

November 26, 2002

EA-02-121

EA-02-142

Mr. John L. Skolds
President and CNO
Exelon Nuclear
Exelon Generation Company, LLC
4300 Winfield Road
5th Floor
Warrenville, IL 60555

SUBJECT: FINAL SIGNIFICANCE DETERMINATION FOR GREEN AND WHITE
FINDINGS AND A NOTICE OF VIOLATION AT PEACH BOTTOM
(NRC Inspection Report 50-277/02-07; 50-278/02-07)

Dear Mr. Skolds:

The purpose of this letter is to provide you with the final results of our significance determination for two findings identified during an inspection completed on July 1, 2002. The findings involved emergency preparedness activities at Peach Bottom. The inspection findings were assessed using the significance determination process and were preliminarily characterized as White, findings with low to moderate importance to safety, which may require additional NRC inspections. The results of the inspection were discussed with Mr. Jay Doering and other members of your staff at exit meetings on June 25, 2002 and July 1, 2002.

The first finding involved an inadequate critique of a February 14, 2002 emergency preparedness exercise. Specifically, the critique did not identify that key information needed by the Emergency Director (ED) to classify the simulated event as a General Emergency was not provided to the ED by members of the Emergency Response Organization (ERO). The finding was preliminarily classified as White because the critique failed to identify a problem associated with the implementation of a risk significant planning standard. The second finding involved an undue delay by the shift manager in declaring an Alert on June 2, 2002, after carbon dioxide discharged into an emergency diesel generator room. This finding was also preliminarily classified as White because it involved a failure to implement a risk significant planning standard. These preliminary White findings were also associated with apparent violations of 10 CFR 50 Appendix E and 10 CFR 50.47.

In a letter dated July 19, 2002, the NRC transmitted the inspection report and provided you an opportunity to either request a regulatory conference to discuss these findings, or explain your position in a written response. At your request, a Regulatory Conference was held on August 23, 2002, at the Region I Office in King of Prussia, PA. A copy of the handout you provided at the conference has been entered in the NRC's document system (ADAMS) and is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>, accession number ML022680034. You also provided a written response dated September 4, 2002.

During the conference and in your response, you did not agree with the NRC's preliminary assessment of these issues as White. Regarding the first finding (inadequate critique), you contend that, while the exercise critique was inadequate in some respects, the risk significant planning standard was met because the declaration of a General Emergency during the exercise was timely and appropriate. We have carefully reviewed the information you provided during the conference and in your response dated September 4, 2002. We have concluded that the critique problems were more than minor but the issuance of a White finding is not appropriate because the inadequate critique did not result in a failure to identify a risk significant planning standard (RSPS) problem. The exercise was not adequately monitored and consequently the critique did not identify all relevant weaknesses and performance lapses. In that regard, the NRC continues to maintain, despite the views you have provided on this specific point, that crew performance lapses in communicating reactor water level information to the ED were relevant to the ED's responsibilities in classifying the event. Specifically, information that reactor water level had gone below the top of the fuel should have been provided to shift management and the ED to be considered in conjunction with contemporaneous changes in plant radiological conditions that were being interpreted. Nonetheless, the NRC concludes that, even without the reactor water level information, the ED made a proper classification of General Emergency Conditions in an acceptable time frame. Hence, the critique inadequacies did not involve failures to identify problems with any RSPS and are properly classified as a Green issue.

The Green finding is also a violation of 10 CFR 50, Appendix E, IV.F.2.g. However, because of its very low safety significance and because it was entered into your corrective action program, the NRC is treating it as a non-cited violation in accordance with Section VI.A.1 of the NRC's Enforcement Policy. The NRC expects that you would incorporate into your review of this matter, the NRC feedback, as described above. If you deny the non-cited violation, you should provide a written response with the basis for the denial, within 30 days of the date of this letter, to the Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555-0001; with copies to the Regional Administrator, Region I, the Director, Office of Enforcement, and the NRC Resident Inspector at the Peach Bottom facility.

With respect to the second issue (untimely declaration of an Alert, during an actual event), your staff contended that the risk significant planning standard was met because your emergency classification system was in use, the proper classification was made, and the delay by the shift manager in declaring the Alert had no impact, noting that the delay did not significantly compromise Exelon's ability to notify State and local authorities and meet related regulatory requirements. In addition, you noted that the delay was captured as an unsuccessful opportunity by your drill and exercise performance indicator. Therefore, you contend that this performance deficiency should be a Green finding. You further argued that even if this issue did involve a failure to meet a risk significant planning standard, the finding should be downgraded because: (1) there was no impact on public health and safety; (2) the carbon dioxide was confined to one emergency diesel generator room; (3) safe plant operation was maintained throughout the event; and (4) there was no increase in core damage frequency because the event screened out of the mitigating system and fire protection significance determination processes (SDPs). You also stated that the NRC's preliminary assessment of this finding as White is inconsistent with previous similar events at other facilities.

The NRC acknowledges that: (1) the delay by the shift manager in properly classifying this event as an Alert had no impact on actions to protect public health and safety; (2) the delay did

not significantly compromise your ability to notify State and local authorities and meet related regulatory requirements once the declaration was made 31 minutes after the event; (3) no regulatory requirement exists for Peach Bottom to classify within 15 minutes, and as such, we are not imposing a new or different interpretation of regulatory requirements; and (4) the delay was captured as an unsuccessful opportunity by your drill and exercise performance indicator. However, the NRC concludes that your emergency classification system was not properly used during the event. After completing safety actions, as appropriate, (i.e., personnel accountability and ensuring safe plant conditions), the shift manager did not carry out his responsibilities to review emergency action levels, classify the event, and assume the duties of the ED. Rather, for about 8 minutes, the shift manager was engaged in non-emergency response related issues implementing an administrative procedure for calling your corporate duty officer in order to inform licensee senior management of plant conditions. This administrative procedure is not a part of the Emergency Plan or its implementing procedures. Furthermore, the sequence of steps in this administrative procedure requires entry into the Emergency Plan and its implementing procedures for applicable events prior to such notifications. Consequently, the event classification system was not properly in use for a period of time, and the classification of the event was unnecessarily delayed. It appears that a knowledge deficiency contributed to this problem, in that personnel on shift were not sufficiently expert in the emergency action levels (EALs) to quickly associate the event, a carbon dioxide discharge to the diesel generator building, with the correct EAL Category (toxic gas).

You also indicated at the conference that the shift manager's notification to the corporate duty officer can be a means for mobilizing corporate support. The NRC does not take issue with this contention. However, as you stated at the conference, this method of amassing help should not take precedence over response actions of your ERO, as required by NRC regulations and your emergency plan.

With respect to your position that the core damage frequency did not increase or that the event screened out of the mitigating system and fire protection SDPs, that contention has no bearing on the emergency preparedness SDP. Per the emergency preparedness SDP (during an actual event), significance is based on the event classification level, and whether or not there was a failure to implement a risk significant planning standard. During the time period noted above, the shift manager exhibited a performance deficiency that involved a failure to implement a risk significant planning standard during an Alert condition. Such a finding is considered White in accordance with IMC 0609, Appendix B, and has low to moderate importance to safety.

We also reviewed the five cases that you referenced in your letter dated September 4, 2002, concerning late declarations at other facilities. None of these examples were inconsistent with NRC policy or the emergency preparedness SDP. For two of these cases, green non-cited violations were issued because an Unusual Event was declared late in one case and not at all in the second case, which is consistent with the emergency preparedness SDP. The third case did not meet an Unusual Event EAL, and therefore, did not result in a violation. In the fourth case, the fire lasted less than 10 minutes, which did not necessitate declaration of an Alert. In the fifth case, an Alert declaration was made within the time allotted by the EALs after the licensee recognized that a fire could not be extinguished.

Accordingly, after careful consideration of the information provided during the Regulatory Conference and in your response letter, the NRC concludes, based on the above, that this

inspection finding is appropriately characterized as White, an issue with low to moderate importance to safety, which may require additional NRC inspections. You have 10 business days from the date of this letter to appeal the staff's determination of the 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 is associated with a violation as cited in the enclosed Notice of Violation. While the NRC agrees with your contention that your procedure does not specifically require you to classify the event in 15 minutes, your procedures were nonetheless violated as described in the enclosed Notice. 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.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice of Violation when preparing your response. 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 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosure 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 Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Sincerely,

/RA/

Hubert J. Miller
Regional Administrator

Docket No. 50-244
License No. DPR-18

Enclosure: Notice of Violation

cc w/encl: Senior Vice President, Mid-Atlantic Regional Operating Group
President and CNO, Exelon Nuclear
Vice President, Mid-Atlantic Operations Support
Senior Vice President, Nuclear Services
Site Vice President, Peach Bottom Atomic Power Station
Plant Manager, Peach Bottom Atomic Power Station
Vice President - Licensing and Regulatory Affairs
Director, Licensing, Mid-Atlantic Regional Operating Group
Director, Nuclear Oversight
Regulatory Assurance Manager - Exelon Generation Company, LLC
Senior Vice President and General Counsel
D. Quinlan, Manager, Financial Control, PSEG
R. McLean, Power Plant Siting, Nuclear Evaluations
D. Levin, Acting Secretary of Harford County Council
R. Ochs, Maryland Safe Energy Coalition
Mr. & Mrs. Dennis Hiebert, Peach Bottom Alliance
Mr. & Mrs. Kip Adams
R. Janati, Chief, Division of Nuclear Safety
Vice President, General Counsel and Secretary
Correspondence Control Desk
Commonwealth of Pennsylvania
State of Maryland
TMI - Alert (TMIA)
Peach Bottom Township Board of Supervisors
R. Fletcher, Department of Environment, Radiological Health Program
J. Johnsrud, National Energy Committee, Sierra Club
Public Service Commission of Maryland, Engineering Division
Manager, Licensing - Limerick and Peach Bottom

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DATE	11/18/02		11/ /02		11/ /02					

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* Concurrence received via e-mail from D. Nelson, OE on 11/21/02.

NOTICE OF VIOLATION

Exelon Generation Company, LLC
Peach Bottom Units 2 and 3

Docket No. 50-277; 50-278
License No. DPR-44, DPR-56
EA-02-142

During an NRC inspection conducted between April 1, 2002 and July 1, 2002, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy), NUREG-1600, the violation is listed below:

10 CFR 50.54(q) requires, in part, that a licensee authorized to operate a nuclear power reactor shall follow and maintain in effect emergency plans which meet the standards in Section 50.47(b). 10 CFR 50.47(b)(2) requires, in part, that on-shift facility licensee responsibilities for emergency response are unambiguously defined, and adequate staffing to provide initial facility accident response is maintained at all times. 10 CFR 50.47(b)(4) requires, in part, that a standard emergency classification and action level scheme is in use by the nuclear facility licensee.

The Exelon Nuclear Emergency Response Plan for Peach Bottom sets forth, among other things, on-shift facility licensee responsibilities for emergency response (in accordance with 10 CFR 50.47(b)(2)), and delineates the standard emergency classification and action level scheme in use by the licensee (in accordance with 10 CFR 50.47(b)(4)). Section 2.0 of this Emergency Response Plan states, in part, that the classification system provided in Emergency Response Procedure (ERP)-101, provides for implementation of certain actions immediately applicable to a specific condition, and indicates that the Emergency Director determines the emergency classification and the actions to be taken.

Emergency Response Procedure (ERP)-101, "Classification of Emergencies," delineates licensee emergency response responsibilities in accordance with 10 CFR 50.47(b)(2), as well the emergency action level scheme in accordance with 10 CFR 50.47(b)(4). Sections 1.0 and 2.0, require, in part, that shift management recognize and classify an event or condition, and assume the duties of Emergency Director who shall: (1) select categories appropriate for station events or conditions; (2) review emergency action levels for categories selected; and (3) classify the event based on selected categories and most severe emergency action levels. Section 8.2.2.b specifies that an ALERT emergency action level is met when there is report or detection of: 1) toxic gases within Plant Vital Structures (Table 8-1) in concentrations that will be life threatening to plant personnel; OR 2) flammable gases within Plant Vital Structures (Table 8-1) in concentrations affecting the safe operation of the plant. Table 8-1 lists the Diesel Generator Enclosure as a Plant Vital Structure.

Contrary to the above, on June 2, 2002, the standard emergency classification and action level scheme was not properly used by the operations crew. Specifically, at 12:31 a.m., a condition occurred that warranted an ALERT declaration in accordance with ERP-101 when the fire suppression system inadvertently discharged carbon dioxide, a life threatening gas, into the No. 3 emergency diesel generator room, a plant vital structure. After the shift manager completed actions to assure safe plant conditions and personnel accountability, the shift manager did not then carry out his responsibility to review emergency action levels, classify the event and assume the duties of

Emergency Director. In particular, between 12:39 a.m. and 12:47 a.m., the shift manager was engaged in non-emergency response related activities implementing an administrative procedure for calling the licensee's corporate duty officer in order to inform licensee senior management of plant conditions. As a result, there was an undue delay in properly classifying the event and the ALERT classification was not made until 1:02 a.m.

This violation is associated with a WHITE significance determination process finding.

Pursuant to the provisions of 10 CFR 2.201, Exelon 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 I, and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice of Violation (Notice), within 30 days of the date of the letter transmitting this Notice. This reply should be clearly marked as a "Reply to a Notice of Violation; EA-02-142" and should include: (1) the reason for the violation, or, if contested, the basis for disputing the violation or significance, (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.

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.

Because your response will be made 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), 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. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). 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 2.790(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 two working days.

Dated this 26th day of November 2002