

June 3, 2004

EA-04-044

Mr. William R. Kanda  
Vice President - Nuclear, Perry  
FirstEnergy Nuclear Operating Company  
P. O. Box 97, A210  
10 Center Road  
Perry, OH 44081

SUBJECT: NRC OFFICE OF INVESTIGATIONS REPORT NO. 3-2003-010

Dear Mr. Kanda:

This refers to information provided to the U.S. Nuclear Regulatory Commission (NRC) on March 27, 2003, by a representative of the FirstEnergy Nuclear Operating Company (FENOC), that your staff identified that during the period from March 25 to March 27, 2003, nine contractor employees submitted either adulterated or substituted urine specimens during NRC-required Fitness-for-Duty (FFD) testing at FENOC's Perry Nuclear Power Plant. Investigations by FENOC and the NRC Office of Investigations (OI) determined that, while undergoing FFD testing prior to being granted unescorted access to the Perry Nuclear Power Plant, eight contractor employees deliberately adulterated their urine sample and one contractor employee deliberately submitted a urine specimen that was not his own. Those individuals also signed FENOC documents indicating that they had not adulterated or substituted their urine specimen. In addition, a tenth contractor employee answered "No" to the question "Have you ever used, sold, possessed or abused legal or illegal drugs?" on the "First Energy Nuclear Operating Company Self-Disclosure Questionnaire." This individual was subsequently questioned by FENOC personnel and stated that he had recently used marijuana. Therefore, the information provided by this individual on the "Self-Disclosing Questionnaire" was incomplete and inaccurate. The information on the documents submitted to FENOC by each of the 10 employees is material to the NRC because that information is used by FENOC to demonstrate compliance with the NRC-required FFD program at the Perry Nuclear Power Plant and in determining the suitability of an individual for unescorted access to the facility.

No enforcement action was considered appropriate for FENOC in this matter, as each of the individual's incomplete or inaccurate information was effectively detected by FENOC during the collection of the specimens and subsequent interviews. FENOC denied each individual access to the Perry Plant, and the industry data base was annotated to reflect an access denial for each individual. Also, additional training to enhance detection of adulterated or substituted FFD samples was provided to the FENOC employees responsible for collecting FFD specimens. We further recognized that all other individuals submitting FFD samples during the period of March 25 to March 27, 2003, were successfully retested. We have concluded that the actions you took in response to this self-identified problem were appropriate and effective. No further NRC action is planned. The synopsis of the NRC Office of Investigations report is enclosed.

Please contact Terry Madedda of the NRC Region III office if you have any questions. Mr. Madedda can be reached at telephone number (630) 829-9500.

You are not required to respond to this letter. However, should you choose to respond, your response should be sent to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region III, 2443 Warrenville Road, Suite 210, Lisle, IL 60532-4352, with a copy to the Enforcement Officer at the same address and marked "Response to EA-04-044, Open by Addressee Only," within 30 days of the date of this letter.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if any, will be available electronically for public inspection in the NRC's Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Sincerely,

*/RA/*

Cynthia D. Pederson, Director  
Division of Reactor Safety

Docket No. 50-440  
License No. NPF-58

cc w/encl: G. Leidich, President - FENOC  
L. Myers, Chief Operating Officer, FENOC  
J. Hagan, Senior Vice President Engineering  
and Services, FENOC  
W. O'Malley, Director, Maintenance Department  
V. Higaki, Manager, Regulatory Affairs  
J. Messina, Director, Nuclear  
Services Department  
T. Lentz, Director, Nuclear  
Engineering Department  
T. Rausch, Plant Manager,  
Nuclear Power Plant Department  
M. O'Reilly, Attorney, First Energy  
Public Utilities Commission of Ohio  
Ohio State Liaison Officer  
R. Owen, Ohio Department of Health

Please contact Terry Madeda of the NRC Region III office if you have any questions. Mr. Madeda can be reached at telephone number (630) 829-9500.

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Sincerely,  
/RA/

Cynthia D. Pederson, Director  
Division of Reactor Safety

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J. Hagan, Senior Vice President Engineering and Services, FENOC  
W. O'Malley, Director, Maintenance Department  
V. Higaki, Manager, Regulatory Affairs  
J. Messina, Director, Nuclear Services Department  
T. Lentz, Director, Nuclear Engineering Department  
T. Rausch, Plant Manager, Nuclear Power Plant Department  
M. O'Reilly, Attorney, First Energy Public Utilities Commission of Ohio Ohio State Liaison Officer  
R. Owen, Ohio Department of Health

\*See Previous Concurrence

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<sup>1</sup>Approval to release synopsis of OI report.

<sup>2</sup>No legal objection received on 5/19/04 from H. J. McGurran, OGC.

<sup>3</sup>Concurrence received on 5/19/04 from J. Dixon-Herrity, OE.

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## SYNOPSIS

This investigation was initiated on April 28, 2003, by the U.S. Nuclear Regulatory Commission, Office of Investigations, Region III, to determine if several contract employees deliberately violated access authorization requirements by submitting synthetic urine samples. The contract employees allegedly committed this violation while engaged in pre-access Fitness-for-Duty (FFD) testing as required by 10 CFR Part 26 at the Perry Nuclear Power Plant.

Based on the evidence developed, this investigation did substantiate the allegations that nine contract employees deliberately violated the FFD requirements, and ten contract employees deliberately provided incomplete or inaccurate information to the licensee.

Based on the evidence developed, this investigation did not substantiate that four contract employees deliberately violated the FFD requirements, and three contract employees deliberately provided incomplete or inaccurate information to the licensee.