September 7, 2005

EA-05-167
EA-05-168

Mr. R. Anderson
Vice President
FirstEnergy Nuclear Operating Company
Perry Nuclear Power Plant
10 Center Road, A290
Perry, OH 44081

SUBJECT: RESPONSE TO DISPUTED VIOLATIONS (INSPECTION REPORT 05000440/2005003); PERRY NUCLEAR POWER PLANT

Dear Mr. Anderson:

Thank you for your response by letter dated August 8, 2005, to our inspection report issued on July 8, 2005, concerning activities conducted at your facility. In your response, you denied two of the non-cited violations (NCVs) contained in the inspection report; NCV 05000440/ 2005003-14, associated with the emergency diesel generator starting logic, and NCV 05000440/2005003-26, associated with a May 2004 change to the Emergency Plan and implementing instructions.

In your response, you indicated that the current design and operation of the emergency diesel generators (EDGs) was in conformance with your licensing bases and that the EDGs were not required to start during the 2-minute period when an EDG was being shutdown. You further indicated that: (1) the EDGs were in a shutdown (i.e., non-operating) mode during the 2-minutes following an engine shutdown; (2) a loss of offsite power (LOOP) start was not an emergency start; and (3) the NRC had previously accepted the EDG design configuration as stated in the Supplement to the Safety Evaluation Report (SSER 7), dated November 1985. Finally, you indicated your belief that the NRC requiring Perry to ensure that the EDGs would be able to automatically start on a loss of offsite power concurrent with the EDG 2-minute shutdown period would constitute a backfit to the current licensing basis.

Relative to the second NCV, you indicated that the dual assignment of the Shift Health Physics (HP) Technician to the Operations Support Center (OSC) Coordinator did not constitute a decrease in the effectiveness of your Emergency Plan and therefore was not a violation. You further indicated that: (1) the practice of appointing an interim OSC Coordinator was acceptable because the dual assignment was only for an interim period; and (2) allowing the Shift HP Technician to act as the interim OSC Coordinator supported the concept of relieving the shift complement of duties. In conclusion you indicated your belief that the NRC preventing Perry from implementing the dual assignment of the Shift HP Technician as the OSC Coordinator would constitute a decrease in the effectiveness of the Emergency Plan.

The NRC conducted a detailed review of your response and the applicable licensing and regulatory documents. The review was conducted by NRC staff that were independent of the initial inspection effort and the results were reviewed by the NRC Office of Enforcement. After

careful consideration of the bases for your denial of the non-cited violations, we have concluded that the violations occurred as stated in the inspection report. We have provided a summary of our evaluation and conclusions as an attachment to this letter. In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures and your response 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 Geoffrey E. Grant Acting for/

James L. Caldwell
Regional Administrator

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

Enclosure: NRC Evaluation and Conclusions

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PERRY NUCLEAR POWER PLANT
INSPECTION REPORT 05000440/2005003
DISPUTED VIOLATIONS EVALUATION AND CONCLUSIONS

1. **Non-Cited Violation 05000440/2005003-14**

Summary

The non-cited violation involved the inability of the emergency diesel generators (EDGs) to re-start either manually or upon receipt of a loss of offsite power (LOOP) during shutdown from a surveillance test. Specifically, after the EDG unit output breaker opens, operators shut down the engine by placing the EDG control switch to "STOP." Upon release, the switch spring returns to the "AUTO" position. Following this action by the operator, a 2-minute period of vulnerability exists when the EDG would not re-start based upon either a manual start or upon an automatic LOOP signal generated by the bus under-voltage relays. During this 2-minute period, a manual start or automatic LOOP signal would cause the EDG to roll on air start and to lockout. In April 2003, while shutting down the EDG from a surveillance run, the licensee injected a simulated LOOP which resulted in damage to the generator field circuitry K-1 relay and EDG inoperability. FirstEnergy Nuclear Operating Company contested the violation by letter dated August 8, 2005, stating that the LOOP start signal is not an emergency start signal; therefore, the EDGs are not required to start during the 2-minute shutdown period.

Restatement of Violation

Appendix B of 10 CFR 50, Criterion XVI, “Corrective Action,” requires, in part, that measures be established to ensure that conditions adverse to quality, such as failures, malfunctions, deficiencies, deviations, defective material and equipment, and nonconformances are promptly identified and corrected.

Contrary to this requirement, as of April 7, 2005, the design basis requirements related to EDG response to a loss of offsite power (LOOP) signal had not been correctly translated into the design and this nonconforming condition had not been corrected.

Summary of Licensee’s Response to the Non-Cited Violation:

The licensee presented the following key points in support of its dispute of the violation:

1) During the 2-minutes following an engine shutdown, the EDG is in a shutdown (i.e., non-operating) mode. Therefore the EDG’s response to input signals would be governed by the requirements of IEEE Standard 387-1977, Section 5.6.2.2, “Automatic Control.” Section 5.6.2.2 states that: “a start signal shall not override any manual, non-operating mode such as those for repair and maintenance.” Therefore the EDG was not required to start during the 2-minute period following a shutdown, “because the EDG is, in fact, not in an operating mode.” The plant system operating instructions limit testing to only one EDG at a time in order to ensure the other EDG remains operable during the brief 2-minute shutdown period.

2) "A LOOP start [signal] is not an emergency start [signal]." The Final Safety Analysis Report (FSAR) states: 1) the controls for the diesel generator are designed such that if an emergency start signal is initiated while the unit is undergoing its periodic exercise test whether (...) or coasting to a stop, the control system will cause the unit to return to rated speed and voltage, and will disarm all protection except overspeed and generator differential; and 2) the generator differential and overspeed trip functions will shut down the diesel generators after a loss of coolant accident (LOCA) start signal. Neither of these two FSAR sections mention "restart" of the EDGs on a LOOP signal. Therefore, a LOOP was not considered an emergency start signal. During the first update of the FSAR in 1982, the licensee replaced the term "emergency start" with the term "LOCA start."

3) The NRC previously accepted the current EDG design configuration as documented in a Supplement to the Safety Evaluation Report (SSER 7), dated November 1985. Section 8.4 of SSER 7 documents that the NRC was concerned with the EDGs' response to a LOCA during testing. The licensee presented a modified design, which the NRC reviewed and concluded that the modified design feature on the Perry diesel generators complied with the staff's position. Therefore, this item was reviewed by the NRC and acceptably resolved. Any deviation from this previously NRC accepted position, that is, requiring an automatic start of the EDG from a LOOP signal during the 2-minute shutdown period, would constitute a backfit from the current licensing basis.

NRC's Evaluation of Licensee's Response

Region III conducted an independent review of the issues associated with the non-cited violation. The staff reviewed the licensee's response, requested additional information from the licensee, and conducted two teleconferences with the licensee to ensure a clear understanding of the licensee's position.

In summary, the staff confirmed that the EDGs were prevented from restarting, during the 2-minute shutdown period, based upon either a LOOP signal or a manual start signal due to a design feature by which the operating cylinder locked out the EDG fuel rack. This design feature is bypassed if the EDG receives a LOCA start signal during the 2-minute shutdown period. Based upon the independent review, the staff agrees with the original position (as stated in Inspection Report 05000440/2005003) that this design feature must be bypassed for a LOOP signal. The reasons are as follows:

Evaluation of Point 1:

The staff disagrees with the licensee's logic. During the 2-minute shutdown period, the EDG is capable of responding to a LOCA start signal. If the EDG was considered to be in a non-operating mode, then the licensee would not be in compliance with IEEE Standard 387-1977 for a LOCA response. Therefore, the EDG is not in a non-operating mode during the 2-minutes following an engine shutdown.

The staff also noted that the "shutdown mode" is not defined in Technical Specifications (TS) or in the Perry Updated Safety Analysis Report (USAR). Section 8.3.1.1.3.2.b.5 of the USAR describes the permissive conditions which must be satisfied for automatic EDG start. During the 2-minute shutdown period, the EDG meets all of the permissive conditions for an automatic start. Specifically, the EDG control switch must be in the auto position (the switch spring returns to the auto position after it is turned to the stop position) and the EDG maintenance switch must be in the normal position. This alignment is consistent with the fact that the EDG is designed to start on a LOCA start signal during the 2-minute shutdown period.

In addition, USAR Section 8.3.1.1.3.2.b.1, "Start Initiating Circuits," states that, "the diesel generators are automatically started upon receipt of a LOCA signal, an undervoltage signal or a degraded voltage signal from the associated bus." Section 8.3.1.1.3.2.b.7 of the USAR further states that, "when testing from the control room, circuitry is provided which overrides the test mode in the event of a LOCA signal....or loss of 4.16 kV bus voltage."

Lastly, USAR Section 8.3.1.1.2.6 describes the EDG response to three LOCA scenarios: (1) a LOCA concurrent with a LOOP; (2) a LOCA with a delayed LOOP; and (3) a LOOP with a delayed LOCA. For the latter case, the USAR states that if a LOCA occurs following an undervoltage condition, the LOCA loads are sequentially loaded and the connected loads are not stripped from the buses. The staff determined that this statement can only be correct if it is assumed that the EDGs started from the LOOP signal. Based upon the currently installed design, an EDG would not start on a LOOP signal but would start on a LOCA signal during the 2-minute shutdown period. This response is not reflected in the USAR.

As stated above, during the 2-minute period when the EDG is shutting down, the EDG is not in a non-operating mode and therefore is either considered to be in a test mode or in a standby condition. The staff disagrees with the licensee's first point and concludes that the EDGs are required to be capable of starting during the 2-minute shutdown interval.

Evaluation of Point 2:

The licensee replaced the term "emergency start" with the term "LOCA start" in the USAR during its first update of the FSAR in 1985. The staff requested a copy of the licensee's 10 CFR 50.59 evaluation for the change in the definition of an emergency start. The licensee was unable to locate the evaluation and initiated CR 05-06193, "USAR Change Request and 50.59 Review Paperwork Could Not Be Located," to evaluate the issue. This evaluation is critical, in that, the FSAR change may have required prior NRC approval.

The staff concurred with the licensee that USAR, Section 8.3.1.1.3.2.b.3 described the automatic EDG trip functions that are bypassed on a LOCA EDG start signal. As currently designed, these trip functions are not bypassed on a LOOP EDG start signal. However, the NCV related to signals that should start the EDG while in the test mode and did not involve conditions to trip the EDGs. Section 8.3.1.1.3.2.b.7 of the USAR stated that, "when testing

from the control room, circuitry is provided which overrides the test mode in the event of a LOCA signal....or loss of 4.16 kV bus voltage."

The staff noted that General Design Criterion 17 of 10 CFR 50, Appendix A, states, in part, that "an onsite electric power system ... shall be to provide sufficient capacity and capability to assure that specified acceptable fuel design limits and design conditions of the reactor coolant pressure boundary are not exceeded as a result of anticipated operational occurrences." The 10 CFR 50, Appendix A, Definition section, defines the term "anticipated operational occurrence" to include a loss of offsite power event. The staff also noted that Technical Specification (TS) Surveillances 3.8.1.11 and 3.8.1.12 require, in part, that the licensee demonstrate the EDGs will start on an actual or simulated loss of offsite power or emergency core cooling system initiation signal. Both the General Design Criterion 17 and TS surveillance require the EDGs to start on a LOOP start signal. This requirement encompasses testing conditions which includes the 2-minute shutdown period.

With respect to the TS surveillance requirements, the staff noted that an EDG's failure to start during the 2-minute shutdown period would, by definition, preclude the EDG from fulfilling its safety function and would result in the EDG being considered inoperable. During a teleconference with the licensee, the licensee acknowledged that the EDGs would not meet the TS surveillance requirements during this 2-minute period and that the licensee had translated this understanding into its procedures. Specifically, Operating Instruction SOI-R43, "Division 1 and 2 Diesel Generator System," Revision 23, contained multiple "Notes" that the EDG "will be unavailable for a non-LOCA restart for 2 to 3 minutes following shutdown due to a fuel rack lockout." When asked if the EDGs were considered to be inoperable during the 2-minute period, the licensee stated that Administrative Procedure OAI-1701, "Tracking of LCOs," [Limiting Conditions for Operation] Revision 7, Section 4.1.4.2 did not require Plant Narrative Log entries for momentary or short term LCO entries which were known and expected and which occurred due to system configuration changes. The procedure further stated that the LCO parameter must be able to be restored to normal values without operator action, be monitored, and verified to have been restored to normal values at the completion of the configuration change.

While the staff agrees that the 2-minute period is of short duration and the likelihood of a LOOP during this time period is small, the current design of the EDG would cause the EDG to be inoperable, as defined by the Technical Specifications, during the 2-minute shutdown.

Evaluation of Point 3:

The staff disagrees with the licensee' interpretation of the NRC's acceptance of the SSER 7, dated November 1985. The staff noted that SSER 7, Section 8.4.4(1) states:

> Regulatory Guide 1.9 requires that a diesel generator have a design feature that an emergency start signal to the diesel generator shall override all other operating

> modes and return control of the diesel generator unit to the automatic control system. The staff [NRC] developed the position that, upon receipt of a LOCA signal when in the test mode, the diesel generator should trip... To comply with the NRC position, the applicant [Perry licensee] submitted a modified design... The modified design feature on the Perry diesel generator complies with the NRC's position and, therefore, this item is acceptably resolved.

The licensee contends that because the NRC reviewed and accepted the design and did not question the response during a LOOP, it is appropriate to conclude that the LOCA signal is the only emergency start signal. The staff disagrees with this interpretation. As noted in the excerpt above, at the time of the review, the NRC was concerned that on a LOCA start signal, the EDGs should not be returned to the automatic control system as described in the Regulatory Guide. It does not appear that the NRC was attempting to address the other start responses in the SSER 7 evaluation.

The staff noted that the "modified design" referenced in SSER 7 dealt with the requirement that the EDG output breaker trip upon receipt of a LOCA signal while the EDG is in a testing mode. The response for a LOOP signal is different, in that, the EDG output breaker is not tripped when a LOOP signal is received while the EDG is in the test mode. The requirement for a LOOP signal to override the test mode was documented in the Perry FSAR and in SSER 4; and this requirement remained unchanged in SSER 7. As quoted above, the current USAR Section 8.3.1.1.3.2.b.7 still required that a loss of 4.16 kV bus voltage (LOOP) override the EDG test mode. Therefore, requiring the EDGs to respond to a LOOP during this 2-minute shutdown period is within current licensing bases.

NRC Conclusion

The staff determined that the licensee's response did not provide any new information about the condition adverse to quality and did not provide sufficient justification for the NRC to retract or modify the violation. Specifically, after the April 23, 2003, event that resulted in the EDG being declared inoperable as a result of damage to the K-1 relay, the licensee took no actions to correct a known EDG design deficiency. Therefore, the staff determined that the EDG would likely fail if, during the 2-minute shutdown period, a LOOP occurred. While the licensee's response to the violation indicated that a modification was necessary to preclude damage to the K-1 relay, the licensee did not identify corrective actions to address its inadequate EDG design associated with the 2-minute shutdown period and a concurrent LOOP.

For the above reasons, the staff concludes that the violation occurred as stated.

2. **Non-Cited Violation 05000440/2005003-26**

Summary

The non-cited violation involved a change to the licensee's emergency plan implementing procedures that resulted in a decrease in effectiveness of the emergency plan and the change did not receive the required NRC prior approval. Specifically, the licensee made a change to its implementing procedures to allow the Shift Supervisor to appoint individuals present in the Operations Support Center (OSC), including the Shift Health Physics (HP) Technician, as the interim OSC Coordinator. FirstEnergy Nuclear Operating Company (FENOC) contested the violation by letter dated August 8, 2005, and stated that the applicable portions of the emergency plan were implemented consistent with the applicable provisions originally approved by the NRC and that subsequent changes to the emergency plan did not alter these provisions.

Restatement of Violation

10 CFR 50.54(q) requires that the licensee follow and maintain in effect emergency plans which meet the standards in 10 CFR 50.47(b) and the requirements of Appendix E to 10 CFR Part 50.

10 CFR 50, Appendix E, Section V, requires, in part, that the licensee possess detailed implementing procedures for its emergency plan.

10 CFR 50.54(q) authorizes the licensee to make changes to its emergency plan without Commission approval only if the changes do not decrease the effectiveness of the plan and the plan, as changed, continues to meet the standards of 10 CFR 50.47(b) and the requirements of Appendix E to 10 CFR Part 50.

Contrary to the above, between May 2004 and July 2005, the licensee implemented changes to its Emergency Plan to allow the dual assignment of the Shift Health Physics Technician as the interim Operations Support Center Coordinator (OSCC), which decreased the effectiveness of the Emergency Plan.

Summary of Licensee's Response to the Violation

The licensee presented the following key points in support of its dispute of the violation:

(1) The Perry Nuclear Power Plant (PNPP) Emergency Plan, Revision 5, effective August 16, 1985, Section 5.2.2 stated, in part, that, "The Operations Support Center (OSC) will be the assembly point for Radiation Protection (RP) Section, Technical Section, and Maintenance Section personnel onsite at the time of an emergency." In addition, Section 5.2.2.2 stated, in part, that, "If applicable, the Shift Supervisor shall assign an interim OSC Coordinator from the personnel present in the OSC until the designated

OSC Coordinator arrives." These sections of the emergency plan remained relatively unchanged since the NRC's approval in 1985.

The practice of appointing an interim OSC Coordinator was acceptable because the dual assignment was only for an interim period. Therefore, the dual assignment of the Shift HP Technician as the interim OSC Coordinator did not constitute a decrease in the effectiveness of the PNPP Emergency Plan.

(2) Preventing the dual-assignment of the Shift HP Technician as the interim OSC Coordinator would constitute a decrease in effectiveness in the PNPP Emergency Plan. Specifically, allowing the Shift Manager to transfer the coordination functions to an interim OSC Coordinator allows the Shift Manager to concentrate on other emergency functions. Therefore, allowing the Shift HP Technician to act as interim OSC Coordinator supports the concept of relieving the shift complement of duties. In addition, the Shift Manager's selection of the interim OSC Coordinator would be affected by the circumstances of the incident and it would not be appropriate for the Shift Manager to select an individual to be the interim OSC Coordinator if the individual's specific knowledge and skill sets were required outside of the OSC.

NRC's Evaluation of Licensee's Response

Region III conducted an independent review of the issues associated with the non-cited violation. The staff reviewed the licensee's response, the PNPP Emergency Plan and Implementing Instructions, the information presented in the subject inspection report, and the applicable regulations.

Evaluation of Point 1:

The staff recognized that the PNPP Emergency Plan and Implementing Instructions did not contain any explicit prohibitions preventing the Shift Manager from assigning dual roles to members of the emergency response organization during a response. In addition, the staff did not identify any evidence to indicate that the PNPP Emergency Plan had not always allowed the assignment of an interim OSC Coordinator since the emergency plan was approved by the NRC in 1985. Consequently, the NRC concluded that the licensee's practice of assigning an interim OSC Coordinator from among the plant staff was not a change to the licensee's emergency plan.

However, the staff determined that the licensee's specific practice of assigning a Shift HP Technician as the interim OSC Coordinator, was defined in a May 2004 revision to Emergency Plan Implementing Instruction EPI-A7, "Operations Support Center Activation," Revision 13. The procedure contained a provision for the Shift Supervisor to designate an OSC Support Supervisor as the interim OSC Coordinator. An attachment to the procedure also indicated that the Shift HP Technician may be assigned as the interim OSC Coordinator until the on call OSC Coordinator arrived.

While the authorization to assign an interim OSC Coordinator did not appear to be a change to the licensee's emergency plan, the staff identified that the determination that and specific designation of the Shift HP Technician as the interim OSC Coordinator changed the emergency plan's assignment of responsibilities, and, therefore, resulted in a change to the emergency plan.

The PNPP Emergency Plan contains the assignments of emergency response tasks, as required by 10 CFR 50.47(b), in Sections 5.2.2 and Table 5-1. As stated in the emergency plan, the major tasks assigned to the HP technician included: (1) inplant surveys; (2) access control; (3) HP coverage for repair, corrective actions, search and rescue, first-aid and fire fighting; (4) personnel monitoring; and (5) dosimetry. Following the declaration of an emergency, the licensee may augment the initial Shift HP Technician with additional HP support personnel (within approximately 60 minutes). However, during off hours, the initial responsibilities are assigned to the Shift HP Technician, who does not have additional support.

Based on the licensee-identified Shift HP Technician emergency response functions in the emergency plan, the NRC determined that the dual role of Shift HP Technician and OSC Coordinator were not compatible and would result in a change to the licensee's emergency plan. Specifically, the major tasks assigned to the Shift HP Technician were inplant and field tasks that could not be performed from the OSC. In assigning the Shift HP Technician as the interim OSC Coordinator, the licensee eliminated the Shift HP Technician's ability to fulfill the major tasks assigned the individual, resulting in a change to the emergency plan. As the change in responsibilities of the Shift HP Technician resulted in a reduction in the licensee's unambiguous assignment of response functions (per 10 CFR 50.47(b)(2)), the staff concluded that the change represented a decrease in effectiveness of the plan, which required NRC prior approval.

Evaluation of Point 2:

The staff reviewed the licensee's contention that the assignment of an interim OSC Coordinator quickly relieved the Shift Supervisor of some duties and allowed the Shift Supervisor to concentrate on other emergency-related responsibilities. The staff does not dispute the merits of assigning an interim OSC Coordinator to relieve the Shift Supervisor of some duties that could be delegated. However, the staff determined that the dual assignment of certain emergency response functions was not compatible. Specifically, certain individuals should not be assigned multiple response tasks, as certain tasks require the individuals to be in different locations or to perform concurrent actions within a certain time frame. In the case of the Shift HP Technician's assignment as the OSC Coordinator, the staff determined that the assigned tasks as OSC Coordinator and Shift HP Technician required the individual to be in multiple locations concurrently. Therefore, while the selection of some individuals to serve as an interim OSC Coordinator may relieve the Shift Supervisor of some duties, in other cases, the selection may result in some necessary duties not being completed in a timely fashion or at all.

The staff reviewed the licensee's assertion that the assignment of responsibilities may be subject to the circumstances of the event. However, the response tasks are required to be unambiguously defined (per 10 CFR 50.47(b)(2)), and, therefore, the major tasks cannot be circumstance specific.

NRC Conclusion

The staff determined that the licensee's response did not provide any new information regarding the changes to the emergency plan and did not provide sufficient justification for the NRC to retract or modify the violation. Specifically, the staff determined that the licensee's change to the emergency plan implementing procedures to permit a Shift Manager to assign the Shift HP Technician as the interim OSC Coordinator resulted in a condition wherein a potential existed for the Shift HP Technician to have conflicting roles and responsibilities. The regulations of 10 CFR Part 50 require the licensee's emergency plan to include an unambiguous definition of the roles and responsibilities of the emergency response organization members. Therefore, the change to the emergency plan implementing procedures which created a conflict in the Shift HP Technicians roles and responsibilities represented a violation of NRC requirements.

For the above reasons, the staff concludes that the violation occurred as stated.