

July 10, 2003

EA-03-054

Mr. L. William Pearce
Site Vice President
FirstEnergy Nuclear Operating Company
Beaver Valley Power Station
Post Office Box 4
Shippingport, Pennsylvania 15077

SUBJECT: BEAVER VALLEY POWER STATION - NRC INSPECTION REPORT 50-334/03-006, 50-412/03-006 - FINAL SIGNIFICANCE DETERMINATION FOR A WHITE FINDING AND NOTICE OF VIOLATION

Dear Mr. Pearce:

The purpose of this letter is to provide you with the final results of our significance determination of the preliminary white finding identified in the subject inspection report dated April 30, 2003. This inspection finding was assessed using the significance determination process and was preliminarily characterized as white, i.e., a finding with low to moderate safety significance, which may require additional NRC inspections. This finding involved the ability of your emergency response organization to meet Emergency Preparedness Plan (EPP) staffing requirements during emergencies. Specifically, on January 31, 2003, during an unannounced activation drill, only one of twelve radiation protection (RP) positions that were required to be staffed, was staffed within the time required by Table 5.1 of your EPP (either 30 or 60 minutes depending on the position). This issue was white because you failed to meet a planning standard, in this case 10 CFR 50.47(b)(2), by not ensuring that adequate and timely emergency response staffing was maintained at all times and timely augmentation of response capabilities was available. The NRC also considered this issue to be an apparent violation of 10 CFR 50.47(b)(2).

In a telephone conversation with Mr. Richard Crlenjak of NRC, Region I, on May 15, 2003, Mr. Brian Sepelak of your staff indicated that FirstEnergy Nuclear Operating Company (FENOC) had declined an opportunity to discuss this finding in a Regulatory Conference, but would be providing a written response supporting a green finding.

In your response dated May 30, 2003, you contend that the planning standard set forth in 10 CFR 50.47(b)(2) was met, noting that it does not explicitly specify a time to complete staff augmentation. You also contend that the NRC, in a 1985 Safety Evaluation Report (NUREG-1057) for the Beaver Valley Power Station, approved 120 minutes as an acceptable augmentation time for staffing these twelve RP positions. You stated that the January 31, 2003, unannounced activation drill demonstrated that all twelve RP positions were staffed within 120 minutes. You agreed that Table 5.1 of your EPP was not met during the January 31, 2003, drill because you were not able to staff all 12 RP positions within the respective 30 minute and 60 minute requirements set forth therein. However, you maintain that the planning standard was met because these positions were staffed within 120 minutes, which you contend was previously approved in the 1985 SER.

Notwithstanding your contention, although the NRC agrees that 10 CFR 50.47(b)(2) does not explicitly specify a time to complete staff augmentation, your site specific EPP is based on the

accepted industry standard for meeting staff augmentation times contained in NUREG-0654, Table B-1, which is 30 and 60 minutes. While the 1985 SER had some discussion of this issue, you revised Table 5.1 of your EPP in 1995 to require 30 and 60 minute staff augmentation times for these twelve RP positions. Therefore the NRC maintains that the failure to meet those accepted standards represents a failure to meet the planning standard set forth in 10 CFR 50.47(b)(2).

You also contend that two actual events classified at the Alert level, during which RP technicians were required to respond, did not result in any deficiencies or problems in staff augmentation. The NRC maintains that one of these events occurred during normal business hours when appropriate personnel needed to augment these twelve RP positions were already on site. The other event occurred during the evening, but you did not have any documentation to indicate the 12 RP positions were properly augmented in the required 30 or 60 minutes.

You also contend that your onsite staff is capable of temporarily addressing any required short-term actions if the augmentation of RP technicians was delayed for up to 120 minutes. However, the NRC maintains, as stated in the subject inspection report, that: (1) assigning multiple functions to individuals likely would be burdensome in a number of cases; (2) some of the responders who would be assigned in an impromptu manner to perform RP functions are not presently in EPP-required positions, and therefore, may not be available in all situations; and (3) although many of your staff are "meter qualified" to perform basic RP duties, this level of training would not be sufficient to carry out the complex RP duties that would be necessary in a radiological emergency.

Based on the information developed during the inspection, and the NRC staff's evaluation of the information provided in your response dated May 30, 2003, the NRC has concluded that the inspection finding is appropriately characterized as white. You have 10 business days from the date of this letter to appeal the staff's determination of significance for the identified white finding. Such appeals will be considered to have merit only if they meet the criteria given in NRC Inspection Manual Chapter 0609, Attachment 2.

In addition, the white finding was associated with a violation of 10 CFR 50.47(b)(2) for not ensuring that adequate and timely emergency response staffing was maintained at all times. The violation is cited in the enclosed Notice of Violation; the circumstances surrounding the violation were described in detail in the subject inspection report. In accordance with the NRC Enforcement Policy, NUREG-1600, this Notice of Violation is considered escalated enforcement action because it is associated with a white 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 as summarized in the subject inspection report dated April 30, 2003, and in your response letter dated May 30, 2003. Immediate corrective action consisted of identifying supervisory personnel with RP expertise, who already carried pagers, to fill these 12 RP positions until RP technicians could respond to the site. In addition, pagers, cell phones and training were provided to a pool of RP technicians who will now fulfill the augmented RP positions. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

Because plant performance for this finding has been determined to be in the regulatory response band, we will use the NRC Action Matrix to determine the most appropriate NRC response for this event. We will notify you by separate correspondence of that determination.

In your response, you also contend that this finding is a licensee-identified deficiency because it was first identified by FENOC during an activation drill on January 31, 2003, and was entered into your corrective action program. You implied that this issue should have been discussed in the "Licensee Identified Violations" section of the NRC inspection report. The NRC agrees that this issue was licensee-identified. However, as defined by Manual Chapter 0612, only findings of green significance in a licensee's corrective action program qualify to be discussed in the "Licensee Identified Violations" section of an inspection report.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Website at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

If you have any questions please contact Mr. Richard Conte of my staff at 610-337-5183.

Sincerely,

/RA/ James T. Wiggins Acting For

Hubert J. Miller
Regional Administrator

Docket Nos: 50-334, 50-412
License Nos: DPR-66, NPF-73

Enclosure: Notice of Violation

cc w/encl:

J. Lash, Plant General Manager
V. Kaminskis, Director, Nuclear Maintenance
R. Mende, Director, Nuclear Work Management
M. Pearson, Director, Services and Projects
T. Cosgrove, Director, Nuclear Engineering/Projects
L. Freeland, Manager, Nuclear Regulatory Affairs & Corrective Actions
M. Clancy, Mayor, Shippingport, PA
R. Janati, Chief, Division of Nuclear Safety
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State of West Virginia

Mr. L. William Pearce

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* per e-mail

** per phone call from D. Nelson

NOTICE OF VIOLATION

FirstEnergy Nuclear Operating Company
Beaver Valley Power Station

Docket Nos: 50-334, 50-412
License Nos: DPR-66, NPF-73
EA-03-054

During an NRC inspection conducted between February 24 - 28, March 14 - 26, and April 17 - 29, 2003, the results of which were discussed at exit meetings on February 28, March 26 and April 30, 2003, 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 50.47(b)(2), states, in part, that adequate staffing to provide initial facility accident response in key functional areas is maintained at all times and timely augmentation of response capabilities is available.

10 CFR 50.54(q) requires that the facility licensee shall follow and maintain in effect Emergency Plans which meet the standards in 10 CFR 50.47(b).

The Emergency Preparedness Plan, Table 5.1, requires that during an emergency, six radiation protection technicians respond to the site within 30 minutes, and six radiation protection technicians respond to the site within 60 minutes, to augment the on-site Emergency Response Organization to cover four radiation protection functions, namely offsite surveys, onsite surveys, in-plant surveys, and in-plant protective actions.

Contrary to the above, from 1995 until February 28, 2003, the on-site Emergency Response Organization could not be augmented by radiation protection technicians within the required times to cover four radiation protection functions. This was demonstrated during an unannounced activation drill on January 31, 2003, when 11 of 12 radiation protection technicians were unable to respond within the times as required by the Emergency Preparedness Plan.

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 Inspection Report 50-334/03-006; 50-412/03-006, and your response letter dated May 30, 2003. 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; EA-03-054," and send it to the U.S. Nuclear Regulatory Commission, ATTENTION: 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).

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, 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 electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. 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 10th day of July 2003