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Docket Number 50-346

License Number NPF-3

Serial Number 2758

January 22, 2002

United States Nuclear Regulatory Commission
Document Control Desk
Washington, D.C. 20555-0001Subject: Response to Notice of Violation
(NRC Office of Investigations Report No. 3-2001-009)

Ladies and Gentlemen:

FirstEnergy Nuclear Operating Company (FENOC) has received NRC Office of Investigations Report No. 3-2001-009 (FENOC Log Number 5900) and the enclosed Notice of Violation issued on December 20, 2001. The violation pertains to discrimination of a nuclear security officer by a security supervisor at the Davis-Besse Nuclear Power Station. The FENOC provides the attached response to the subject violation.

Should you have any questions or require additional information, please contact Mr. David H. Lockwood, Manager - Regulatory Affairs, at (419) 321-8450.

Very truly yours,



GMW/s

Attachments

cc: James E. Dyer, Regional Administrator, NRC Region III
Stephen P. Sands, DB-1 NRC/NRR Project Manager
C. Scott Thomas, DB-1 Senior NRC Resident Inspector
Utility Radiological Safety Board

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Response to a Notice of Violation (NRC Office of Investigations Report No. 3-2001-009)

Alleged Violation:

As stated in NRC Office of Investigations Report No. 3-2001-009, the alleged violation pertains to discrimination of a nuclear security officer by a security supervisor at the Davis-Besse Nuclear Power Station (DBNPS).

Response to Alleged Violation

Reason for the Violation

On January 11, 2001, a nuclear security officer initiated a condition report documenting concerns regarding training for certain security equipment. A fact-finding meeting was held on January 12, 2001, to determine why the nuclear security officer apparently did not follow the expectation of Security Department management to review issues with their immediate supervisor prior to initiation of a Condition Report. This expectation was established to ensure safeguards information was not inadvertently entered into a Condition Report. The Security Supervisor who requested the fact-finding meeting be conducted did not clearly communicate the reason for the fact-finding meeting. As a result, this meeting inappropriately tied a potential disciplinary process to the use of the Condition Report Process.

Corrective Steps that Have Been Taken and Results Achieved

The site Ombudsman, upon learning of the potential adverse actions from the nuclear security officer, immediately conducted an investigation of the matter. This investigation, completed on January 23, 2001, concluded that the Security Supervisor acted inappropriately in this matter. The Ombudsman's investigation findings were promptly shared with the nuclear security officer. Documentation of the fact-finding meeting was removed from the security officer's working file maintained by the Security Supervisor, and disciplinary actions were taken against the Security Supervisor.

Upon completion of this investigation, the Director – Support Services, who has oversight responsibility of the Security Department at the DBNPS, held several meetings with security personnel to explain the FirstEnergy Nuclear Operating Company's (FENOC's) expectations relative to the initiation of Condition Reports. He explained to security supervisors that individuals need to feel free to initiate Condition Reports without fear of reprisal. The Director also explained to all shift security personnel the expectations for security supervision relative to coaching activities, and that security shift personnel are encouraged to document issues or concerns through the initiation of a Condition Report.

The Director – Support Services also met with the responsible Security Supervisor to explain the importance of maintaining a Safety-Conscious Work Environment and why the Supervisor's actions, in this instance, were not consistent with that policy.

Supervisory training regarding a Safety-Conscious Work Environment was conducted at the DBNPS between August 28 and October 11, 2001. This training emphasized supervisory responsibilities under 10 CFR 50.7, and included simulated case studies as classroom exercises to challenge supervision in addressing safety-conscious work environment issues with site employees including contract laborers. Over 190 DBNPS employees have currently received this training, including the responsible Security Supervisor.

Corrective Steps that will be Taken to Avoid Further Violations

Prior to the receipt of this alleged violation, additional training on maintaining a Safety-Conscious Work Environment had been scheduled in preparation for the upcoming refueling outage at the DBNPS, which is scheduled to begin February 16, 2002. The supervisory training on a Safety-Conscious Work Environment that was conducted between August 28 and October 11, 2001 will also be conducted for personnel temporarily fulfilling a supervisory role during the outage. These temporary supervisors include contract maintenance supervisors and DBNPS personnel temporarily fulfilling a supervisory role. All contract personnel who will be working at the DBNPS during the refueling outage will receive training on a Safety-Conscious Work Environment as a part of initial employee orientation.

Upon receipt of the Notice of Violation, an investigation was initiated to evaluate any potential organizational contributors to this event. An external industry expert on Root Cause evaluations and a DBNPS Compliance Senior Engineer, both of whom were independent of the specific event referenced in the violation, performed the investigation. This investigation included interviews with supervisory-level and above personnel to determine their understanding of an employee's rights with respect to 10 CFR 50.7. As a result of these interviews, the investigation concluded that the Safety-Conscious Work Environment training conducted in 2001 was effective in educating site supervision of their responsibilities under 10 CFR 50.7. The independent investigation did not identify any major issues with the overall site supervisory understanding and implementation of 10 CFR 50.7 and the FENOC Safety-Conscious Work Environment Policy. The investigation concluded that the event referenced in the Notice of Violation appears to be an isolated event.

The investigation also revealed that conditions may arise which result in an undesired and unintended overlap of the Condition Report program and the disciplinary process. As an enhancement to address the potential for this condition, additional guidance will be disseminated to supervisory personnel to ensure that implementation of the Condition Report program is separated from any personnel performance management activity that may be necessary. This guidance will encourage the use of independent individuals (other than the employee involved and their immediate supervisor) for performing Condition Report cause evaluations for human

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performance events. This guidance, which will be provided by means of an individual letter to each DBNPS supervisor and above from the Vice-President, Nuclear, will be completed by February 15, 2002.

The site Ombudsman periodically conducts confidential surveys of DBNPS employees in order to assess the DBNPS Safety-Conscious Work Environment. Prior to the receipt of this alleged violation, a random survey of approximately one-third of permanent DBNPS employees was initiated. This survey, scheduled for completion on January 25, 2002, is requesting feedback in four areas: management's support for reporting concerns; effectiveness of the Condition Report process; confidence in the employee concerns/ombudsman process; and employee willingness to report their concerns. The results of this survey will be used to identify potential enhancements to the Safety-Conscious Work Environment at the DBNPS.

In the past, the DBNPS Security Department had an expectation that all issues identified by nuclear security officers would be discussed with the Security Shift Supervisor prior to initiation of a Condition Report. This expectation was established to ensure that safeguards information was not inadvertently entered into a Condition Report. Because Condition Reports at the DBNPS are entered into an electronic tracking system, personnel on site have access to the information contained in the Condition Report as it is being entered into the electronic system. However, since security officers are trained in the control of safeguards information, the expectation that all issues be discussed with the Security Shift Supervisor prior to initiation of a Condition Report has been eliminated effective January 21, 2002. Security officers may, however, still discuss issues with the Security Shift Supervisor prior to initiating a Condition Report in order have an independent check performed that the Condition Report contains no safeguards information.

Date When Full Compliance Will be Achieved

Full compliance was achieved on January 23, 2001, upon removal of the fact-finding meeting documentation from the working file of the nuclear security officer and completion of disciplinary actions against the Security Supervisor.

COMMITMENT LIST

The following list identifies those actions committed to by the Davis-Besse Nuclear Power Station in this document. Any other actions discussed in the submittal represent intended or planned actions by Davis-Besse. They are described only as information and are not regulatory commitments. Please notify the Manager – Regulatory Affairs (419-321-8450) at Davis-Besse of any questions regarding this document or associated regulatory commitments.

COMMITMENTS

DUE DATE

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| 1. Provide guidance to supervisory personnel to ensure implementation of the Condition Report program is separated from any personnel performance management activity that may be necessary, and encourages use of independent individuals for performing Condition Report cause evaluations for human performance events. | 1. February 15, 2002. |
| 2. Eliminate DBNPS Security Department expectation that all issues identified by security officers would be discussed with the Security Shift Supervisor prior to initiation of a Condition Report. | 2. Completed on January 21, 2002. |