitness-for-duty enhancements applicable to security force personnel.

The Orders required that licensees respond to the Commission within thirty-five (35) days. By letters dated May 30, 2003, you submitted a response to the Orders for Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2. In your response to the Orders, you requested that the NRC provide clarification of five DBT-related issues described in the safeguards attachment to a letter from Mr. Colvin, President and CEO of the Nuclear Energy Institute, to Chairman Diaz dated May 16, 2003. You specifically requested that the NRC provide further clarification associated with the NRC's use of force-on-force testing upon implementation of the revised safeguards contingency plans, security plans and security officer training and qualification plans. You requested a timely response from the Commission on this matter, since the Commission's clarifications may affect the manner of your compliance with the Orders.

<p><b><u>NOTICE:</u> Enclosure 1 to this letter contains Safeguards Information. Upon separation from Enclosure 1, this letter and Enclosure 2 are DECONTROLLED.</b></p>
--

**SAFEGUARDS INFORMATION**

By letter dated July 18, 2003, Chairman Diaz replied to Mr. Colvin's letter, providing the Commission's response and clarification on the five DBT-related issues. In response to your request, a copy of Chairman Diaz's July 18, 2003, letter, including the safeguards attachment, is provided as Enclosure 1. Furthermore, I am including a list of guiding principles (Enclosure 2) that the NRC staff intends to follow when it reviews the revised security plans that will be submitted in response to the April 29, 2003, Orders. This information was previously shared with members of the Nuclear Energy Institute, and other industry representatives, during a meeting held on August 28, 2003.

Finally, in your letters dated May 30, 2003, you stated your "understanding that the Commission intends to exercise enforcement discretion to accommodate issues which may arise as licensees, in good faith, take reasonable actions to implement the specific requirements of this Order." You further stated that you understood that the Commission would exercise enforcement discretion for "the period necessary to resolve such issues," and to integrate the requirements of these Orders with the Order issued February 25, 2002, as well as with other pertinent regulatory requirements, and safeguards contingency plans, security plans and security officer training and qualification plans. The NRC staff is currently evaluating the enforcement-related aspects of implementing the Orders to determine the extent to which enforcement discretion is appropriate, and the NRC intends to clarify its policy on this matter in separate correspondence.

The NRC staff is reviewing your response to the Orders, and will reply to you with its determination of whether or not your response met the requirements of the Orders in separate correspondence.

Please contact Robert J. Fretz at 301-415-1324, if you have any other questions on these issues.

Sincerely,

***/RA by ELeeds for/***

Ledyard B. Marsh, Director  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Docket Nos. 50-315 and 50-316

Enclosures: As stated

cc w/o encls: See next page

By letter dated July 18, 2003, Chairman Diaz replied to Mr. Colvin's letter, providing the Commission's response and clarification on the five DBT-related issues. In response to your request, a copy of Chairman Diaz's July 18, 2003, letter, including the safeguards attachment, is provided as Enclosure 1. Furthermore, I am including a list of guiding principles (Enclosure 2) that the NRC staff intends to follow when it reviews the revised security plans that will be submitted in response to the April 29, 2003, Orders. This information was previously shared with members of the Nuclear Energy Institute, and other industry representatives, during a meeting held on August 28, 2003.

Finally, in your letters dated May 30, 2003, you stated your "understanding that the Commission intends to exercise enforcement discretion to accommodate issues which may arise as licensees, in good faith, take reasonable actions to implement the specific requirements of this Order." You further stated that you understood that the Commission would exercise enforcement discretion for "the period necessary to resolve such issues," and to integrate the requirements of these Orders with the Order issued February 25, 2002, as well as with other pertinent regulatory requirements, and safeguards contingency plans, security plans and security officer training and qualification plans. The NRC staff is currently evaluating the enforcement-related aspects of implementing the Orders to determine the extent to which enforcement discretion is appropriate, and the NRC intends to clarify its policy on this matter in separate correspondence.

The NRC staff is reviewing your response to the Orders, and will reply to you with its determination of whether or not your response met the requirements of the Orders in separate correspondence.

Please contact Robert J. Fretz at 301-415-1324, if you have any other questions on these issues.

Sincerely,  
**/RA by ELeeds for/**  
 Ledyard B. Marsh, Director  
 Division of Licensing Project Management  
 Office of Nuclear Reactor Regulation

Docket Nos. 50-315 and 50-316

Enclosures: As stated

cc w/o encls: See next page

**DISTRIBUTION:**

PUBLIC	RFretz	DLPM Project Managers
PD Reading Files	VNerses	DLPM Licensing Assistants
TMarsh	CRaynor	Geoffrey E. Grant, Region III
CHolden	DLPM Project Directors	OGC
JClifford	DLPM Section Chiefs	ACRS

\*\* Concurrence via e-mail dated 8/26/03

\* See previous concurrence

ADAMS Accession Number: ML032170467

OFFICE	PDI-2/LPM	PDI-2/LPM*	PDI-2/LA	PDI-2/SC*
NAME	RFretz	VNerses	CRaynor	JClifford
DATE	09/25/03	09/16/03	09/25/03	09/16/03
OFFICE	OGC**	NSIR/DNS*	PDI/D*	DLPM/D
NAME	JGoldberg	GTracy	CHolden	ELeeds for TMarsh
DATE	08/26/03	09/17/03	09/16/03	09/25/03

**OFFICIAL RECORD COPY**

**LETTER FROM NILS DIAZ, NRC CHAIRMAN,  
TO MR. JOE COLVIN, PRESIDENT AND CEO, NUCLEAR ENERGY INSTITUTE,  
DATED JULY 18, 2003**

# **U.S. NUCLEAR REGULATORY COMMISSION STAFF GUIDING PRINCIPLES AND CRITERIA FOR CONDUCTING THE REVIEW OF REVISED PHYSICAL SECURITY PLANS, SAFEGUARDS CONTINGENCY PLANS, AND TRAINING AND QUALIFICATION PLANS**

## **PURPOSE:**

To inform affected licensees of the criteria the U.S. Nuclear Regulatory Commission (NRC or the Commission) staff intends to adhere to in reviewing revisions made to site-specific Physical Security Plans, Safeguards Contingency Plans, and Training and Qualification Plans as a result of the nuclear security and safeguards-related Commission Orders dated February 25, 2002, January 7, 2003, and April 29, 2003.

## **DISCUSSION:**

The information presented herein is intended to provide general information to licensees regarding the NRC staff's review criteria, but is not intended to be all-inclusive. The NRC staff is currently developing detailed criteria against which the revised site-specific plans will be reviewed for acceptance and approval. The NRC staff is also coordinating this effort with the Nuclear Energy Institute and industry working groups. Final review guidance will be developed no later than December 31, 2003.

## **GUIDING PRINCIPLES:**

1. Revised plans must comprehensively comply with all requirements of Orders (February 25, 2002; January 7, 2003; and April 29, 2003) except to the extent that a more stringent requirement is set forth in the licensee's current plans.
2. Revised plans must comprehensively comply with Title 10 of the *Code of Federal Regulations* (10 CFR), Section 73.55, in particular, the plans must comply with Section 73.55, paragraphs (b) through (h) unless other alternative measures are explicitly approved by the NRC staff.
3. Measures other than those in 10 CFR 73.55, paragraphs (b) through (h), may be approved by the staff if, and only if, they meet the objective of "high assurance" and provide a level of protection equivalent to that provided by paragraphs (b) through (h).
4. Upon NRC approval of the revised plans and their full implementation, licensees may seek relaxation or rescission, in whole or in part, of the Interim Compensatory Measures (ICMs) provided in the Orders dated February 25, 2002.
5. Subsequent to NRC approval of the revised plans, licensees may make changes to their revised plans, without prior NRC approval, in accordance with 10 CFR 50.54(p), *i.e.*, if the changes would not decrease the effectiveness of the plans (plan changes may also be made in accordance with the provisions of 10 CFR 50.90, and 73.5).
6. All licensee actions and activities which the staff deems essential, necessary, or important in complying with the Orders or 10 CFR 73.55 must be included in the plans and, therefore, will be enforceable.

ADDITIONAL GUIDANCE:

Consistent with guiding principles 1 and 2:

- Pursuant to 10 CFR 73.55 and the DBT Orders, licensees must develop and implement an effective site-specific security system and organization that will protect against the threat capabilities of the revised DBT, satisfy the requirements of all the Orders, and comply with 10 CFR 73.55, paragraphs (b) through (h).
- Each plan should clearly and specifically identify each Commission requirement that is to be complied with, or is intended to be satisfied, by each site-specific measure, procedure, policy, or action addressed in the plan.

Consistent with guiding principles 3 and 6:

- While a licensee may identify a more efficient or effective method for satisfying a specific requirement of the Orders or 10 CFR 73.55, paragraphs (b) through (h), such site-specific measures, procedures, policies, or actions that are intended to be an alternative to a specific requirement of the Orders or 10 CFR 73.55, paragraphs (b) through (h), should be clearly and explicitly identified in each plan.
- The NRC may authorize a licensee to provide alternative measures for protection against radiological sabotage other than those required by the Orders or 10 CFR 73.55, paragraphs (b) through (h), if:
  - a. the licensee demonstrates that the proposed alternative measure has the same high-assurance objective specified by 10 CFR 73.55(a),
  - b. the overall level of system performance provides protection against radiological sabotage equivalent to that which would be provided by compliance with the specific requirement of the Orders or 10 CFR 73.55, paragraphs (b) through (h), for which the measure is an alternative, and
  - c. the plan contains sufficient detailed information to support an NRC staff conclusion that the proposed alternative measure is consistent with a. and b. above through satisfying the intent of the specific requirement for which it is an alternative.
- Where a licensee does not clearly and explicitly identify a site-specific measure, procedure, policy, or action as a proposed alternative to a specific Commission requirement, the NRC staff will conduct its review on the basis that the intent of the licensee is to comply with the specific requirement as written in the Orders or 10 CFR 73.55, paragraphs (b) through (h).

Consistent with guiding principle 4 and 5:

- Upon NRC approval of the revised plans, or no later than October 29, 2004, licensees must, in accordance with the DBT Order, implement all site-specific measures, procedures, policies, actions, and alternatives, as written in each plan.
- The NRC staff intends to provide timely information to all licensees regarding the possible use of enforcement discretion at a later date.

SUMMARY:

The NRC intends to review and approve all revised site-specific plans between April 29 and October 29, 2004. If, for whatever reason, the NRC has not yet approved a revised site-specific plan by the full-implementation date, each licensee is, nonetheless, required to implement the revised plans in accordance with the DBT Order, no later than October 29, 2004.

Donald C. Cook Nuclear Plant, Units 1 and 2

cc:

Regional Administrator, Region III  
U.S. Nuclear Regulatory Commission  
801 Warrenville Road  
Lisle, IL 60532-4351

Attorney General  
Department of Attorney General  
525 West Ottawa Street  
Lansing, MI 48913

Township Supervisor  
Lake Township Hall  
P.O. Box 818  
Bridgman, MI 49106

U.S. Nuclear Regulatory Commission  
Resident Inspector's Office  
7700 Red Arrow Highway  
Stevensville, MI 49127

David W. Jenkins, Esquire  
Indiana Michigan Power Company  
One Cook Place  
Bridgman, MI 49106

Mayor, City of Bridgman  
P.O. Box 366  
Bridgman, MI 49106

Special Assistant to the Governor  
Room 1 - State Capitol  
Lansing, MI 48909

Mr. John A. Zwolinski  
Director, Design Engineering and  
Regulatory Affairs  
Indiana Michigan Power Company  
Nuclear Generation Group 500 Circle Drive  
Buchanan, MI 49107

Michigan Department of Environmental  
Quality  
Waste and Hazardous Materials Div.  
Hazardous Waste & Radiological  
Protection Section  
Nuclear Facilities Unit  
Constitution Hall, Lower-Level North  
525 West Allegan Street  
P. O. Box 30241  
Lansing, MI 48909-7741

David A. Lochbaum  
Union of Concerned Scientists  
1616 P Street NW, Suite 310  
Washington, DC 20036-1495

Michael J. Finissi  
Plant Manager  
Indiana Michigan Power Company  
Nuclear Generation Group  
One Cook Place  
Bridgman, MI 49106

Joseph E. Pollock  
Site Vice President  
Indiana Michigan Power Company  
Nuclear Generation Group  
One Cook Place  
Bridgman, MI 49106

Mr. Robert P. Powers  
American Electric Power  
Executive Vice President - Generation  
Indiana Michigan Power Company  
Nuclear Generation Group  
500 Circle Drive  
Buchanan, MI 49107