

October 17, 2006

MEMORANDUM TO: Michael T. Lesar, Chief  
Rules and Directives Branch, ADM

FROM: Cynthia A. Carpenter, Director  
Office of Enforcement/RA/

SUBJECT: FEDERAL REGISTER PUBLICATION - AMENDMENT OF ORDER  
ANDREW SIEMASZKO

Enclosed please find one signed original of the subject *Federal Register* notice for your transmittal to the Office of the Federal Register for publication. Also enclosed are five copies of the signed notice and a 3.5" diskette.

Enclosure: As stated

CONTACT: Shahram Ghasemian, OE  
301-415-3591

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DATE	10/17/06	10/17/06	10/17/06

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the matter of  
Andrew Siemaszko

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IA-05-021

AMENDMENT OF ORDER PROHIBITING INVOLVEMENT IN  
NRC-LICENSED ACTIVITIES

I

On April 21, 2005, the NRC issued an order (Order of April 21, 2005 Order) to Mr. Andrew Siemaszko, which, although not immediately effective, would prohibit his involvement in NRC-licensed activities for a period of five years for reasons stated therein. This amendment, which incorporates the April 21, 2005 Order as if fully set out herein, is issued solely for the purpose of providing notice to Mr. Siemaszko of additional grounds upon which the NRC staff relies in support of the April 21, 2005 Order.

II

Based on the statement of facts set forth in the Order, the Staff determined, and hereunder reiterates, that Mr. Siemaszko engaged in deliberate misconduct in violation of 10 CFR 50.5(a)(2) in submitting to FENOC information that he knew to be incomplete or inaccurate in a respect material to the NRC. Under the relevant provisions of that regulation, an employee of a licensee may not deliberately submit to the NRC or a licensee information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC. In the Order, the Staff premised the finding that Mr. Siemaszko violated that regulation based on the actions described in the Order relating to two documents; Work

Order No. 00-001846-000 and Condition Report 2000-1037.

The Staff has determined that Mr. Siemaszko's actions with respect to three additional documents which were submitted to the NRC present additional instances in which he engaged in deliberate misconduct in violation of 10 CFR 50.5(a)(2). Accordingly, notice is provided that the grounds upon which the April 21, 2005 Order was issued are hereby amended to include those instances as described below.

### III

On August 3, 2001, the Nuclear Regulatory Commission (NRC) issued Bulletin 2001-001, "Circumferential Cracking of Reactor Pressure Vessel Head Penetration Nozzles," (Bulletin) to holders of operating licenses for pressurized water nuclear power reactors. The NRC requested that addressees provide information related to the structural integrity of the reactor pressure vessel head penetration (VHP) nozzles for their respective facilities, including the extent of VHP nozzle leakage and cracking that had been found to date, the inspections and repairs that had been undertaken to satisfy applicable regulatory requirements, and the basis for concluding that their plans for future inspections would ensure compliance with applicable regulatory requirements. The information was required to be submitted to the NRC in writing in accordance with the 10 CFR 50.54(f).

FirstEnergy Nuclear Operating Company's (FENOC's) supplemental written responses to the Bulletin, dated October 17, 2001 (Serial Letter 2735) and October 30, 2001 (Serial Letter 2741 and Serial letter 2744), set forth inaccurate, incomplete or otherwise misleading information, provided by Mr. Siemaszko to FENOC which, in turn, provided it to the NRC. For instance, Mr. Siemaszko was the source of the information in a table summarizing the previous

three (1996, 1998, 2000) refueling outage nozzle inspection results which was included in Serial Letter 2735 (as attachment 2) which was included, with minor changes, in Serial Letter 2741 (as attachment 2). The information provided in that table did not accurately identify the nozzles that were obscured in those three outages. Mr. Siemaszko knew that the table included incomplete or inaccurate information in some respect material to the NRC but nevertheless, on October 17, 2001, he signed off on the issuance of Serial Letter 2735.

Furthermore, Mr. Siemaszko provided inaccurate, incomplete or otherwise misleading information to FENOC, which FENOC submitted to the NRC in FENOC's supplemental written response to the Bulletin, dated October 30, 2001 (Serial Letter 2744). For instance, Mr. Siemaszko produced, assembled and labeled the pictures which were included in Serial Letter 2744 as further proof of the safe condition of the head. However, Mr. Siemaszko mislabeled some of the pictures and knew that the collection of the pictures that were provided to the NRC did not accurately reveal the true condition of the head which in reality was substantially worse than shown through those images.

#### IV

The NRC determined, in the April 21, 2005 Order, that Mr. Siemaszko's submission of inaccurate and incomplete information in condition report No. 2000-1037 and Work Order No. 00-001846-000 was of very high safety and regulatory significance. Had the NRC been aware of this incomplete and inaccurate information, the NRC would likely have taken immediate regulatory action to shut down the Davis-Besse plant and require FENOC to implement appropriate corrective actions. The additional examples cited above provide further support for the determination in the April 21, 2005 Order that NRC cannot have reasonable assurance that Mr. Siemaszko will conduct NRC-licensed activities in compliance with regulatory requirements.

The NRC is not proposing to modify the sanctions which were imposed on Mr. Siemaszko in the April 21, 2005 Order or otherwise alter the statement or terms of that Order by the citation of these three additional examples.

V.

In accordance with 10 CFR 2.202, Mr. Siemaszko must, and any other person adversely affected by this Amendment of Order may, submit an answer to this Amendment of Order within 20 days of the date hereof. The answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Amendment of Order and shall set forth the matters of fact and law on which Mr. Siemaszko or other person adversely affected relies and the reasons as to why the Amendment of Order should not have been issued. Any answer shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Rulemakings and Adjudications Staff, Washington, DC 20555-0001. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region III, 2443 Warrenville Road, Lisle, IL 60532-4352, and to Mr. Siemaszko if the answer is by a person other than Mr. Siemaszko. Because of a potential disruption in delivery of mail to United States Government offices, it is requested that answer be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov) and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by

e-mail to [OGCMail Center@nrc.gov](mailto:OGCMail Center@nrc.gov). In light of the fact that Mr. Siemaszko filed a timely request for hearing relating to the April 21, 2005 Order, which hearing has been commenced, a further request for hearing is not required to be filed for this Amendment of Order.

NUCLEAR REGULATORY COMMISSION

/RA/

Martin J. Virgilio  
Deputy Executive Director for Materials, Research,  
State and Compliance Programs  
Office of the Executive Director for Operations

Dated this 17<sup>th</sup> day of October 2006