



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 02, 2016

Mr. Brian R. Sullivan
Site Vice President
Entergy Operations, Inc.
James A. FitzPatrick Nuclear Power Plant
P.O. Box 110
Lycoming, NY 13093

SUBJECT: JAMES A. FITZPATRICK NUCLEAR POWER PLANT - RELAXATION OF THE SCHEDULE REQUIREMENTS FOR ORDER EA-12-049, "ISSUANCE OF ORDER TO MODIFY LICENSES WITH REGARD TO REQUIREMENTS FOR MITIGATION STRATEGIES FOR BEYOND-DESIGN-BASIS EXTERNAL EVENTS" AND ORDER EA-12-051, "RELIABLE SPENT FUEL POOL INSTRUMENTATION" (CAC NOS. MF1077 AND MF1076)

Dear Mr. Sullivan:

On March 12, 2012, the U.S. Nuclear Regulatory Commission (NRC) issued Order EA-12-049, "Order Modifying Licenses with Regard to Requirements for Mitigation Strategies for Beyond Design-Basis External Events" and Order EA-12-051, "Order to Modify Licenses With Regard To Reliable Spent Fuel Pool Instrumentation" (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML12054A736 and ML12054A679, respectively). The orders require holders of operating reactor licenses and construction permits issued under Title 10 of the *Code of Federal Regulations* Part 50 to modify the plants to provide additional capabilities and defense-in-depth for responding to beyond-design-basis external events (BDBEEs). As a holder of an operating reactor license, Entergy Nuclear Operations, Inc. (Entergy, the licensee) was subject to these orders for the James A. FitzPatrick Nuclear Power Plant (JAF).

Section IV of each order states that licensees proposing to deviate from requirements contained therein may request that the Director, Office of Nuclear Reactor Regulation, relax or rescind certain conditions, upon demonstration of good cause. By letter dated April 14, 2016 (ADAMS Accession No. ML16105A379), supplemented by letter dated June 16, 2016 (ADAMS Accession No. ML16168A452), Entergy submitted a request for relaxation of Order EA-12-049 and Order EA-12-051 full compliance dates to June 30, 2017. This request was based, in part, on Entergy's plan to permanently cease power operations at JAF on January 27, 2017, as certified in its letter to the NRC dated March 16, 2016 (ADAMS Accession No. ML16076A391).

By letter dated August 18, 2016 (ADAMS Accession No. ML16235A081), Entergy and Exelon Generation Company, LLC (Exelon) jointly submitted an application for an order and conforming license amendment transferring the JAF facility operating license from Entergy to Exelon, contingent upon certain closing conditions. This letter describes the circumstances leading to the license transfer request, most significantly, a new mechanism recently approved by the New York State Public Service Commission for Zero-Emissions Credits, which are designed to assist New York State with its goal of carbon emission reductions. By letter dated September 8, 2016 (ADAMS Accession No. ML16252A477), Entergy submitted a second request for relaxation of

the Order EA-12-049 and Order EA-12-051 full compliance dates, also to June 30, 2017. This request was based, in part, on a plan to operate JAF after a refueling outage which starts in January 2017, contingent upon achieving the closing conditions associated with the license transfer.

Section IV A.2 of Orders EA-12-049 and EA-12-051 states that full implementation of the orders' requirements shall be completed no later than two refueling cycles after submittal of the Overall Integrated Plan or by December 31, 2016, whichever comes first. Based upon the timing of the JAF refueling cycles, the current required implementation date for Orders EA-12-049 and EA-12-051 at JAF is December 31, 2016.

In the shutdown-related request dated April 14, 2016, as supplemented by a letter dated June 16, 2016, Entergy provided information on JAF's capabilities to mitigate a BDBEE during the period of the requested extension, even though full compliance with each order will not be accomplished. In the second request dated September 8, 2016, Entergy provided similar information. In both cases, these capabilities include the ability to supply fire water, using a diesel driven fire pump, from the intake bay to the reactor pressure vessel and the spent fuel pool. In addition, portable equipment that could be utilized in a BDBEE response is available to JAF, both onsite and offsite, through corporate and industry resources. JAF also has implemented the capability to monitor spent fuel pool level utilizing portable instruments as an alternative to the normally available level instrumentation.

The NRC staff has reviewed Entergy's proposed requests and notes that in the shutdown-related request, the date for which Entergy will cease power operations at JAF is only 27 days beyond the required implementation date of December 31, 2016, with a planned defueling several weeks after that date. After defueling, the spent fuel pool will be the only focus of the plant operational staff for mitigating strategies during a BDBEE. Regarding the second request, contingent upon achieving the required license transfer-related closing conditions, the plant will operate approximately six months past the required implementation date. In either case, the NRC staff concludes that the amount of time that the plant will operate beyond the compliance date is minimal, especially in the context of the occurrence of a BDBEE. The additional measures described in the licensee's requests provide a reasonable degree of BDBEE mitigation capability for the requested extension period such that the key safety functions of core cooling, containment, and spent fuel pool cooling, as well as indication of the spent fuel pool level, can be addressed.

In light of the facts presented in the licensee's letters dated April 14, 2016, June 16, 2016, and September 8, 2016, the NRC staff has determined that the licensee has demonstrated good cause for relaxation of the orders' implementation date. Further, the NRC staff notes that following the accident at Fukushima Dai-ichi, the NRC concluded that a sequence of events leading up to an accident such as the one that occurred at Fukushima Dai-ichi is unlikely in the United States based on the current regulatory requirements and existing plant capabilities. Given the plant-specific circumstances at JAF, the NRC staff approves a relaxation of the orders to the requested date.

Accordingly, based upon the authority granted to the Director, Office of Nuclear Reactor Regulation, the requirement for full order implementation of Orders EA-12-049 and EA-12-051 at JAF is relaxed until June 30, 2017.

B. Sullivan

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If you have any questions, please contact Peter Bamford, Senior Project Manager, at 301-415-2833.

Sincerely,

A handwritten signature in dark ink, appearing to read 'W. M. Dean', with a long horizontal flourish extending to the right.

William M. Dean, Director
Office of Nuclear Reactor Regulation

Docket No. 50-333

cc: Listserv

B. Sullivan

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If you have any questions, please contact Peter Bamford, Senior Project Manager, at 301-415-2833.

Sincerely,

/RA/

William M. Dean, Director
Office of Nuclear Reactor Regulation

Docket No. 50-333

cc: Listserv

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ADAMS Accession No.: ML16173A342

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