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September 6, 2006

AEP:NRC:2201-06  
10 CFR 50.4  
EA-06-177

Docket Nos.: 50-315  
50-316

U. S. Nuclear Regulatory Commission,  
ATTN: Document Control Desk  
Mail Stop O-P1-17  
Washington, DC 20555-0001

**Donald C. Cook Nuclear Plant Units 1 and 2  
RESPONSE TO AN APPARENT VIOLATION IN INSPECTION REPORT NOS.  
05000315/2006501; 05000316/2006501; EA-06-177**

Indiana Michigan Power Company (I&M), the licensee for Donald C. Cook Nuclear Plant (CNP), Units 1 and 2, is submitting the attached response to the apparent violation identified in Nuclear Regulatory Commission Inspection Report 05000315/2006501; 05000316/2006501, and Enforcement Action EA-06-177.

The inspection report identified an apparent violation of 10 CFR 50.54(q) and 10 CFR 50.74(b)(4), which involved changes made to a CNP emergency plan emergency action level and appeared to have resulted in a decrease in effectiveness of the plan. The inspection report stated that the apparent violation is being considered for escalated enforcement. The inspection report also stated that a written response should include for the apparent violation: (1) the reason for the apparent violation, or, if contested, the basis for disputing the apparent violation; (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. The attachment to this letter provides I&M's written response to the apparent violation.

There are no commitments contained in this submittal.

*TEOJ*

If you have any questions or desire additional information, please contact Ms. Susan D. Simpson, Regulatory Affairs Manager, at (269) 466-2428.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Jensen', with a long horizontal flourish extending to the right.

Joseph N. Jensen  
Site Support Services Vice President

HLE/jen

Attachment

- c: J. L. Caldwell – NRC Region III  
K. D. Curry – AEP Ft. Wayne  
J. T. King – MPSC  
MDEQ – WHMD/RPMWS  
NRC Resident Inspector  
P. S. Tam – NRC Washington DC

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**Restatement of Apparent Violation**

“The inspectors identified an apparent violation of 10 CFR 50.54(q) involving 10 CFR 50.47(b)(4). Title 10, Part 50, Section 54(q) of the Code of Federal Regulations states in-part, “the nuclear power reactor licensee may make changes to these plans without Commission approval only if the changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the standards of 10 CFR 50.47(b) and the requirements of Appendix E to this part.” Title 10, Part 50, Section 47(b)(4) of the Code of Federal Regulations states in part, “a standard emergency classification and action level scheme, the bases of which include facility system and effluent parameters, is in use by the nuclear facility licensee.” The licensee made and implemented a change to its emergency plan emergency action level (EAL) scheme on April 16, 2003, which appeared to decrease the effectiveness of the emergency plan without prior Nuclear Regulatory Commission (NRC) approval.

“Specifically, the licensee changed the EAL to remove the condition, “release of secondary coolant from the associated steam generator to the environment is occurring,” from the Fission Product Barrier Matrix EAL for a loss of containment barrier due to a steam generator secondary side release. The revised emergency action level, “secondary line break outside containment results in release (greater than 30 minutes) to the environment,” added a non-conservative 30 minutes before meeting this emergency action level. There is a potential that a release condition could have existed which would not have been declared, resulting in either no action or delayed action by off-site authorities when measures to protect the health and safety of the public were warranted. In a previous 1995 correspondence between the NRC and the licensee concerning a proposal to revise the licensee’s EALs, the licensee proposed to implement a similar change to its EALs; however, the NRC specifically provided a written response to the licensee which indicated that a revision to the EAL which included a 30 minute criteria was unacceptable.

“The apparent violation was considered to be more than minor because the licensee made changes to the emergency plan and procedures that decreased the effectiveness of the plan without prior approval of the NRC. Because this apparent violation affected the NRC’s ability to perform its regulatory function, it was evaluated using the traditional enforcement process. There were no actual emergency events associated with this EAL during the time the change was in effect; however, the failure of the licensee to meet an emergency planning standard involving assessment does have regulatory significance.”

**Admission/Denial of the Apparent Violation**

Indiana Michigan Power Company (I&M) acknowledges the apparent violation described above and this response provides additional information regarding I&M’s actions and intent in making the change to the Fission Product Barrier Matrix Emergency Action Level (EAL) for a loss of

containment barrier due to a steam generator secondary side release. I&M requests that the NRC consider this additional information in its enforcement decision making process.

### **Reason for the Apparent Violation**

The reason for the apparent violation was inadequate program requirements in the Emergency Preparedness (EP) organization's procedures and processes. The EP organization failed to incorporate the expectations and standards set forth by the NRC with regard to changes that potentially decreased the effectiveness of the Emergency Plan.

I&M respectfully requests that the NRC exercise enforcement discretion due to the following special circumstances associated with this matter.

When I&M made changes to the Fission Product Barrier Matrix EAL for a loss of containment barrier due to a steam generator secondary side release (EAL 3.3L), I&M was striving to comply with the NUMARC guidance, which was believed to be consistent with NRC expectations at the time. The change was intended to create certainty around the term "prolonged release" in the NUMARC guidance to avoid inappropriate declarations of a Site Area Emergency due to minor "puff type" releases. To achieve this certainty, I&M reasonably referred to the Fission Product Barrier Matrix for a loss of the RCS barrier due to steam generator leakage (EAL 2.2L) which defines a prolonged radioactive release to the environment as 30 minutes. In addition to achieving certainty and avoiding inappropriate declarations of Site Area Emergency, I&M sought consistency in the definition of similar terms for similar EALs.

I&M's actions in this regard occurred some time ago when some of our verification and validation processes are not as robust as they are today. As such, the fact that the NRC had commented on this matter previously was not highlighted as plant personnel sought to improve EAL wording. Again, our intent was to achieve certainty and consistency in the EALs.

### **Corrective Steps Taken and Results Achieved**

1. Donald C. Cook Nuclear Plant's (CNP) Emergency Plan and CNP's implementing procedure for emergency classification were revised to restore EAL 3.3L to its previous NRC-approved language. The 50.54(q) review for this change determined that the change posed no decrease in effectiveness of the Emergency Plan. Both documents were effective on May 18, 2006. This corrective action reinstated the prior effectiveness level of EAL 3.3L.
2. Training was presented for operations and emergency response personnel for the revision to EAL 3.3L. This training was a change management action that familiarized the impacted individuals on the restoration of EAL 3.3L back to the prior wording.

### **Corrective Steps to Avoid Further Violations**

1. The EP administrative procedure for changing the emergency plan was revised to incorporate additional guidance on making changes to EALs. Specifically, NRC Regulatory Issue Summary 2005-02, Clarifying the Process for Making Emergency Plan Changes, dated February 14, 2005, is used as a writing source reference for the procedure.
2. EP department personnel have completed the NEI Emergency Preparedness Training Course, which includes specific discussion on 50.54(q) and making changes to Emergency Plans.
3. Qualification guides were changed and/or developed for EP Coordinators. These guides include qualification on tasks associated with 50.54(q) evaluations and changes to the Emergency Plan and implementing procedures. Current EP Coordinators have documented equivalency on proficiency to these qualification requirements.

The actions above will ensure a robust and rigorous program for appropriately identifying proposed changes to CNP's Emergency Plan that are a decrease in effectiveness. Additionally, these actions ensure complete and accurate information is provided to the NRC in a timely manner to ensure that the appropriate information is available for licensing decisions.

### **Date Full Compliance Will Be Achieved**

Full compliance was achieved on May 18, 2006, when CNP's Emergency Plan and CNP's implementing procedure for emergency classification were revised to restore EAL 3.3L to its previous NRC-approved language. I&M submitted letter AEP:NRC:6004-04, dated June 13, 2006, to the NRC transmitting the revised emergency plan and implementing procedure.