

August 3, 2000

EA 00-125

Mr. G. Rainey, President  
PECO Nuclear  
Nuclear Group Headquarters  
Correspondence Control Desk  
Post Office Box 195  
Wayne, Pennsylvania 19087-0195

SUBJECT: FINAL SIGNIFICANCE DETERMINATION AND NOTICE OF VIOLATION  
(NRC INTEGRATED INSPECTION REPORT 05000277/2000-002,  
05000278/2000-002 FOR PEACH BOTTOM)

Dear Mr. Rainey:

The purpose of this letter is to provide you with the final results of our significance determination for the preliminary White finding (i.e. an issue with low to moderate importance to safety, which may require additional NRC inspections) regarding a violation involving improper classification of radioactive waste shipped for disposal at the Chem-Nuclear facility near Barnwell, South Carolina on June 28, 1999. Specifically, the shipment was identified as Class A waste containing 99 curies when it should have been classified as Class B waste containing 407 curies. This issue was previously described in NRC Combined Inspection Report 05000277/2000-002, 05000278/2000-002.

On May 20, 2000, the NRC completed the inspection at the Peach Bottom Atomic Power Station. The report, presenting the results of that inspection, was sent to you on June 19, 2000. In response, you sent a letter to the NRC, dated July 8, 2000, that provided your view on the significance of this finding. At your request, a regulatory conference was also conducted with Mr. J. Doering and other members of your staff on July 24, 2000, to further discuss your views on the significance determination and the apparent violation. A copy of the handout you provided at this meeting is attached.

During the regulatory conference, your staff described your assessment of the significance of the finding. You stated that the violation occurred as described and you acknowledged that application of the current significance determination process (SDP) would result in a White finding. However, you contended that the safety significance of this particular event was very low because there was no actual or potential risk to the public. Therefore, you requested that the NRC exercise discretion and characterize the finding as Green. You also stated that the SDP should be revised to consider the very low safety significance of such mis-classifications of radioactive waste and characterize them as Green findings.

After consideration of the information you provided at the conference and in your letter dated July 8, 2000, the NRC has determined that the event should be assessed as White (i.e., an issue with low to moderate increased importance to safety). This characterization is consistent with the flowchart in the current SDP for Public Radiation Safety (appendix D to NRC Manual Chapter 0609, pages D-13 through D-16) because a Low Level Burial Ground (LLBG) access problem existed, LLBG access was not denied, and a (10 CFR) Part 61 waste under-classification occurred. This results in a White finding. The NRC also concluded that enforcement discretion is not appropriate because the SDP was designed to determine the significance and color by using the flowcharts to maximize consistent treatment of such findings. The request, previously submitted by you and NEI, that the SDP for such findings be revised, is currently being evaluated by the NRC.

The related violation for this White finding, namely, the failure to properly classify radioactive waste for shallow land burial contrary to 10 CFR 20.2006 and 10 CFR 61.55, is described in the attached Notice of Violation (Notice). This violation is being cited in accordance with the Enforcement Policy, as described in NUREG-1600, because it is associated with a White finding.

You are not required to respond to this letter because the NRC has sufficient information on the docket, from your letter dated July 8, 2000, and from your presentation at the Regulatory Conference, regarding your corrective actions to prevent recurrence of the violation. These actions included; (1) immediate action to correct the paperwork error after notification from the burial site, (2) initiation of an investigation of the issue, (3) entering the issues in a corrective action program, (4) identifying and analyzing a second sample of the waste material to provide more accurate information regarding the radioactive content, (5) changing procedures to provide instruction on obtaining a more representative sample of the waste, (6) updating the computer program to recognize the requirements for dose rates at 3 meters from the shipment package, (7) enhancing the training provided to radwaste handlers and shippers, and (8) initiating a review of the entire radwaste shipping program to identify negative trends.

We will notify you by separate correspondence of any additional agency follow up actions as determined by the NRC Action Matrix.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be available **electronically** for public inspection in the NRC Public Document Room **or** from the *Publically Available Records (PARS) component of NRC's document system (ADAMS)*. *ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html>* (the Public Electronic Reading Room).

G. Rainey

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Should you have any questions regarding this matter, please contact Mr. John White at 610-337-5114.

Sincerely,

**/RA/**

Hubert J. Miller  
Regional Administrator

Docket Nos. 05000277, 05000278  
License Nos. DPR-44, DPR-56

Enclosures:

1. Notice of Violation
2. Copy of Licensee's Presentation for the Regulatory Conference, July 24, 2000.

cc w/encls:

J. Hagan, Senior Vice President, Nuclear Operations  
J. Doering, Vice President, Peach Bottom Atomic Power Station  
M. Warner, Plant Manager, Peach Bottom Atomic Power Station  
J. A. Hutton, Director, Licensing, PECO Nuclear  
G. D. Edwards, Chairman, Nuclear Review Board  
R. Boyce, Director, Nuclear Quality Assurance  
A. F. Kirby, III, External Operations - Delmarva Power & Light Co.  
A. A. Winter, Manager, Experience Assessment  
J. W. Durham, Sr., Senior Vice President and General Counsel  
H. C. Kresge, Manager, External Operations, Connectiv  
N. J. Sproul, Manager, Financial Control & Co-owner Affairs, Connectiv  
R. McLean, Power Plant Siting, Nuclear Evaluations  
D. Levin, Acting Secretary of Harford County Council  
R. Ochs, Maryland Safe Energy Coalition  
J. H. Walter, Chief Engineer, Public Service Commission of Maryland  
Mr. & Mrs. Dennis Hiebert, Peach Bottom Alliance  
Mr. & Mrs. Kip Adams  
Commonwealth of Pennsylvania  
State of Maryland  
TMI - Alert (TMIA)

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BFewell		WLanning		HMiller (JTW for)	
07/31/00		07/28/00		08/03/00	

Review and concurrence from OE (D. Nelson) - 8/2/00

Review and concurrence from NRR (V. Ordaz) - 8/2/00

**OFFICIAL RECORD COPY**

## **ENCLOSURE 1**

### **NOTICE OF VIOLATION**

PECO Nuclear  
Peach Bottom Atomic Power Station

Docket Nos. 50-277, 50-278  
License Nos. DPR-44, DPR-56  
EA No. 00-125

During an NRC inspection conducted on April 17 - 20, 2000, and on April 25, 2000, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG 1600, the violation is listed below:

10 CFR Part 20, Section 2006(d), Transfer for Disposal and Manifests, (10 CFR 20.2006 (d)), requires that each person involved in transfer for disposal of waste comply with the requirements specified in Section III of Appendix G to 10 CFR 20.

10 CFR 20, Appendix G, Requirements for Transfer of Low-Level Radioactive Waste intended for Disposal at Licensed Land Disposal Facilities, Section III, requires that any licensee who transfers radioactive waste to a land disposal facility prepare all wastes so that the waste is classified according to 10 CFR 61.55.

10 CFR 61.55, Waste Classification, provides the methodology for classification of waste for near surface disposal based on concentrations of radionuclides present within the waste. Waste containing mixtures of radionuclides must be classified as Class B if determined to meet the criteria specified in 10 CFR 61.55 for Class B waste.

Contrary to the above, on June 28, 1999, the licensee transferred to a licensed disposal facility (Chem-Nuclear, Barnwell, SC) for disposal, spent resin waste (Shipment No. 99-013) that was not properly characterized for disposal in accordance with 10 CFR 61.55, in that the sample upon which characterization was based was not representative of the actual radioactivity contained in the shipment. As a result, radioactive waste material, transported for disposal, was characterized and described as 99 curies of Class A waste, instead of 406 curies of Class B waste material. Re-analysis of waste samples identified that the radioactive concentrations in the isotopic mixture met the criteria specified in 10 CFR 61.55 for characterization as Class B radioactive waste.

This violation is associated with a White Significance Determination Process finding.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in the letter from the Licensee dated July 8, 2000 and in the NRC inspection report. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator, Region I, and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

Enclosure 1

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If you contest this enforcement action, you should also provide a copy of your response to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, your response will be made available to the Public. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 3rd day of August 2000