

March 12, 2004

EA-04-006

Mr. M. Nazar  
Senior Vice President  
Nuclear Generation Group  
American Electric Power Company  
500 Circle Drive  
Buchanan, MI 49107

SUBJECT: D. C. COOK NUCLEAR POWER PLANT, UNITS 1 AND 2  
FINAL SIGNIFICANCE DETERMINATION FOR A WHITE FINDING  
AND NOTICE OF VIOLATION (NRC INSPECTION REPORT  
NO. 05000315/2004005(DRS); 05000316/2004005(DRS))

Dear Mr. Nazar:

The purpose of this letter is to provide you the final results of our significance determination for the preliminary White finding identified in NRC Radiation Protection Inspection Report No. 05000315/2003016(DRS); 05000316/2003016(DRS), issued January 27, 2004. The inspection finding was assessed using the Significance Determination Process and was preliminarily characterized as White (i.e., a finding with low to moderate increased importance to safety, which may require additional NRC inspection). This preliminary White finding involved a failure to prepare a package of radioactive material for shipment on October 7, 2003, so that under conditions normally incident to transportation, the radiation level did not exceed 200 millirem per hour at any point on the external surface of the package. Upon arrival of the package at a waste processing facility in Tennessee on October 8, 2003, radiation surveys identified a small area on the external surface of the package with a radiation level of 250 millirem per hour.

As described in a letter dated February 11, 2004, Indiana Michigan Power Company did not contest the preliminary characterization of the risk significance of this finding and declined the opportunity to discuss this issue in a Regulatory Conference or provide a written response.

After considering the information germane to the finding as developed during the inspection, the NRC has concluded that the inspection 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 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.

The NRC has also determined that the failure to prepare the radioactive material package for shipment so that the radiation level does not exceed 200 millirem per hour at any point on the external surface of the package is a violation of 10 CFR Part 71.5 and the requirements of the Department of Transportation regulations in 49 CFR Part 173 appropriate to the mode of transport, as cited in the enclosed Notice of Violation (Notice). The circumstances surrounding

the violation are described in detail in NRC Inspection Report No. 05000315/2003016(DRS); 05000316/2003016(DRS). In accordance with the NRC Enforcement Policy, NUREG-1600, 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.

Because D. C. Cook performance for this issue has been determined to be in the Regulatory Response Band given the final significance determination of this finding, we have applied the NRC Action Matrix to determine the most appropriate NRC response for this performance issue. Specifically, we plan to review your evaluation of the root and contributing causes for this issue during a supplemental inspection using inspection procedure 95001, "Supplemental Inspection for One or Two White Inputs in a Strategic Performance Area." That inspection is currently scheduled to take place the weeks of May 10 and May 17, 2004, during which time we also plan to complete a baseline inspection of your Radioactive Material Processing and Transportation program using inspection procedure 71122.02. We will notify you by separate correspondence should our inspection plans change.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure and your response to the Notice 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). To the extent possible, your response should not include any personal privacy, propriety, 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](http://www.nrc.gov); select **What We Do; Enforcement**, then **Significant Enforcement Actions**.

Sincerely,

*/RA by Geoffrey E. Grant Acting for/*

James L. Caldwell  
Regional Administrator

Docket Nos. 50-315; 50-316  
License Nos. DPR-58; DPR-74

Enclosure: Notice of Violation

See Attached Distribution

M. Nazar

-3-

cc w/encl: J. Jensen, Site Vice President  
M. Finissi, Plant Manager  
R. Whale, Michigan Public Service Commission  
Michigan Department of Environmental Quality  
Emergency Management Division  
MI Department of State Police  
D. Lochbaum, Union of Concerned Scientists

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Enclosure: Notice of Violation  
See Attached Distribution

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cc w/encl: J. Jensen, Site Vice President  
M. Finissi, Plant Manager  
R. Whale, Michigan Public Service Commission  
Michigan Department of Environmental Quality  
Emergency Management Division  
MI Department of State Police  
D. Lochbaum, Union of Concerned Scientists

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## NOTICE OF VIOLATION

American Electric Power Company  
D.C. Cook Nuclear Power Plant

Docket Nos. 50-315; 50-316  
License Nos. DPR-58; DPR-74  
EA-04-006

During an NRC inspection conducted between December 1, 2003, and January 8, 2004, at the D. C. Cook Nuclear Power Plant, 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 71.5(a) requires that each licensee who transports licensed material outside of the site of usage, as specified in the NRC license, or where transport is on public highways, or who delivers licensed material to a carrier for transport, comply with the applicable requirements of the Department of Transportation (DOT) regulations in 49 CFR Parts 170 through 189 appropriate to the mode of transport.

49 CFR 173.441(a) requires, in part, that each package of Class 7 (radioactive) materials offered for transportation must be designed and prepared for shipment, so that under conditions normally incident to transportation, the radiation level does not exceed 200 millirem per hour at any point on the external surface of the package.

Contrary to the above, on October 7, 2003, the licensee offered for transportation to a carrier a Class 7 (radioactive) material package that was not prepared for shipment so that, under conditions normally incident to transportation, the radiation level did not exceed 200 millirem per hour at any point on the external surface of the package. Specifically, the radiation level on a localized area of the package surface was 250 millirem per hour when the package arrived at its destination on October 8, 2003.

This violation is associated with a White Significance Determination Process finding.

Pursuant to the provisions of 10 CFR 2.201, American Electric 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 III, 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-04-006" and should include for this violation: (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 previous 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

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 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 two working days.

Dated this 12<sup>th</sup> day of March 2004

Enclosure