

February 11, 2003

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

SUBJECT: PEACH BOTTOM ATOMIC POWER STATION AND LIMERICK GENERATING STATION - NRC EMERGENCY ACTION LEVEL INSPECTION REPORT 50-277/03-008, 50-278/03-008 AND 50-352/03-006, 50-353/03-006

Dear Mr. Skolds :

On January 17, 2003¹, the NRC completed an in-office emergency preparedness (EP) baseline inspection for your Peach Bottom Atomic Power Station, Units 2 & 3 and Limerick Generating Station, Units 1& 2. Specifically, this inspection reviewed recent changes to the emergency action levels at both sites. The enclosed reports document the inspection findings which were discussed on January 17, 2003, with Mr. M. Gallagher and other members of your staff.

The inspection was an examination of activities conducted under your license as they relate to safety and compliance with the Commission's rules and regulations and with the conditions of your license. Within this area, the inspection consisted of a selected examination of procedures and records, and interviews with personnel.

There was a Severity Level IV non-cited violation identified in this report.

Based on the results of this inspection, the NRC has determined that a Severity Level IV violation of NRC requirements occurred. This violation is being treated as a Non-Cited Violation (NCVs), consistent with Section VI.A of the Enforcement Policy. The NCV is described in the subject inspection report. If you contest the violation or significance of the NCV, you should provide a response within 30 days of the date of this inspection report, with the basis for your denial, to the Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington DC 20555-0001, with a copies to the Regional Administrator, Region I, and the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001 and the NRC Resident Inspector at your facility.

Mr. Oliver D. Kingsley

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Sincerely,

/RA/

Richard J. Conte, Chief
Operations Safety Branch
Division of Reactor Safety

Docket Nos: 50-277, 50-278
50-352, 50-353
License Nos: DPR-44, DPR-56
NPF-39, NPF-85

Enclosure: Inspection Report Nos. 50-277/03-008, 50-278/03-008 and 50-352/03-006,
50-353/03-006

cc w/encl:

Chief, Operating Officer, Exelon Generation Company, LLC
President and CNO, Exelon Nuclear
Senior Vice President, Operations Support
Chairman, Nuclear Safety Review Board
Senior Vice President, Nuclear Services
Site Vice President, Peach Bottom Atomic Power Station
Vice President - Licensing and Regulatory Affairs
Vice President - Licensing
Senior Vice President, Mid-Atlantic Regional Operating Group
Vice President, Mid-Atlantic Operations Support
Director, Licensing, Mid-Atlantic Regional Operating Group
Director, Nuclear Oversight
Manager, Licensing - Limerick and Peach Bottom
Manager, License Renewal
Plant Manager, Peach Bottom Atomic Power Station
Plant Manager, Limerick Generating Station
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D. Levin, Acting Secretary of Harford County Council
R. Ochs, Maryland Safe Energy Coalition
Mr. & Mrs. Dennis Hiebert, Peach Bottom Alliance

Mr. Oliver D. Kingsley

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Mr. & Mrs. Kip Adams

D. Allard, Director, Pennsylvania Bureau of Radiation Protection

R. Janati, Chief, Division of Nuclear Safety, Pennsylvania Bureau of
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Commonwealth of Pennsylvania

State of Maryland

TMI - Alert (TMIA)

Board of Supervisors, Peach Bottom Township

R. Fletcher, Department of Environment, Radiological Health Program

J. Johnsrud, National Energy Committee, Sierra Club

Public Service Commission of Maryland, Engineering Division

Chairman, Board of Supervisors of Limerick Township

Chief, Division of Nuclear Safety, Pennsylvania Department of Environmental Resources

Mr. Oliver D. Kingsley

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REGION I

Docket Nos: 50-277, 50-278
50-352, 50-353

Report Nos: 50-277/03-008, 50-278/03-008
50-352/03-0006, 50-353/03-006

Licensee: Exelon Generation Company, LLC

Facilities: Peach Bottom Atomic Power Station, Units 2 & 3
Limerick Generating Station, Units 1 & 2

Locations: Delta, Pennsylvania
Limerick, Pennsylvania

Dates: September 18, - January 17, 2003 (In-office)

Inspector: D. Silk, Senior Emergency Preparedness Inspector, DRS, RI
T. Blount, Emergency Preparedness Specialist, NRR

Approved by: Richard J. Conte, Chief
Operational Safety Branch
Division of Reactor Safety

SUMMARY OF FINDINGS

IR 05000277/03-002, IR 05000278/03-002 on 9/18/02-1/17/03; Peach Bottom Atomic Power Station, Units 2 and 3; Limerick Generating Station, Units 1 and 2; Emergency Action Level Changes.

This inspection was performed in-office by a region-based inspector and emergency preparedness specialists from NRC headquarters. One Severity Level IV non-cited violation was identified during this inspection. The significance of most findings is indicated by their color (green, white, yellow, red) using IMC 0609 significance determination process (SDP). Findings for which the SDP does not apply may be "Green" or be assigned a severity level after NRC management review. The NRC's program for overseeing the safe operation of commercial nuclear power reactors is described in NUREG-1649, "Reactor Oversight Process," Revision 3, dated July 2000.

A. Inspector Identified Findings

Cornerstone: Emergency Preparedness

- Severity Level IV. The licensee changed its emergency action level schemes such that there would be a reduction in declarable events as the emphasis shifted from personnel safety to equipment status. The changes were determined to be a decrease in the effectiveness of the emergency plans. Decreases in the effectiveness of an emergency plan must receive NRC review prior to implementation. The changes were implemented without NRC approval.

The finding was determined to be more than minor as its significance was related to the impact it would have on the mobilization of the emergency response organization and preclude offsite agencies from being aware of adverse conditions on site. The licensee accepted the NRC's position and entered this issue into its corrective action program (Condition Report 139997) and will change the emergency action levels back to the original wording. The implementation of the changes which decreased the effectiveness of the emergency plans, without NRC review, is being treated as a non-cited violations consistent with Section VI.A of the Enforcement Policy, issued on May 1, 2000 (65 FR 25388). (**NCV 50-277; 50-278/03-008-01 & 50-352; 50-353/03-006**) (Section 1EP4)

B. Licensee Identified Findings

None

Report Details

3. REACTOR SAFETY

Cornerstone: Emergency Preparedness

1EP4 Emergency Action Level (EAL) and Emergency Plan Changes

a. Inspection Scope

A regional in-office review of EALs HU5 and HA5 (which pertain to toxic and flammable gases) for both Peach Bottom Atomic Power Station (PBAPS) and the Limerick Generating Station (LGS) was performed between September 18, 2002 and January 17, 2003, to determine if the changes decreased the effectiveness of the E-Plan. The review was conducted in accordance with NRC Inspection Procedure 71114, Attachment 04, Emergency Action Level and Emergency Plan Changes. The applicable portions of 10 CFR 50.54(q), 10 CFR 50.47(b), 10 CFR 50 Appendix E, and NUMARC/NESP-007, Methodology for Development of Emergency Action Levels, were used as reference criteria.

b. Findings

Introduction

The licensee changed their EALs that address events related to toxic gases as a corrective action related to the event of June 2, 2002. These changes were determined to be a decrease in the effectiveness of the emergency plans at PBAPS and LGS. The licensee did not submit these changes to the NRC for prior approval. This is a violation of 10 CFR 50.54(q) and, because it impacts the regulatory process, traditional enforcement was applied. Because this item was entered into the licensee's corrective action program and because of its very low safety significance, this issue was determined to be a Severity Level IV non-cited violation.

Description

Following the June 2, 2002, Alert declaration for a carbon dioxide discharge into one of the emergency diesel generator rooms at PBAPS, the licensee implemented a series of corrective actions which included the revision of the EALs pertaining to toxic gas events at both PBAPS and LGS. These changes were primarily based upon the licensee's assessment that the conditions of June 2, 2002, did not meet the definition of an Alert which is, in part:

“Events are in progress or have occurred which involve an actual or potential substantial degradation of the level of safety of the plant....”

Also, the licensee had concluded that the revised EALs more closely follow the intent of the NUMARC guidance. Below are the previous EALs, the NUMARC EALs, and the revised EALs addressing toxic gas for the Unusual Event and Alert, respectively. (Note: Words or phrases unique to LGS are in [].)

Previous Unusual Event EAL

Report or detection of toxic [or flammable] gases that could enter within the site area boundary in amounts that can affect normal plant operations.

NUMARC Unusual Event EAL

Report or detection of toxic or flammable gases that could enter within the site area boundary in amounts that can affect normal operation of the plant.

Revision Unusual Event EAL

Report or detection of toxic [or flammable] gases in amounts that is [are] disrupting normal plant operations

Previous Alert EAL

Report or detection of toxic gases within Plant Vital Structures in concentrations that will be life threatening to plant personnel.

NUMARC Alert EAL

Report or detection of toxic gases within a Facility Structures in concentrations that will be life threatening to plant personnel.

Revised Alert EAL

Report or detection of toxic [or flammable] gases within Plant Vital Structures in concentrations that will be life threatening to plant personnel

AND

Access is required into affected area(s) for continued safe operation of the plant or to establish or maintain cold shutdown, but is impeded. (PBAPS)

[Access is required into area(s) containing systems performing their safety function, but is impeded. (LGS)]

The NRC's review of this matter resulted in several observations. First, the change to the EALs would reduce the number of declarable events because not only was the presence of gas required but also an affect on plant operations needs to be considered. (With the revised EALs, no emergency classification would have been made for the June 2, 2002, event at PBAPS.) Second, the emphasis of the EAL shifted from personnel safety to the impact on plant conditions or operations. Third, the EAL shifted from identifying potential threats to recognizing actual impact. Finally, the industry group, NEI, withdrew a proposed revision to the NUMARC EALs which included changes similar to the licensee changes since they were unacceptable to the NRC staff. Based upon these considerations, the NRC concluded that the licensee's changes decreased the effectiveness of the emergency plans. Such changes are to be submitted to the NRC for review before implementation. The licensee did not submit changes to the NRC and was therefore in violation of 10 CFR 50.54(q).

Analysis

This finding affects the emergency preparedness cornerstone and was considered to be more than minor because, if left uncorrected, it could be a more significant safety concern. The EP attribute of procedure quality was impacted. This, in turn, affects the EP objective of ensuring that the licensee is capable of implementing adequate measures to protect the health and safety of the public in the event of a radiological emergency because reducing or eliminating classifiable events would impact emergency response organization mobilization and preclude offsite agencies from being aware of adverse conditions on site. Due to the nature of this issue (affecting the regulatory process), traditional enforcement was applied instead of the Significance Determination Process (SDP).

Enforcement

10 CFR 50.54(q) states in part that the "licensee may make changes to these plans without Commission approval only if the changes do not decrease the effectiveness of the plans. Proposed changes that decrease the effectiveness of the approved emergency plans may not be implemented without application to and approval by the Commission." On June 21 and August 30, 2002, the licensee made changes to their EALs at PBAPS and LGS, respectively, which reduced the effectiveness of the emergency plans. These changes were not submitted to the NRC for approval prior to implementation. The licensee accepted the NRC's position on this matter and entered this issued into their corrective action program (CR 139997). The licensee plans to change the EALs back to their original wording and conduct the necessary training.

Changing emergency plan commitments without prior approval impacts the NRC's ability to perform its regulatory function and is therefore processed through traditional enforcement as specified in Section IV.A.3 of the Enforcement Policy, issued May 1, 2000 (65 FR 25388). According to Supplement VIII of the Enforcement Policy, this finding was determined to be a Severity Level IV because it involved a failure to meet a requirement not directly related to assessment and notification. Further, this problem is isolated to two EALs and is not indicative of a functional problem with the EAL scheme. Because the licensee has entered this issue into their corrective action program and it is of very low safety significance, these findings are being treated as non-cited violation (Severity Level IV) consistent with Section VI.A of the Enforcement Policy. **(NCV 50-277&278/03-08-01; 50-352&353/03-06-01).**

40A6 Meetings, including Exit

The inspectors presented the inspection results to Mr. M. Gallagher, and other members of the licensee's staff at the conclusion of the inspection on January 17, 2003. The licensee had no objections to the NRC findings or observations. No proprietary information was provided to the inspectors during this inspection.

ATTACHMENT 1

SUPPLEMENTAL INFORMATION

d. **Key Points of Contact**

Exelon Generation Company

D. Tailleart, Exelon EP Manager
D. Helker, Exelon Licensing

e. **List of Items Opened, Closed and Discussed**

Opened/Closed

50-277;278/03-08-01	NCV	10CFR50.54(q) violation for decreasing the effectiveness of the plan by changing EALs that address toxic gas without prior NRC approval.
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50-352;353/03-06-01	NCV	10CFR50.54(q) violation for decreasing the effectiveness of the plan by changing EALs that address toxic gas without prior NRC approval.
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Closed

None

f. **List of Acronyms**

EAL	Emergency Action Level
LGS	Limerick Generation Station
PBAPS	Peach Bottom Atomic Power Station
SDP	Significance Determination Process