

April 20, 2005
EN-05-013

OFFICE OF ENFORCEMENT
NOTIFICATION OF SIGNIFICANT REGULATORY ACTION

Licensee: FirstEnergy Nuclear Operating Company EA-03-025, EA-05-066, EA-05-067
Davis-Besse Nuclear Power Station EA-05-068, EA-05-069, EA-05-070,
Docket No. 50-346 EA-05-071, EA-05-072, IA-05-021

Subject: PROPOSED IMPOSITION OF CIVIL PENALTY - \$5,450,000

This is to inform the Commission that a Notice of Violation (NOV) and Proposed Imposition of Civil Penalty in the amount of \$5,450,000 will be issued on or about April 21, 2005, to FirstEnergy Nuclear Operating Company (FENOC). This action is based on FENOC's failure to properly implement the boric acid corrosion control and corrective action programs at its Davis-Besse Nuclear Power Station (Davis-Besse), which allowed reactor coolant system pressure boundary leakage to occur undetected for a prolonged period of time, resulting in reactor pressure vessel head degradation. The NRC assessed the significance of the performance deficiency using the Significance Determination Process (SDP) and concluded that the significance was in the RED range. A RED finding is one with high importance to safety that will result in increased NRC inspection and other NRC action.

The violations associated with the enforcement action fall within two categories. The first category involves non-willful violations associated with the RED finding related to the reactor vessel head wastage event. Central to the significance of this finding is that from May 18, 2000, to February 16, 2002, the licensee started up and operated the plant with reactor coolant system pressure boundary leakage, a violation of the Technical Specification (TS). The NRC is proposing a \$5,000,000 civil penalty for this violation. The second category includes four willful violations of NRC requirements for which the staff is proposing civil penalties in the amount of \$450,000, the statutory maximum civil penalty. There are two additional violations related to the completeness and accuracy of information that will be noticed with no associated civil penalty.

A separate enforcement action involves the issuance of an Order banning an individual from all NRC-licensed activities for a period of 5 years for violating 10 CFR 50.5, "Deliberate misconduct." Specifically, the individual deliberately provided inaccurate information concerning the removal of boric acid deposits from the Davis-Besse reactor pressure vessel head and the completion of required inspection of the reactor pressure vessel head for reactor coolant system leakage, which caused FENOC to be in violation of 10 CFR 50.9, "Completeness and Accuracy of Information."

It should be noted that the licensee has not been specifically informed of these enforcement actions. The schedule of issuance and notification is:

Telephone Notification of Licensee and individual	April 21, 2005
Mailing of the Notice of Violation and Proposed Imposition of Civil Penalty and Order	April 21, 2005

The State of Ohio will be informed.

Contacts: D. Starkey, OE, 415-3456 C. Nolan, OE, 415-3360

**PRELIMINARY INFORMATION - NOT FOR PUBLIC DISCLOSURE UNTIL VERIFICATION
THAT LICENSEE HAS RECEIVED ACTION**

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