II. *Review Focus:* The Department of Labor is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. *Current Actions:* The Department of Labor seeks the approval of the extension of this information collection in order to carry out its responsibility to meet the statutory requirements to ensure payment of compensation or death benefits under the Act.

Type of Review: Extension.

Agency: Employment Standards Administration.

Titles: Notice of Controversion of Right to Compensation.

OMB Number: 1215–0023.

Agency Numbers: LS–207.

Affected Public: Business or other for-profit.

Total Respondents: 750.

Total Annual Responses: 15,750.

Estimated Total Burden Hours: 3,938.

Estimated Time Per Response: 15 minutes.

Frequency: On occasion.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $7,011.00.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: July 21, 2005.

Bruce Bohanon,

Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 05–14903 Filed 7–27–05; 8:45 am]

BILLING CODE 4510–CF–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–346]

FirstEnergy Nuclear Operating Company, Davis-Besse Nuclear Power Station, Unit 1; Exemption

1.0 Background

The FirstEnergy Nuclear Operating Company (FENOC or the licensee) is the holder of Facility Operating License No. NPF–3, which authorizes operation of the Davis-Besse Nuclear Power Station, Unit 1 (DBNPS). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a pressurized-water reactor located in Ottawa County, Ohio.

2.0 Request

Title 10 of the Code of Federal Regulations (10 CFR), part 50, appendix R, ''Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979,'' establishes fire protection requirements to satisfy 10 CFR part 50, appendix A, General Design Criterion No. 3, ''Fire Protection.'' By letter dated January 20, 2004 (ADAMS ML040220470), as supplemented by letters dated September 3, 2004 (ADAMS ML042520326), and February 25, 2005 (ADAMS ML050610249), FENOC requested an exemption from Appendix R, Section III.G.3, ''Fire Protection of Safe Shutdown Capability.''

The licensee is requesting an exemption from the requirements of Section III.G.3 to provide area-wide fire detection and fixed fire suppression in Fire Area HH. Control room emergency ventilation systems are routed through Fire Area HH in the auxiliary building. Fire Area HH is equipped with a fire detection system (covering approximately 96 percent of Fire Area HH), but no fixed suppression system is installed.

In summary, FENOC has requested an exemption from the 10 CFR Part 50, Appendix R, Section III.G.3 requirement for a fixed fire suppression system in Fire Area HH and for fire detection in the approximately 4 percent of Fire Area HH not equipped with a fire detection system.

3.0 Discussion

Pursuant to 10 CFR 50.12(a), the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. These special circumstances are described in 10 CFR 50.12(a)(2)(ii), in that the application of these regulations in this circumstance is not necessary to achieve the underlying purpose of the regulations.

The underlying purpose of appendix R, section III.G, is to provide features capable of limiting fire damage so that: (1) One train of systems necessary to achieve and maintain hot shutdown conditions from either the control room or emergency control station(s) is free of fire damage; and (2) systems necessary to achieve and maintain cold shutdown from either the control room or emergency control station(s) can be repaired within 72 hours.

Fire Area HH consists of the Air Conditioning (A/C) Equipment Room (Room 603), the Records and Storage Area (Room 603A), and Vestibule (Room 603B). Room 603 consists of approximately 3,150 square feet of floor area, with an in situ combustible loading consisting of cable insulation; heating, ventilation and air conditioning (HVAC) duct insulation; and small quantities of grease, lube oil, and miscellaneous combustibles. Combustibles are located throughout the room, and in proximity to the cables of interest. Rooms 603A and 603B do not contain combustibles or equipment.

Existing fire protection capability in the area consists of a fire detection system that protects the A/C Equipment Room (Room 603) and manual (not fixed) fire suppression capability consisting of portable fire extinguishers and standpipe hose stations for the protection of the entire area. Rooms 603A and 603B are not equipped with detection. Room 603A is separated from Room 603 by a 12-inch thick concrete masonry unit wall and a Underwriters Laboratory Class B fire door with a louvered opening. Room 603A is no longer used as a records storage area. The louvered opening is equipped with a fire damper held open by a fusible link. The door is normally locked and placarded with a sign that states, ''Storage of Any Kind is Forbidden'' and ''Door Must Remain Locked.'' Room 603B is a vestibule separated from Room 603 by a 2-hour rated barrier.

Fire Area HH has 3-hour rated fire barriers on the walls and floors. The fire barrier between Room 603 and the stairwell and elevator, Fire Area UU, is 2-hour rated. All cables are within

conduit or cabinets. There are no cable trays in Area HH.

Fire damage to the circuits for the Control Room Emergency Ventilation System (CREVS) in Fire Area HH could disable the Control Room HVAC.

The installed ionization smoke detection system will alert the Control Room operators to summon the fire brigade to respond and manually extinguish the fire. Standpipe hose stations are available to the fire brigade. No combustibles are stored in Rooms 603A and 603B, and these rooms are separated from Room 603, therefore a fire in Room 603A or 603B is not expected to damage the cables of interest.

FENOC performed an analysis to determine the impact of a fire in Fire Area HH. For example, assuming a 500kW fire in Room 603, the room would not exceed 250 °F for at least 20 minutes. Even with this relatively large fire size for the equipment in the room, the room temperature would not be high enough to cause area-wide cable damage. Also, 20 minutes would provide time for the fire brigade to respond to the fire alarm that would annunciate in the control room. The 20-minute response time allows 5 minutes for the detection system to actuate and 15 minutes for the fire brigade to respond.

FENOC verified that a number of the motor control centers in Room 603 were remote from the cables of interest and therefore, would not be expected to impact them. Other combustible sources were considered to cause damage to the cables of interest and are discussed in the risk analysis.

A floor drain is provided in Room 603. Based on the configuration of the room, it is expected that if any of the combustible liquids leak from their enclosures the liquids would flow to the floor drain and not flow to below the circuits of interest, where if ignited, could cause a fire that would impact the cables of interest.

Loss of the Control Room HVAC is not expected to have an immediate effect on the ability to shutdown the plant from the Control Room. With no reduction in Control Room heat load, FENOC calculated that it will take 30 minutes before the Control Room will reach a temperature of 105 °F. Although procedural guidance to mitigate a temporary loss of HVAC is provided (*i.e.*, by reducing the Control Room heat load), the operators may need to or choose to abandon the Control Room due to high temperatures.

FENOC has identified a few pinch points where a single fire could potentially fail both trains of CREVS circuits. These pinch points are in the area near the C6714 and C6715 cabinets, around C6705 cabinet, and a transient fire affecting the CREVS controls and compressors located in Room 603. Since the room configuration does not assure that safe shutdown will not be challenged, the licensee has performed a risk analysis to determine the probability that the existing configuration will challenge safe shutdown as discussed below.

Alternate shutdown capability can be provided by evacuating the Control Room and shutting down the plant from the Auxiliary Shutdown Panel. Plant procedures include instructions for these manual operator actions if Control Room cooling is disabled.

The licensee performed a risk analysis of Room 603, and determined that the fire frequency of fires that could impact the CREVS is 8.25E–5/year. The risk analysis also estimates the likelihood that the Control Room operators would fail to take actions to shed Control Room heating loads in order to keep the Control Room habitable. This conditional probability of failure to shed control room heat loads was evaluated as 0.05 (5E–2). The risk analysis also estimates the likelihood that safe shutdown would fail if a fire affecting the CREVS required control room evacuation. This conditional probability was calculated to be 0.079 (7.9E–2). Therefore, the probability that both the CREVS cables would be damaged by a fire and the mitigation from outside the control room would fail would be:

Fire frequency	×	Fail to shed heat loads	×	Fail to shut-down from alt. shutdown panel	=	Total
8.25E–5/year		5E–2		7.9E–2		3.3.E–7/year

This value is the frequency that a fire in the area may challenge safe shutdown. The value may be smaller (for example, this value does not take credit for manual suppression). FENOC also provides the overall core-damage frequency for DBNPS as 1.2E–5/year.

The NRC staff examined the licensee's submittals to determine if the configuration in Fire Area HH would meet the underlying purpose of the rule, 10 CFR part 50, appendix R. The NRC staff has compared the configuration to the three defense-in-depth elements described in 10 CFR part 50, appendix R:

1. To prevent fires from starting,

2. To detect rapidly, control, and extinguish promptly those fires that do occur, and

3. To provide protection for structures, systems and components important to safety so that a fire that is not promptly extinguished by the fire suppression activities will not prevent the safe shutdown of the plant.

The combustibles and ignition sources in Fire Area HH are limited to those expected in an area of this type. The licensee has control over transient combustibles and hot work performed in this area. Combustible liquids are installed within equipment, and cables are installed within cabinets and conduits; no cable trays are installed in the area. According to the licensee's analysis, if the combustible liquids were to escape their enclosure, they would flow to the floor drain and not to an area of Room 603 where, if ignited, could affect the cables of interest. There is substantial separation (2-hour rated barriers) between this area and other exposing fire areas.

Room 603 is equipped with an ionization smoke detection system which annunciates to the control room for rapid plant response. The other rooms, 603A and 603B, do not contain combustibles and are separated from Room 603, and therefore are not considered to be an ignition source that could damage the cables of interest. In the unusual event that a fire did occur in either Room 603A or 603B, it is expected that the fire detectors in Room 603 would actuate. Fire suppression equipment (hose stations and fire extinguishers) are available for suppression of a fire were it to occur.

Based on the room size and expected fire types, a fire creating a hot layer that causes area wide damage is not expected.

The licensee identified combustibles and pinch points in Fire Area HH. These may be subjected to fires in the area, which could challenge safe shutdown. FENOC states that there are only a few pinch points and only a few

fire hazards that could affect the pinch points. Although it is unlikely that a fire will affect the pinch points, if such damage were to occur and the CREVS was to be made inoperable, means to achieve safe shutdown remain available. First, the operators could shed loads to reduce the heat load in the Control Room so that Control Room abandonment is not required. Secondly, if Control Room abandonment is required, the alternate shutdown panel is available to shutdown the plant. The licensee performed a risk analysis of these configurations which is described above.

The risk analysis in the February 25, 2005, submittal is generally consistent with the NRC's fire protection significance determination process (Inspection Manual Chapter 0609, Appendix F). The results of the analysis are consistent with a change that would be acceptable when compared to the acceptance criteria described in Regulatory Guide 1.174, ''An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis,'' Revision 1.

The evaluation that FENOC prepared assesses the impact of the change. This evaluation uses a combination of risk-insights and deterministic methods to show that sufficient safety margins are maintained.

The NRC staff examined the licensee's rationale to support the exemption request and concluded that adequate defense-in-depth and safety margins exist. Although fixed suppression is not installed in the area, the configuration of the area makes it unlikely that the cables of interest will be damaged by a fire in the area. Also, if the cables of interest are damaged, adequate assurance remains to demonstrate that the plant can be brought to a safe shutdown condition.

Based upon the above, the NRC staff concludes that application of the regulation is not necessary to achieve the underlying purpose of the rule. Therefore, the NRC staff concludes that pursuant to 10 CFR 50.12(a)(2)(ii), the requested exemption is acceptable.

5.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants FENOC an exemption from the requirements of 10 CFR part 50, appendix R, section III.G.3 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 (*i.e.*, Rooms 603A and 603B) not currently covered by a fire detection system. This exemption is based on the limited combustibles located in the fire area (including no storage of combustibles in Rooms 603A and 603B), the limited ignition sources in the fire area, administrative controls on both transient combustibles and hot work, the configuration of Room 603 that avoids in-situ combustible liquids from affecting the cables of interest, the fire detection and manual suppression capability available, and the availability of alternate means to achieve shutdown if a fire were to occur and cause damage to the cables of interest.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (70 FR 42112).

This exemption is effective upon issuance.

Dated in Rockville, Maryland, this 21 day of July 2005.

For the Nuclear Regulatory Commission

Ledyard B. Marsh,

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

[FR Doc. E5–4012 Filed 7–27–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 55–22685; ASLBP No. 05–840–01–SP]

In the Matter of David H. Hawes; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28,710 (1972), and the Commission's regulations, *see* 10 CFR 2.104, 2.300, 2.303, 2.309, 2.311, 2.318, and 2.321, notice is hereby given that an Atomic Safety and Licensing Board is being established to preside over the following proceeding:

David H. Hawes (Reactor Operator License for Vogtle Electric Generating Plant)

This proceeding concerns a request for hearing submitted on June 28, 2005, by David H. Hawes in response to a June 20, 2005, NRC staff letter proposing the denial of his application for a reactor operator license for the Vogtle Electric Generating Plant. According to the staff letter, the basis for the proposed denial action was Mr. Hawe's failure to obtain a passing grade on the May 27, 2005, written examination portion of his reactor operator license application for the Vogtle Electric Generating Plant.

The Board is comprised of the following administrative judges:

Ann M. Young, Chair, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Michael C. Farrar, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dr. Peter S. Lam, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

All correspondence, documents, and other materials shall be filed with the administrative judges in accordance with 10 CFR 2.302.

Issued in Rockville, Maryland, this 22nd day of July, 2005.

G. Paul Bollwerk, III,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. E5–4010 Filed 7–27–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Announcement of a Public Meeting To Discuss Selected Topics for the Review of Emergency Preparedness (EP) Regulations and Guidance for Commercial Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Nuclear Regulatory Commission's (NRC's) reassessment of emergency preparedness following September 11, 2001, terrorist attacks concluded that the planning basis for emergency preparedness (EP) remains valid. However, as part of our continuing EP review, some enhancements are being considered to EP regulations and guidance due to the terrorist acts of 9/11; technological advances; the need for clarification based upon more than 20 years of experience; lessons learned during drills and exercises; and responses to actual events.

Therefore, the NRC will hold a one and one-half-day public meeting to obtain stakeholder input on selected topics for the review of EP regulations and guidance for commercial nuclear power plants and to discuss EP-related issues that arose during an NRC/FEMA workshop at the 2005 National Radiological Emergency Preparedness (NREP) Conference.