



**Entergy Nuclear Northeast
Entergy Nuclear Operations, Inc.**

James A. FitzPatrick NPP
P.O. Box 110
Lycoming, NY 13093
Tel 315-342-3840

Lawrence M. Coyle
Site Vice President – JAF

10 CFR 50.90

JAFP-13-0036
August 30, 2013

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555-0001

SUBJECT: Application for Preemption Authority Pursuant to Section 161A of the Atomic Energy Act and License Amendment Request
James A. FitzPatrick Nuclear Power Plant
Docket Nos. 50-333 and 72-12
Renewed License No. DPR-59

- REFERENCES:**
1. Notice of Issuance of Guidelines on Use of Firearms by Security Personnel; Notice of Effective Date of Statute, 74 Fed. Reg. 46800 (September 11, 2009).
 2. Revised Proposed Rule: Enhanced Weapons, Firearms Background Checks, and Security Event Notifications, 76 Fed. Reg. 6199 (February 3, 2011).
 3. Draft Regulatory Guide DG-5020, Applying for Enhanced-Weapons Authority, Applying for Preemption Authority, and Performing Firearms Background Checks under 10 CFR Part 73 (January 2011).
 4. EA-13-092, *Order Designating an Interim Class of NRC-Licensed Facilities that are Eligible to Apply to the Commission for Authorization to Use the Authority Granted Under the Provisions of Section 161A of the Atomic Energy Act of 1954, as Amended* (June 5, 2013) (ML13121A459).

Pursuant to Section 161A of the Atomic Energy Act, Entergy Nuclear Operations, Inc. (ENO) hereby applies to the U.S. Nuclear Regulatory Commission (NRC) for Commission authorization to use Section 161A preemption authority under 42 U.S.C. 2201a to permit the continued use by security personnel of the standard weapons described in Attachment 1, Section II to this transmittal at the James A. FitzPatrick Nuclear Power Plant (JAFNPP). ENO also requests an amendment to the JAFNPP license to reflect this new authority.

Section 161A confers upon the NRC the authority to permit a licensee's security personnel to possess and use weapons, devices, ammunition, or other firearms, notwithstanding state, local, and certain federal firearms laws that may prohibit such use. The NRC refers to this authority as "stand-alone preemption authority." With the issuance of the Firearms Guidelines (Reference 1) on September 11, 2009, Section 161A of the Atomic Energy Act, 42 U.S.C. 2201a, went into effect. In Reference 2, the NRC staff published in the *Federal Register* a revised proposed rule implementing the Firearms Guidelines that included proposed regulations governing applications for stand-alone preemption authority. In Reference 3, the NRC staff describes methods that the staff considers acceptable for licensees to comply with the Commission's regulations when applying for preemption authority and performing firearms background checks. In Reference 4, the NRC issued an Order that designated JAFNPP within the class of facilities eligible to apply for and obtain Section 161A preemption authority from the Commission. Reference 4 also sets forth the minimum requirements for an application for preemption authority and the process for conducting the necessary firearms background checks. In preparing this application for preemption authority, ENO has followed the NRC guidance contained in the four referenced documents.

Attachment 1 to this transmittal provides the basis for ENO's request and the information necessary to allow the NRC to make the required determinations under Section 161A. Attachment 1 contains security-related information and should be withheld from public disclosure per 10 CFR 2.390.

Attachment 2 includes the required no significant hazards consideration evaluation of the proposed change to the JAFNPP license.

Attachment 3 contains the annotated page of the current JAFNPP license page 5.

Attachment 4 contains the retyped JAFNPP license page 5.

The proposed change has been evaluated in accordance with 10 CFR 50.91(a)(1) using the criteria in 10 CFR 50.92(c), and it has been determined that the change involves no significant hazards consideration. Entergy requests this license amendment be effective as of its date of issuance.

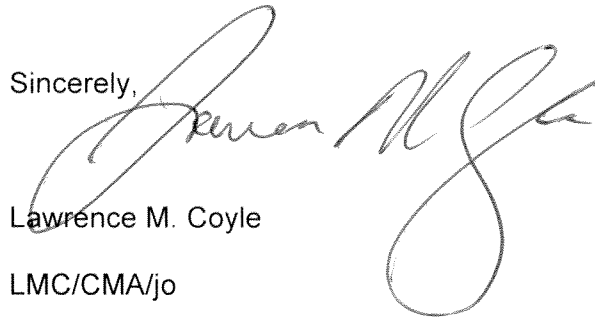
As required by 10 CFR 50.91(b), a copy of this request is being provided to the affected state representatives.

There are no regulatory commitments in this submittal.

Should you have any questions or require additional information regarding this application, please contact Mr. Chris M. Adner, Licensing Manager at 315-349-6766.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 30, 2013.

Sincerely,



Lawrence M. Coyle

LMC/CMA/jo

- Attachments: (1) Application for Preemption Authority Pursuant to Section 161A of the Atomic Energy Act (**Contains Security Related Information—withhold under 10 CFR 2.390**).
- (2) Evaluation of the Proposed Change for No Significant Hazards Consideration
- (3) Annotated Page of the Current JAFNPP Facility Operating License Page 5
- (4) Re-Typed JAFNPP Facility Operating License Page 5
- (5) Renewed FOL Page 3 Blank Amendment

cc: Mr. Mohan Thadani, NRC Senior Project Manager
Mr. William M. Dean, Regional Administrator, NRC Region 1
Ms. Margaret E. Stambaugh, Security and Incident Response, NRR
Mr. Edward C. Knutson, NRC Senior Resident Inspector, JAFNPP
Mr. Francis J. Murray, Jr., President and CEO, NYSERDA
Ms. Bridget Frymire, New York State Dept. of Public Service

~~SECURITY RELATED INFORMATION – WITHHOLD UNDER 10 CFR 2.390~~

ATTACHMENT 2 TO JAFP-13-0036

**EVALUATION OF THE PROPOSED CHANGE
FOR NO SIGNIFICANT HAZARDS CONSIDERATION**

ENTERGY NUCLEAR OPERATIONS, INC.
JAMES A. FITZPATRICK NUCLEAR POWER PLANT
DOCKET NO. 50-33

~~SECURITY RELATED INFORMATION – WITHHOLD UNDER 10 CFR 2.390~~
When Attachment 1 is detached, the cover letter and other attachments
may be made publicly available

Evaluation of Proposed Change for No Significant Hazards Consideration

1.0 SUMMARY DESCRIPTION

The proposed license amendment request (LAR) includes revising the license for the James A. FitzPatrick Nuclear Power Plant (JAFNPP), Renewed License No. DPR-59, to reflect the U.S. Nuclear Regulatory Commission (NRC or Commission) authorization to use Section 161A preemption authority under 42 U.S.C. 2201a to permit the continued use of the weapons discussed in Attachment 1, Section II, which are included as part of the JAFNPP Security Plan.

2.0 DETAILED DESCRIPTION

This LAR includes a proposed paragraph to be added to the existing JAFNPP physical protection license condition 2.D to reflect that JAFNPP has received stand-alone preemption authority from the Commission for the weapons discussed in Attachment 1, Section II pursuant to the authority described in Section 161A of the Atomic Energy Act of 1954, as amended. In exercising this authority, the NRC must make case-by-case determinations that the stand-alone preemption is necessary in the discharge of official duties by security personnel engaged in protecting power reactor and other covered NRC-licensed facilities.

As described by the NRC staff in SECY-13-0006, *Commission Order to Designate an Interim Class of U.S. Nuclear Regulatory Commission-Licensed Facilities that are Eligible to Apply to the Commission for Preemption Authority under Section 161A of the Atomic Energy Act of 1954, as Amended* (January 10, 2013) (SECY-13-0006) (Reference 1), the NRC determined that JAFNPP should fall within a class of facilities where “each facility has a near-term need for preemption authority based upon the types of firearms and devices currently in use at these facilities and the current State firearms laws that could adversely impact the ability of these licensees to maintain the capabilities described in their current NRC-approved security plans.” *Id.* at 3. The Commission formerly designated JAFNPP within the class of facilities eligible to apply for Section 161A preemption authority in EA-13-092, *Order Designating an Interim Class of NRC-Licensed Facilities that are Eligible to Apply to the Commission for Authorization to Use the Authority Granted Under the Provisions of Section 161A of the Atomic Energy Act of 1954, as Amended* (EA-13-092) (Reference 2). EA-13-092 also specified that licensees “must use the application process outlined in Attachment 2 [to EA-13-092] and must submit the application in accordance with the provisions of 10 CFR 50.90, “Application for Amendment of License, Construction Permit, or Early Site Permit.” The background for this application is addressed by the NRC is SECY-13-0006.

3.0 TECHNICAL EVALUATION

The requested preemption authority is necessary for JAFNPP armed security personnel to continue to perform their duties. Pursuant to Part 73, ENO is required to establish and maintain a physical protection program, which includes a security organization, with an objective to provides high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety. 10 CFR 73.55(b)(1). To satisfy the general performance objective required in the regulations, the physical protection program must protect against the design basis threat (DBT) of radiological sabotage, as stated in 10 CFR 73.1, and provide defense-in-depth. 10 CFR 73.55(b)(2) and (b)(3)(ii).

JAFNPP's physical protection program is contained in its NRC-approved Physical Security, Training & Qualification, and Safeguards Contingency Plan, and Cyber Security Plan (referred to collectively hereafter as "security plans"). Obtaining Section 161A preemption authority with respect to the subject weapons discussed in Attachment 1, Section II maintains the effectiveness of the security plans for JAFNPP, including the ability of the security force to defend against the DBT and provide defense-in-depth.

This LAR includes a proposed change to the existing license condition for physical protection for JAFNPP (Attachment 3). This change to the license condition is consistent with the requirements in EA-13-092.

The following paragraph is proposed to be inserted into the physical protection license condition 2.D in JAFNPP's license:

ENO has been granted Commission authorization to use "stand alone preemption authority" under Section 161A of the Atomic Energy Act, 42 U.S.C. 2201a with respect to the weapons described in Attachment 1, Section II contained in its application submitted by letter dated August 30, 2013. ENO shall fully implement and maintain in effect the provisions of the Commission approved authorization.

4.0 REGULATORY EVALUATION

4.1 APPLICABLE REGULATORY REQUIREMENTS/CRITERIA

This LAR is submitted pursuant to the requirements provided in EA-13-092. EA-13-092 specifies that licensees "must use the application process outlined in Attachment 2 [to EA-13-092] and must submit the application in accordance with the provisions of 10 CFR 50.90, "Application for Amendment of License, Construction Permit, or Early Site Permit."

4.2 SIGNIFICANT HAZARDS CONSIDERATION

Entergy Nuclear Operations, Inc. (ENO) has evaluated the proposed change using the criteria in 10 CFR 50.92 and has determined that the proposed change does not involve a significant hazards consideration. An analysis of the issue of no significant hazards consideration is presented below.

Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The LAR does not require any plant modifications, alter the plant configuration, require new plant equipment to be installed, alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected.

The proposed change to JAFNPP's license will not result in any actual changes at the facility. JAFNPP security personnel already use the weapons described in Attachment 1 and the use of the subject weapons is already covered under the existing JAFNPP security plans.

The proposed change adds a sentence to the JAFNPP license to reflect the Section 161A preemption authority granted by the Commission. The change is administrative and has no impact on the probability or consequences of an accident previously evaluated.

Therefore, it is concluded that this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The LAR does not require any plant modifications, alter the plant configuration, require new plant equipment to be installed, alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected.

The proposed change to JAFNPP's license will not result in any actual changes at the facility. JAFNPP security personnel already use the weapons described in Attachment 1 and the use of the subject weapons is already covered under the existing JAFNPP security plans.

The proposed change adds a sentence to the JAFNPP license to reflect the Section 161A preemption authority granted by the Commission. The change is administrative and has no impact on the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, it is concluded that this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Does the proposed change involve a significant reduction in a margin of safety?

The LAR does not require any plant modifications, alter the plant configuration, require new plant equipment to be installed, alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected.

The proposed change to JAFNPP's license will not result in any actual changes at the facility. JAFNPP security personnel already use the weapons described in Attachment 1 and the use of the subject weapons is already covered under the existing JAFNPP security plans. Plant safety margins are established through Limiting Conditions for Operation, Limiting Safety System Settings and Safety limits specified in the Technical Specifications. Because there is no change to these established safety margins, the proposed change does not involve a significant reduction in a margin of safety.

The proposed change adds a sentence to the JAFNPP license to reflect the Section 161A preemption authority granted by the Commission. The change is administrative and does not involve a significant reduction in a margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Based on the above, ENO concludes that the proposed change presents no significant hazards under the standards set forth in 10 CFR 50.92(c), and accordingly, a finding of no significant hazards consideration is justified.

4.3 CONCLUSIONS

In conclusion, based on the considerations discussed above: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner; (2) such activities will be conducted in compliance with the Commission's regulations; and (3) the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

5.0 ENVIRONMENTAL CONSIDERATION

The proposed amendment incorporates the Commission's Section 161A preemption authorization into the licensing basis for JAFNPP. The weapons described in Attachment 1 are already in use at JAFNPP and the use of the subject weapons is already covered under the existing JAFNPP security plans. This proposed amendment will not involve (i) a significant hazards consideration, (ii) a significant change in the types or a significant increase in the amounts of any effluents that may be released offsite, or (iii) a significant increase in individual or cumulative occupational radiation exposure. Accordingly, the proposed amendment meets the eligibility criterion for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), ENO concludes that no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the amendment.

6.0 REFERENCE

1. SECY-13-0006, *Commission Order to Designate an Interim Class of U.S. Nuclear Regulatory Commission-Licensed Facilities that are Eligible to Apply to the Commission for Preemption Authority under Section 161A of the Atomic Energy Act of 1954, as Amended* (January 10, 2013).
2. EA-13-092, *Order Designating an Interim Class of NRC-Licensed Facilities that are Eligible to Apply to the Commission for Authorization to Use the Authority Granted Under the Provisions of Section 161A of the Atomic Energy Act of 1954, as Amended* (June 5, 2013).

ATTACHMENT 3 TO JAFP-13-0036

ANNOTATED PAGE OF THE CURRENT JAFNPP FACILITY OPERATING LICENSE PAGE 5

ENTERGY NUCLEAR OPERATIONS, INC.
JAMES A. FITZPATRICK NUCLEAR POWER PLANT
DOCKET NO. 50-333

Safeguards Contingency Plan, Revision 0,” submitted by letter dated October 26, 2004, as supplemented by letter dated May 17, 2006.

ENO shall fully implement and maintain in effect all provisions of the Commission-approved cyber security plan (CSP), including changes made pursuant to the authority of 10 CFR 50.90 and 10 CFR 50.54(p). ENO CSP was approved by License Amendment No. 300, as supplemented by a change approved by License Amendment No. 303.

ENO has been granted Commission authorization to use “stand alone preemption authority” under Section 161A of the Atomic Energy Act, 42 U.S.C. 2201a with respect to the weapons described in Attachment 1, Section II contained in its application submitted by letter dated August 30, 2013. ENO shall fully implement and maintain in effect the provisions of the Commission approved authorization.

E. Power Uprate License Amendment Implementation

The licensee shall complete the following actions as a condition of the approval of the power uprate license amendment.

(1) Recirculation Pump Motor Vibration

Perform monitoring of recirculation pump motor vibration during initial Cycle 13 power ascension for uprated power conditions.

(2) Startup Test Program

The licensee will follow a startup testing program, during Cycle 13 power ascension, as described in GE Licensing Topical Report NEDC-31897P-1, “Generic Guidelines for General Electric Boiling Water Reactor Power Uprate.” The Startup test program includes system testing of such process control systems as the feedwater flow and main steam pressure control systems. The licensee will collect steady-state operational data during various portions of the power ascension to the higher licensed power level so that predicted equipment performance characteristics can be verified. The licensee will do the startup testing program in accordance with its procedures. The licensee’s approach is in conformance with the test guidelines of GE Licensing Topical Report NEDC-31897P-1, “Generic Guidelines for General Electric Boiling Water Reactor Power Uprate.” June 1991 (proprietary), GE Licensing Topical Report NEDO-31897, “Generic Guidelines for General Electric Boiling Water Reactor Power Uprate.” February 1992 (nonproprietary), and NEDC-31897P-AA, Class III (proprietary), May 1992.

(3) Human Factors

The licensee will review the results of the Cycle 13 startup test program to determine any potential effects on operator training. Training issues identified will be incorporated in Licensed Operator training during 1997. Simulator discrepancies identified will be addressed in accordance with simulator Configuration Management procedural requirements.

F. Additional Conditions

The Additional Conditions contained in Appendix C, as revised through Amendment No. 289, are hereby incorporated into this renewed operating license. ENO shall operate the facility in accordance with the Additional Conditions.

ATTACHMENT 4 TO JAFP-13-0036

RE-TYPED JAFNPP FACILITY OPERATING LICENSE PAGE 5

ENTERGY NUCLEAR OPERATIONS, INC.
JAMES A. FITZPATRICK NUCLEAR POWER PLANT
DOCKET NO. 50-333

Safeguards Contingency Plan, Revision 0,” submitted by letter dated October 26, 2004, as supplemented by letter dated May 17, 2006.

ENO shall fully implement and maintain in effect all provisions of the Commission-approved cyber security plan (CSP), including changes made pursuant to the authority of 10 CFR 50.90 and 10 CFR 50.54(p). ENO CSP was approved by License Amendment No. 300, as supplemented by a change approved by License Amendment No. 303.

ENO has been granted Commission authorization to use “stand alone preemption authority” under Section 161A of the Atomic Energy Act, 42 U.S.C. 2201a with respect to the weapons described in Attachment 1, Section II contained in its application submitted by letter dated August 30, 2013. ENO shall fully implement and maintain in effect the provisions of the Commission approved authorization.

E. Power Upate License Amendment Implementation

The licensee shall complete the following actions as a condition of the approval of the power uprate license amendment.

(1) Recirculation Pump Motor Vibration

Perform monitoring of recirculation pump motor vibration during initial Cycle 13 power ascension for uprated power conditions.

(2) Startup Test Program

The licensee will follow a startup testing program, during Cycle 13 power ascension, as described in GE Licensing Topical Report NEDC-31897P-1, “Generic Guidelines for General Electric Boiling Water Reactor Power Urate.” The Startup test program includes system testing of such process control systems as the feedwater flow and main steam pressure control systems. The licensee will collect steady-state operational data during various portions of the power ascension to the higher licensed power level so that predicted equipment performance characteristics can be verified. The licensee will do the startup testing program in accordance with its procedures. The licensee’s approach is in conformance with the test guidelines of GE Licensing Topical Report NEDC-31897P-1, “Generic Guidelines for General Electric Boiling Water Reactor Power Urate.” June 1991 (proprietary), GE Licensing Topical Report NEDO-31897, “Generic Guidelines for General Electric Boiling Water Reactor Power Urate.” February 1992 (nonproprietary), and NEDC-31897P-AA, Class III (proprietary), May 1992.

(3) Human Factors

The licensee will review the results of the Cycle 13 startup test program to determine any potential effects on operator training. Training issues identified will be incorporated in Licensed Operator training during 1997. Simulator discrepancies identified will be addressed in accordance with simulator Configuration Management procedural requirements.

F. Additional Conditions

The Additional Conditions contained in Appendix C, as revised through Amendment No. 289, are hereby incorporated into this renewed operating license. ENO shall operate the facility in accordance with the Additional Conditions.

ATTACHMENT 5 TO JAFP-13-0036

RENEWED FOL JAFNPP FACILITY OPERATING LICENSE BLANK PAGE 3

ENTERGY NUCLEAR OPERATIONS, INC.
JAMES A. FITZPATRICK NUCLEAR POWER PLANT
DOCKET NO. 50-333

Amendment

- (4) ENO pursuant to the Act and 10 CFR Parts 30, 40, and 70 to receive, possess, and use, at any time, any byproduct, source and special nuclear material without restriction to chemical or physical form, for sample analysis or instrument calibration; or associated with radioactive apparatus, components or tools..
 - (5) Pursuant to the Act and 10 CFR Parts 30 and 70, to possess, but not separate, such byproduct and special nuclear materials as may be produced by the operation of the facility.
- C. This renewed operating license shall be deemed to contain and is subject to the conditions specified in the following Commission regulations in 10 CFR Chapter I: Part 20, Section 30.34 of Part 30, Section 40.41 of Part 40, Sections 50.54 and 50.59 of Part 50, and Section 70.32 of Part 70; and is subject to all applicable provisions of the Act and to the rules, regulations, and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified or incorporated below:
- (1) Maximum Power Level

ENO is authorized to operate the facility at steady state reactor core power levels not in excess of 2536 megawatts (thermal).
 - (2) Technical Specifications

The Technical Specifications contained in Appendix A, as revised through Amendment No. , are hereby incorporated in the renewed operating license. The licensee shall operate the facility in accordance with the Technical Specifications.
 - (3) Fire Protection

ENO shall implement and maintain in effect all provisions of the approved fire protections program as described in the Final Safety Analysis Report for the facility and as approved in the SER dated November 20, 1972; the SER Supplement No. 1 dated February 1, 1973; the SER Supplement No. 2 dated October 4, 1974; the SER dated August 1, 1979; the SER Supplement dated October 3, 1980; the SER Supplement dated February 13, 1981; the NRC Letter dated February 24, 1981; Technical Specification Amendments 34 (dated January 31, 1978), 80 (dated May 22, 1984), 134 (dated July 19, 1989), 135 (dated September 5, 1989), 142 (dated October 23, 1989), 164 (dated August 10, 1990), 176 (dated January 16, 1992), 177 (dated February 10, 1992), 186 (dated February 19, 1993), 190 (dated June 29, 1993), 191 (dated July 7, 1993), 206 (dated February 28, 1994) and 214 (dated June 27, 1994); and NRC Exemptions and associated safety evaluations dated April 26, 1983, July 1, 1983, January 11, 1985, April 30, 1986, September 15, 1986 and September 10, 1992 subject to the following provision: