



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PA 19406-1415

December 28, 2010

EA-2010-218

Mr. Sam Belcher
Vice President Nine Mile Point
Nine Mile Point Nuclear Station, LLC
P.O. Box 63
Lycoming, NY 13093

SUBJECT: NRC INVESTIGATION REPORT 1-2010-033 AND NRC INSPECTION REPORT
05000410/2010008

Dear Mr. Belcher:

This letter refers to an investigation by the U. S. Nuclear Regulatory Commission's (NRC's) Office of Investigations (OI) that was conducted at Constellation Energy Nuclear Group, LLC's (Constellation's) Nine Mile Point Nuclear Station Unit 2. The investigation, completed on October 12, 2010, was conducted to determine whether a non-licensed operator, while employed at Nine Mile Point, deliberately exited the radiologically controlled area (RCA) without properly using the whole body personnel contamination monitor (WBCM). The occurrence was initially reported to the NRC by Constellation. Based on the results of the OI investigation, the NRC has concluded that a non-licensed operator deliberately exited the RCA without properly using the WBCM.

The actions of the non-licensed operator violated Nine Mile Point Unit 2 Technical Specifications Section 5.4.1, which caused Constellation to be in violation of its license conditions and NRC requirements. This section states, in part, that written procedures shall be established, implemented, and maintained covering the following activities: the applicable procedures recommended in Regulatory Guide 1.33, Revision 2, Appendix A, February 1978. Section 7.e of Appendix A of Regulatory Guide 1.33, Revision 2, lists procedures for radiation protection – contamination control and radiation protection – personnel monitoring. Licensee procedure GAP-RPP-01, Radiation Protection Program, Revision 01900, Section 3.5.2.d states, in part: To control personnel contamination, Radiation Protection should establish and maintain personnel monitoring areas at various locations throughout the RCA, and at exits from the RCA, as determined by RP Supervision. Personnel shall monitor themselves for contamination upon exiting the RCA and other RCAs as specified by RP Supervision, in a WBCM.

Contrary to the above, on April 15, 2010, Constellation identified that a non-licensed operator exited the RCA without first monitoring himself for contamination in a WBCM. Specifically, the non-licensed operator admitted he exited the RCA without using the WBCM in order to avoid a long line waiting to use the monitor. Later, when attempting to leave the site, the operator alarmed a portal monitor, due to contamination on his clothing. Although Constellation was initially unaware that the non-licensed operator exited the RCA without using the WBCM, Constellation is responsible for the actions of its employees.


Because you are responsible for the actions of your employees, and because the violation involved deliberate misconduct, the violation was evaluated under the NRC's traditional enforcement process as set forth in Section 2.2.4 of the NRC Enforcement Policy. After considering the low level of contamination found, that no contamination left the site, and the violation was not repetitive, the NRC has categorized it at Severity Level IV in accordance with the NRC Enforcement Policy. Because this violation was of very low safety significance and was entered into Nine Mile Point's corrective action program, this violation is being treated as a non-cited violation (NCV), consistent with Section 2.3.2 of the NRC Enforcement Policy (NCV 05000410/2010008-01, Deliberately Failing to Use a Whole Body Contamination Monitor When Exiting the Radiologically Controlled Area). The current NRC Enforcement Policy is included on the NRC's website at <http://www.nrc.gov>; select **About NRC, Regulation, Enforcement**, then, **Enforcement Policy**.

Because the violation is not being cited, a response to this letter is not required. However, if you contest this NCV, or its significance, you should provide a response within 30 days of the date of this letter, with the basis for your denial, to the U.S. Nuclear Regulatory Commission, ATTN.: Document Control Desk, Washington, D.C. 20555-0001, with copies to the Regional Administrator, Region I and the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and your response, if you choose to provide one, will be available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS) accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response, if you choose to provide one, should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

Should you have any questions regarding this letter, please contact Mr. Glenn Dentel at 610-337-5233.

Sincerely,


David C. Lew, Director
Division of Reactor Projects

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Sincerely,

/RA by James W. Clifford Acting For/

David C. Lew, Director
Division of Reactor Projects

Docket No. 50-410
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SUNSI Review Complete: NMP (Reviewer's Initials)

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