



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

September 29, 2023

EA-23-078

Brad Kapellas, Site Vice President
Entergy Operations, Inc.
Grand Gulf Nuclear Station
P.O. Box 756
Port Gibson, MS 39150

SUBJECT: GRAND GULF NUCLEAR STATION – NRC INSPECTION REPORT
05000416/2023001, DISPUTED NON-CITED VIOLATION UPHELD

Dear Brad Kapellas:

On May 10, 2023, the U.S. Nuclear Regulatory Commission (NRC) issued the subject report, Agencywide Documents Access and Management System (ADAMS) Accession No. ML23110A800. The inspection report documented a non-cited violation (NCV) for the failure to submit two licensee event reports (LERs) within 60 days after the date of discovery (05000416/2023001-04).

In a letter dated June 15, 2023, you provided a written response and denied NCV 05000416/2023001-04 (ML23166B066). On June 27, 2023 (ML23177A263), the NRC acknowledged receipt of your letter.

The NRC conducted a detailed review of your June 15, 2023, letter and examined circumstances and applicable regulatory requirements in accordance with Part I, Section 2.8 of the NRC Enforcement Manual. This review was performed by a staff member who was not involved in the original inspection effort. After consideration of the bases for your dispute of NCV 05000416/2023001-04, the NRC concluded that the inspection report correctly characterizes the performance deficiency and is upholding the NCV. The details of the NRC's evaluation are documented in the enclosure.

In accordance with Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's ADAMS, accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html>.

B. Kapellas

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If you have any questions concerning this matter, please contact Doug Dodson of my staff at 817-200-1436.

Sincerely,

 Signed by Clark, Theresa
on 09/29/23

Theresa V. Clark, Acting Director
Division of Operating Reactor Safety

Docket No. 050000416
License No. NPF-29

Enclosure:
As stated

GRAND GULF NUCLEAR STATION - NRC INSPECTION REPORT 05000416/2023001,
DISPUTED NON-CITED VIOLATION UPHELD - DATED SEPTEMBER 29, 2023

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ADAMS ACCESSION NUMBER: **ML23261A600**

SUNSI Review: AADAMS: Non-Publicly Available Non-Sensitive Keyword:
By: ACR Yes No Publicly Available Sensitive

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NRC Evaluation of Licensee Response to a Non-Cited Violation (NCV)

Restatement of NCV 05000416/2023001-04

Title 10 CFR 50.73(a)(1) requires, in part, that a licensee shall submit an LER [Licensee Event Report] for any event of the type described in this paragraph within 60 days after the discovery of the event.

Title 10 CFR 50.73(a)(2) requires, in part, that the licensee shall report any operation or condition which was prohibited by the plant's TSs [technical specifications] except as allowed by 10 CFR 50.73(a)(2)(i)(B)(1), 10 CFR 50.73(a)(2)(i)(B)(2), or 10 CFR 50.73(a)(2)(i)(B)(3).

Contrary to the above:

- 1. On January 4, 2022, the licensee failed to submit LER 2021-004-00 for a condition which was prohibited by the plant's TSs within 60 days after the discovery of the event and the condition was not an exception as allowed by either 10 CFR 50.73(a)(2)(i)(B)(1), 10 CFR 50.73(a)(2)(i)(B)(2), or 10 CFR 50.73(a)(2)(i)(B)(3).*
- 2. On February 1, 2022, the licensee failed to submit LER 2021-005-00 for a condition which was prohibited by the plant's TSs within 60 days after the discovery of the event and the condition was not an exception as allowed by either 10 CFR 50.73(a)(2)(i)(B)(1), 10 CFR 50.73(a)(2)(i)(B)(2), or 10 CFR 50.73(a)(2)(i)(B)(3).*

Summary of Licensee Response

In its June 15, 2023, letter, Entergy Operations, Inc. (licensee) contested the significance of NCV 05000416/2023001-04 for Grand Gulf Nuclear Station (GGNS). Although the licensee acknowledged that the two LERs were submitted 76 days and 62 days after the time of discovery, respectively, the licensee requested that the violation be re-characterized as a minor violation, in accordance with its interpretation of the NRC's Enforcement Policy and certain precedent cases at other power reactor licensees.

The licensee noted that the examples of Severity Level IV violations in Section 6.9.d of the Enforcement Policy include some scenarios where the licensee fails to make a timely required report, whereas the example (6.9.d.9) involving 10 CFR 50.73 does not explicitly mention timeliness; therefore, an untimely LER is not necessarily covered by this example. The licensee argued that although the two LERs in question were not submitted in a timely manner, there was no failure to make a required report altogether. The licensee further argued that the lateness of the two LERs did not have any apparent impact on the NRC's regulatory process.

The licensee referenced Section 2.2.1 of the Enforcement Policy:

Unless otherwise categorized in the violation examples contained in this Policy (i.e., Section 6.0), the severity level of a violation involving the failure to make a required report to the NRC will depend on the significance of and the circumstances surrounding the matter that should have been reported. However, the severity level of an untimely report, in contrast to no report, may be reduced depending on the circumstances.

The licensee referenced two past NRC inspection reports, at Susquehanna Steam Electric Station (dated February 13, 2019, ML19045A259) and Sequoyah Units 1 and 2 (dated February 10, 2020, ML20042C265), in which NRC inspectors characterized similar violations of 10 CFR 50.73(a) as minor violations.

Licensee Conclusion

The licensee concluded that NCV 05000416/2023001-04, documented in the NRC Inspection Report 05000416/2023001 as a Severity Level IV violation, would best be characterized as a minor violation.

NRC Evaluation

The NRC staff performed an independent review of the licensee's position as described in its letter dated June 15, 2023, for NCV 05000416/2023001-04. The NRC staff reviewed:

- Regulatory requirements in 10 CFR 50.73;
- The NRC's Enforcement Policy; and
- Previous inspection reports with both minor and more-than-minor violations of 10 CFR 50.73.

Further, the NRC staff interviewed Enforcement Policy subject matter experts at the NRC Office of Enforcement, and the NRC inspectors who identified the violation and composed the inspection report.

Some past violations of 10 CFR 50.73 have been characterized at Severity Level IV, but those identified by the reviewer's search all entailed the licensee's failure to make a required report at all, as opposed to making an untimely report. In each of these cases, the licensee only submitted the required LER after the violation was identified by the NRC, and each violation was dispositioned as an NCV:

- Fermi Power Plant, Unit 2 – inspection report dated January 30, 2017 (ML17030A328)
- Perry Nuclear Power Plant – inspection report dated May 9, 2018 (ML18129A406)
- Ginna Nuclear Power Plant – inspection report dated November 4, 2021 (ML21306A225)

In preparing the inspection report, the Region IV Division of Operating Reactor Safety inspectors had considered applying Section 2.2.1 of the Enforcement Policy to record this as a minor violation, as had been done in the past for violations involving untimely LERs. But, given that the untimely LERs at GGNS were not isolated cases, but rather indicated an ongoing process issue with the licensee's implementation of the requirements of 10 CFR 50.73, and given that this issue required inspector intervention, the NRC staff determined the violation to be best categorized as Severity Level IV.

The currently disputed NCV 05000416/2023001-04 for GGNS entailed two examples in which the LERs were submitted 16 days and 2 days, respectively, after the 60-day requirement. This

is a relatively short span of time that could represent minimal impact to the NRC's regulatory oversight function if these were isolated incidents with different causal factors. However, for both of these cases, the licensee incorrectly interpreted the "date of discovery" in 10 CFR 50.73 to mean the date when the condition was determined to be reportable, rather than the date that the reportable condition was actually identified. This was a flaw in the licensee's procedure for identifying events and preparing LERs. If the NRC inspection had not identified this issue, the procedural error would likely have led to additional untimely LERs in the future—potentially including greater delays and higher significance events. The root cause of the late LERs was an ongoing process issue with the licensee's interpretation of the requirements of 10 CFR 50.73 and therefore an appreciable impact to the NRC's regulatory oversight function. In addition, NRC interaction was required to correct the licensee's process. Under these conditions, the NRC cannot characterize the violation as minor and has determined that the appropriate characterization is Severity Level IV.

NRC Conclusion

The NRC staff concluded that the NCV as documented in the May 10, 2023, inspection report remains upheld. The licensee failed to submit two LERs, 2021-004-00 and 2021-005-00, for conditions which were prohibited by the plant's TSs within 60 days after the discovery of the respective events. This violation was correctly assessed as Severity Level IV and dispositioned as an NCV in accordance with the NRC's Enforcement Policy. Therefore, the NRC is upholding NCV 05000416/2023001-04, "Failure to Submit a Licensee Event Report Within 60 Days."