



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION II
SAM NUNN ATLANTA FEDERAL CENTER
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ATLANTA, GEORGIA 30303-8931

July 25, 2006

EA-06-071

Virginia Electric and Power Company
ATTN: Mr. David A. Christian
Sr. Vice President and Chief Nuclear Officer
Innsbrook Technical Center - 2SW
5000 Dominion Boulevard
Glen Allen, VA 23060-6711

SUBJECT: FINAL SIGNIFICANCE DETERMINATION FOR A WHITE FINDING AND
NOTICE OF VIOLATION (Surry Power Station - NRC Inspection Report
Nos. 05000280/2006010 and 05000281/2006010)

Dear Mr. Christian:

The purpose of this letter is to provide you with the Nuclear Regulatory Commission's (NRC) final significance determination for a finding involving the failure of Surry Nuclear Station's full-scale exercise critique to identify a weakness associated with a risk-significant planning standard (RSPS) which was determined to be a drill/exercise performance (DEP) - performance indicator (PI) opportunity failure. The finding was also determined to be an apparent violation associated with emergency preparedness planning standards 10 CFR 50.47(b)(14) and 10 CFR 50.47(b)(4), and the requirements of 10 CFR Part 50, Appendix E, Section IV.F.2.g. The finding was documented in NRC Integrated Inspection Report No. 5000280,281/2006008 issued on May 5, 2006, and was assessed under the significance determination process as a preliminary White issue (i.e., an issue of low to moderate safety significance which may require additional NRC inspection).

The cover letter to the inspection report informed Virginia Electric and Power Company (VEPCO) of the NRC's preliminary conclusion and provided VEPCO an opportunity to request a regulatory conference on this matter. In lieu of a regulatory conference, VEPCO provided a written response dated June 6, 2006.

In its written response, VEPCO disagreed with the NRC's conclusion that the issue resulted in a preliminary White finding. VEPCO contended that the NRC's determination did not fully consider the information available regarding the Site Area Emergency (SAE) classification made by drill participants during the exercise or subsequent deliberations that formed VEPCO's basis for its exercise critique conclusions. VEPCO also noted its differing view regarding compliance with the applicable regulatory requirements that were noted in the NRC's inspection report.

After carefully considering the information developed during the inspection and the information provided in VEPCO's response of June 6, 2006, the NRC has concluded that the final inspection finding is appropriately characterized as White in the Emergency Preparedness cornerstone. The NRC's response to the points made by VEPCO and the bases for our

conclusions are provided in an attachment to this letter. In summary, the NRC concluded that VEPCO's SAE event classification during the exercise was an inaccurate classification. VEPCO's critique failed to identify that the SAE declaration was made using EALs (indications) that were not exceeded at the time of the declaration. Based on this and in accordance with NRC Inspection Manual Chapter 0609, Appendix B, Emergency Preparedness Significance Determination Process, the NRC has concluded that the significance of the finding is appropriately characterized as White.

You have 30 calendar days from the date of this letter to appeal the staff's determination of significance for the identified finding. Such appeals will be considered to have merit only if they meet the criteria given in NRC Inspection Manual Chapter 0609, Attachment 2.

The NRC also has determined that VEPCO's failure to identify the above weakness during its exercise critique is a violation of 10 CFR 50.47(b)(14), 10 CFR 50.47(b)(4), and the requirements of 10 CFR Part 50, Appendix E, Section IV.F.2.g. The violation is cited in the enclosed Notice of Violation (Notice), and the circumstances surrounding the violation are described in detail in the subject inspection report. In accordance with the NRC Enforcement Policy, the Notice of Violation is considered escalated enforcement action because it is associated with a White finding.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

For administrative purposes, this letter is issued as a separate NRC Inspection Report, No. 0500280,281/2006010, and the above violation is identified as VIO 0500280,281/2006010-01, White Finding Involving Failure to Identify a Weakness During an Emergency Exercise Critique Associated with an RSPS. Accordingly, Apparent Violation AV 0500280,281/2006008-01 is closed.

Because plant performance for this issue 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 accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS) which is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, any response should not include any personal privacy, proprietary, classified, or safeguards information so that it can be made available to the Public without redaction. The NRC also includes significant enforcement actions on its Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Significant Enforcement Actions**.

Should you have any questions regarding this letter, please contact Mr. Brian Bonser, Chief, Security and Emergency Preparedness Branch, Division of Reactor Safety, at (404)562-4653.

Sincerely,

/RA/

William D. Travers
Regional Administrator

Docket Nos. 50-280 and 50-281
License Nos. DPR-32 and DPR-37

Enclosures:

1. Notice of Violation
2. Basis for NRC's Final Significance Determination

cc w/encls:

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E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

NOTICE OF VIOLATION

Virginia Electric and Power Company
Surry Nuclear Station
Units 1 and 2

Docket Nos. 50-280 and 50-281
License Nos. DPR-32 and DPR-37
EA-06-071

During an NRC inspection completed on March 29, 2006, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 50.47(b)(4) requires, in part, that a standard emergency classification and action level scheme, the bases of which include facility system and effluent parameters, is in use by the nuclear facility licensee, and State and local response plans call for reliance on information provided by facility licensees for determinations of minimum initial offsite response measures.

10 CFR 50.47(b)(14) requires, in part, that periodic exercises be conducted to evaluate major portions of emergency response capabilities and deficiencies identified as a result of exercises be corrected.

10 CFR Part 50, Appendix E, Section IV.F.2.g, requires that all training, including exercises, shall provide for formal critiques in order to identify weak or deficient areas that need correction. Any weaknesses or deficiencies that are identified shall be corrected.

Contrary to the above, the licensee's formal critique of an emergency preparedness exercise conducted on February 7, 2006, failed to identify weak or deficient areas. Specifically, the exercise critique failed to identify that the Station Emergency Manager's Site Area Emergency event classification was an inaccurate classification.

This violation is associated with a White significance determination process finding for Units 1 and 2 in the Emergency Preparedness cornerstone.

Pursuant to the provisions of 10 CFR 2.201, Virginia Electric and Power Company is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator, Region II, 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). This reply should be clearly marked as a "Reply to a Notice of Violation; EA-06-071" and should include: (1) the reason for the violation or, if contested, the basis for disputing the violation or severity level; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken to avoid further violations; and (4) the date when full compliance will be achieved. Your response may reference or include previously docketed correspondence if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

Enclosure 1

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, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Because 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>, to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

In accordance with 10 CFR 19.11, you may be required to post this Notice within 2 working days.

Dated this 25th day of July 2006

NRC'S BASIS FOR FINAL SIGNIFICANCE DETERMINATION

The NRC's inspection report of May 5, 2006, documented the preliminary significance determination for a finding involving the failure of Surry Nuclear Station's full-scale exercise critique to identify a weakness associated with a risk-significant planning standard (RSPS) which was determined to be a drill/exercise performance (DEP) - performance indicator (PI) opportunity failure. The finding was also determined to be an apparent violation associated with emergency preparedness planning standards 10 CFR 50.47(b)(14) and 10 CFR 50.47(b)(4), and the requirements of 10 CFR Part 50, Appendix E, Section IV.F.2.g. The finding was assessed under the significance determination process (SDP) as a preliminary White issue (i.e., an issue of low to moderate safety significance which may require additional NRC inspection).

In lieu of a regulatory conference, Virginia Electric and Power Company (VEPCO) provided a written response dated June 6, 2006. VEPCO's written response documented its disagreement with the NRC's preliminary determination that the finding rises to a level of significance of a White finding. VEPCO concluded that its drill critique correctly determined that drill personnel responded to entry criteria for classifying the event in a reasonable and conservative manner and in accordance with the Emergency Action Level (EAL) procedure in effect. To support its conclusions, VEPCO provided the following four considerations:

1. The "failure" determination reached by the NRC appears to be based on an overly narrow construct regarding the use and application of EALs for Site Area Emergency (SAE) classification. This in turn has resulted in an associated overly narrow application of the SDP.
2. A "failure" determination is not consistent with NRC regulatory action taken by the NRC in evaluations of other licensees.
3. A "failure" determination is not consistent with NRC endorsed guidance.
4. A detailed critique that does not find an event classification to be a failure, because the classification is made conservatively and is consistent with the EAL's entry criteria, is not an indication that a weakness exists in the effective implementation of the Emergency Plan. Such a discrepancy is certainly not a weakness as defined in the SDP; therefore, this issue should not meet the intent nor rise to the level in the SDP process of an actual programmatic weakness.

The NRC's response to each of the points made by the licensee is provided in the following paragraphs:

Licensee Comment No. 1 – The "failure" determination reached by the NRC appears to be based on an overly narrow construct regarding the use and application of EALs for SAE classification. This in turn has resulted in an associated overly narrow application of the SDP.

To support its view, VEPCO noted that the NRC's inspection report made the following three inappropriate assumptions/implications after which VEPCO provided its basis for why these assumptions were inappropriate:

- a. Without a second seismic event of design-basis earthquake (DBE) magnitude, the EAL was not usable.
- b. The earthquake was not validated.
- c. Knowledge of the 0.13g acceleration should have caused the Emergency Director to ignore other EAL entry conditions.

NRC Response to Licensee Comment No. 1 – In the NRC's view, a key issue is whether the damage to the safety-grade auxiliary building emergency ventilation system (damage to the 1-VS-F-58 A and B fans) was the result of the seismic event that occurred over an hour earlier and had been terminated. VEPCO's position is that the EAL (indication) for the Notification of an Unusual Event (NOUE) could be applied for the determination of the SAE which occurred 1 hour and 50 minutes later. The licensee used the transition from the NOUE to the Alert as support for using the initial NOUE EAL as meeting one of the SAE EALs (indications).

The NRC's position is that the earthquake was a discrete (discontinuous) event. This conclusion is supported by NUMARC/NESP-007, Methodology for Development of Emergency Action Levels, Rev. 2, which provides an earthquake as an example of a discrete (discontinuous) event. In this case, the EAL (indication) used to declare the NOUE did not exist at the time the SAE was declared.

Classification of the NOUE was based on meeting the EAL (indication) confirmed earthquake which activates the event indicator on the strong motion accelerograph. With the event indicator, the operators entered Procedure 0-AP-37.00, Seismic Event. When the data from the strong motion accelerograph was analyzed, the classification was upgraded to an Alert. The earthquake confirmation and data collection occurred at the same time, and only the analysis of the data delayed the declaration of the Alert.

After entry into Emergency Plan Implementing Procedure (EPIP)-1.01, Emergency Manager Controlling Procedure, the applicable procedures in effect included EPIP-1.02, Response to Notification of Unusual Event; EPIP-1.03, Response to Alert; EPIP-1.04, Response to Site Area Emergency; and EPIP-1.05, Response to General Emergency. The Station Emergency Director is directed to review the EAL table and determine if the current classification is correct and to return to EPIP-1.01 for escalation and de-escalation of the emergency classification as required.

EPIP-1.01, Step 1, directs the user to evaluate EALs in the following manner:

- a. Determine event category using Attachment 1, Emergency Action Level Table 1 Index.
- b. Review EAL tab associated with event category.

- c. Use control room monitors, process computer system (PCS), and outside reports to get indications of emergency conditions listed in the EAL table.
- d. Verify EAL - CURRENTLY EXCEEDED.

Each evaluation for emergency classification takes into account the classification considered, the conditions/applicability, and the existing indications for that classification at the time of the classification. If the indications for the classification are not met at that time, then the classification or change in classification cannot be made. Based on the procedures in effect and the fact that indications for an SAE were not met at the time, the NRC concluded that VEPCO's change in classification to an SAE was inaccurate.

Regarding the inspection report assumptions, two of the three statements the licensee identified as NRC assumptions are properly referenced in the following statements taken from the NRC report:

- a. Without a second seismic event of DBE magnitude, the correct classification of the turbine blading failure and damage to safety-related structures and equipment would have been at the Alert level. Since the facility was already in an Alert status, no change in the emergency response level was necessary. The inspectors determined that the EAL used to make the classification by the exercise participants for SAE was an incorrect EAL classification based on the event conditions and the indications available.

The licensee's analysis of the first assumption states that ...

This assertion implies that the only correct way to use an EAL is for a unique event that would be classifiable at the moment the event occurs. This perspective is employing an event evaluation method where all of the information is revealed at the same time; however, the evaluation of a flow of events that are revealed over time is also an appropriate method for event classification.

In response, the NRC notes that both EPIP-1.01 and NEI 99-02, Regulatory Assessment Performance Indicator Guideline, Rev. 3, clearly state that to make an event classification, the EAL (indications) must currently be exceeded for that classification. NEI 99-02 also provides guidance on actions that must be taken if the licensee discovers an event or condition had existed that exceeded an EAL, but no classification had been made, and the EAL is no longer exceeded at the time of discovery. Based on this, the NRC concluded that the earthquake was a discrete (discontinuous) event and that the EAL (indication) used to declare the NOUE did not exist at the time the SAE was declared, approximately 1 hour and 50 minutes later.

Regarding the assumption that the earthquake was not validated, VEPCO properly referenced this assumption as indicated by the following statement from the NRC inspection report:

- b. The Station Emergency Manager (SEM) assumed that a second seismic event occurred without validating the information from the control room alarms. The inspectors based the SEM assumption on hearing the SEM's statement during the exercise prior to the SAE declaration. The SEM made the statement after receiving reports that vibrations were felt coming from the floor/ground. Significant floor vibration is expected in the event of a turbine

blading failure that penetrates the turbine casing. As event conditions changed that could meet emergency classification escalation criteria, the SEM should have evaluated the event category and selected the proper EAL tab associated with the event category.

The licensee's written response stated that ...

Furthermore, the EAL construction for the SAE did not require another earthquake to occur even though the SEM thought one had occurred. This action would only serve as a replication of the action that was taken to transition from the NOUE to the Alert classification.

The NRC notes that the crew had received information that no damage and no flooding in the Unit 1 and 2 turbine buildings occurred as a result of the earthquake. The report of no damage detected was consistent with the facilitator interface for mini-scenario No. 1. Procedure 0-AP-37.00, Seismic Event, had been exited, and the event indicator on the strong motion accelerograph had been reset. Both actions were completed prior to the SAE declaration.

Classification of the NOUE was based on meeting the EAL (indication) (confirmed earthquake) which activates the event indicator on the strong motion accelerograph. With the event indicator, the operators entered Procedure 0-AP-37.00, Seismic Event. When the data from the strong motion accelerograph was analyzed, the classification was upgraded to an Alert. The earthquake confirmation and data collection occurred at the same time, and only the analysis of the data delayed the declaration of the Alert.

When the turbine failure occurred, there was no earthquake that activated the event indicator on the strong motion accelerograph, and there was no safety-related system significantly degraded by the earthquake. Procedure 0-AP-37.00 was not entered, and the required EALs (indications) for L-1, Earthquake Greater than DBE Levels, were not met. NEI 99-02 states that if an event has occurred that resulted in an emergency classification where no EAL was exceeded, the incorrect classification should be considered a missed opportunity. EPIP-1.01, step 1.c, stated, "Use control room monitors, PCS, and outside reports to get indications of emergency conditions listed in the EAL table." Based on this, the NRC concluded that the SAE declaration was made using EALs (indications for L-1) that were not exceeded.

The third assumption identified in the licensee's written response of June 6, 2006, has no specific tie to the NRC inspection report that can be found.

- c. The assumption that knowledge of one indication should shade or influence the use of another indication in the EAL structure; however, this is not the logic of many of the EAL classification schemes.

Licensee Procedure DNOS-0101, Nuclear Safety and Conservative Decision Making, provides at least four standards that address this concern:

- Human performance tools and group input shall be utilized to avoid inappropriate actions and unexpected responses when reaching operating decisions.

- Operators shall recognize when degraded conditions exist that could challenge plant safety or reliability.
- Information shall be gathered and analyzed from relevant sources and appropriate personnel in order to clearly define and provide options for resolution of operational concerns.
- When faced with time-critical decisions, operators:
 - Question and validate available information.
 - Utilize available alternate indications to validate information.
 - Assume the available indications are valid until proven otherwise.
 - Use all available resources, including people offsite, if necessary.

Both EPIP-1.01 and NEI 99-02 state that to make an event classification, the EAL (indications) must currently be exceeded for that classification. Each evaluation for emergency classification takes into account the classification considered, the conditions/applicability, and the existing indications for that classification. If the EALs (indications) for the classification are not met, then the classification or change in classification cannot be made.

Licensee Comment No. 2 – A “failure” determination is not consistent with NRC regulatory action taken by the NRC in evaluations of other licensees.

The licensee provided descriptions of two events which were classified as emergencies that were later found to have used entry criteria to classify an event that led to an overly conservative classification.

NRC Response to Licensee Comment No. 2 – Based on the NRC’s followup review of the two events in question and the information provided by VEPCO, the NRC has concluded that regulatory action in these cases was in accordance with Inspection Manual Chapter (IMC) 0609, Appendix B, Emergency Preparedness Significance Determination Process. The information provided by VEPCO was not sufficient to warrant a reconsideration of the NRC’s conclusions in these two previous matters. Should additional or new information become available, the NRC would be amenable to reconsideration of these matters within the context of the criteria provided in NRC ICM 0609, Attachment 2.

The NRC notes that the conclusions in the instant VEPCO matter are consistent with a recent enforcement action involving a White finding and associated NOV that was issued to another utility on December 16, 2005 (EA-05-192, ADAMS Accession No. ML053530049).

Licensee Comment No. 3 – A “failure” determination is not consistent with NRC endorsed guidance.

Based on NEI 99-02, Regulatory Assessment Performance Indicator Guideline, Rev. 3, the licensee stated that they reevaluated indications provided to the participants and the method of

interpretation and implementation of the EALs that was used. The determination of PI opportunity success was based on the fact that the indications provided were usable as supportive of an escalation to an SAE classification in this scenario.

NRC Response to Licensee Comment No. 3 – NEI 99-02, Regulatory Assessment Performance Indicator Guideline, Rev. 3, states that ...

During drill performance, the emergency response organization may not always classify an event exactly the way that the scenario specifies. This could be due to conservative decision making, Emergency Director judgment call, or a simulator driven scenario that has the potential for multiple “forks.” Situations can arise in which assessment of classification opportunities is subjective due to deviation from the expected scenario path. In such cases, evaluators should document the rationale supporting their decision for eventual NRC inspection. Evaluators must determine if the classification was appropriate to the event as presented to the participants and in accordance with the approved emergency plan and implementing procedures.

The NRC observed the deviation during the graded exercise and was knowledgeable of the events leading to the deviation. The NRC reviewed the deviation from the expected scenario path and the licensee’s rationale used to reach their decision. Additional information provided by the licensee was reviewed and incorporated into the inspection report. The NRC disagrees with the licensee’s conclusion that the classification was appropriate and in accordance with the approved emergency plan and implementing procedures, as noted previously.

Licensee Comment No. 4 – A detailed critique that does not find an event classification to be a failure, because the classification is made conservatively and is consistent with the EAL’s entry criteria, is not an indication that a weakness exists in the effective implementation of the Emergency Plan. Such a discrepancy is certainly not a weakness as defined in the SDP; therefore, this issue should not meet the intent nor rise to the level in the SDP process of an actual programmatic weakness.

NRC Response to Licensee Comment No. 4 – IMC 0609 states, in part, that ...

As applied to emergency preparedness, a weakness is a level of performance demonstrated during a drill or exercise that could have precluded effective implementation of the Emergency Plan in the event of an actual emergency. Weaknesses are not confined to performance problems that result in a loss of planning standard (PS) function. For example, an inaccurate or untimely classification, notification, or Protective Action Recommendation (PAR) development is a weakness associated with an RSPS (i.e., a DEP PI opportunity failure) ... The NRC staff expects licensees to identify and critique this performance problem as a weakness associated with an RSPS. Failure to correct a weakness should be analyzed against the compliance criteria in planning standard 10 CFR 50.47(b)(14) and the Emergency Plan. A failure to identify and/or correct a weakness associated with an RSPS function represents a loss of PS function 10 CFR 50.47(b)(14) for which Section 5.0 of IMC 0609, Appendix B, provides guidance regarding the correction of weaknesses. For purposes of this SDP, this includes a deficiency, as the term is used in planning standard 10CFR 50.47(b)(14) and Section IV.F.2.g of Appendix E to 10 CFR Part 50.

If the licensee's critique fails to identify an inaccurate or untimely classification, notification, or PAR development (i.e., a DEP PI opportunity failure), it is considered a loss of PS function (white finding). This is because the licensee's capability to observe and evaluate the process associated with an RSPS is questionable.

It is the NRC's conclusion that the SAE event classification was an inaccurate classification. The licensee's critique failed to identify that the SAE declaration was made using EALs (indications) that were not exceeded at the time of the declaration. This determination is consistent with IMC 0609.

The response of the offsite response organizations (ORO) to a radiological emergency is highly dependent on the quality of the information that the licensee provides the OROs in emergency classification, PARs, and notifications. Conservative decision-making is highly encouraged but not when the decision may result in the public being placed at unnecessary risk due to over-conservative classifications or PARs. As such, the NRC expects licensee emergency classifications, PARs, and notifications to be accurate and timely. NEI 99-02 defines accurate as: "Classification and PARs appropriate to the event as specified by the approved plan and implementing procedures ..."

The exercise scenario provided no valid bases for plant personnel to conclude that the turbine failure and the consequential safety-grade ventilation system damage was the result of the seismic event which had occurred and terminated over an hour earlier. This conclusion is confirmed by the facts that the scenario developers did not envision the SAE being called under EAL L-1 and that the operators exited the seismic abnormal procedure before the SAE was declared. The turbine failure was not a progression from the earlier seismic event but rather a new discrete event. As such, the NRC continues to believe that the SAE classification was inaccurate and, therefore, a PI opportunity failure, a deficiency that was not identified in the critique.