



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION III
2443 WARRENVILLE ROAD, SUITE 210
LISLE, IL 60532-4352
August 25, 2011

EA-11-148

Mr. Mark Bezilla
Site Vice President
FirstEnergy Nuclear Operating Company
Perry Nuclear Power Plant
P. O. Box 97, 10 Center Road, A-PY-A290
Perry, OH 44081-0097

**SUBJECT: FINAL SIGNIFICANCE DETERMINATION OF WHITE FINDING WITH
ASSESSMENT FOLLOWUP AND NOTICE OF VIOLATION;
NRC INSPECTION REPORT NO. 05000440/2011014
PERRY NUCLEAR POWER PLANT**

Dear Mr. Bezilla:

This letter provides you the final significance determination of the preliminary White finding as discussed in our previous communication dated June 30, 2011, which included U.S. Nuclear Regulatory Commission (NRC) Inspection Report No. 05000440/2011013. The finding involved your staff's radiological performance associated with the retraction of a stuck source range monitor from the reactor vessel.

In a letter dated August 1, 2011, you provided a response to the NRC staff preliminary determination regarding the finding. Your response indicated that FirstEnergy Nuclear Operating Company did not contest the facts and assumptions used by the NRC to arrive at the finding and its significance. Your letter further described the corrective actions being taken in response to the finding.

After considering the information developed during the inspection and based on the absence of any new or additional information in your August 1, 2011, letter regarding the basis for the finding, the NRC has concluded that the finding is appropriately characterized as White, a finding of low to moderate risk significance. According to NRC Inspection Manual Chapter (IMC) 0609, appeal rights only apply to those licensees that have either attended a Regulatory Conference or submitted a written response to the preliminary determination letter.

The NRC has also determined that violations were associated with the White finding, as cited in the enclosed Notice of Violation (Notice). The circumstances surrounding the violations were described in detail in NRC Inspection Report No. 05000440/2011013. In accordance with the NRC Enforcement Policy, the Notice is considered escalated enforcement action because it is associated with a White finding.

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to be taken to correct the violations and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in NRC Inspection Report No. 05000440/2011013 and in your letter dated August 1, 2011. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

As a result of our review of Perry's performance, including this White finding and the existing White performance indicator in the Occupational Radiation Safety Cornerstone, we have assessed Perry to be in the Degraded Cornerstone column (Column 3) of the NRC's Action Matrix. Therefore, we plan to conduct a supplemental inspection using Inspection Procedure 95002, "Supplemental Inspection for One Degraded Cornerstone or Any Three White Inputs in a Strategic Performance Area," when your staff has notified us of your readiness for this inspection. This inspection procedure is conducted to provide assurance that the root cause and contributing causes of risk significant performance issues are understood, to independently assess and provide assurance that the extent of condition and the extent of cause are identified, to independently determine if safety culture components caused or significantly contributed the performance issues, and to provide assurance that your corrective actions are sufficient to address the root and contributing causes and prevent recurrence.

In accordance with Title 10 of the Code of Federal Regulations (10 CFR) 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if any, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

Sincerely,

/RA/

Mark A. Satorius
Regional Administrator

Docket No. 050-00440
License No. NPF-58

Enclosure:
Notice of Violation

cc w/encl: Distribution via ListServ

NOTICE OF VIOLATION

FirstEnergy Nuclear Operating Company
Perry Nuclear Power Plant

Docket No. 050-00440
License No. NPF-58
EA-11-148

During a U.S. Nuclear Regulatory Commission (NRC) special inspection conducted from April 25 to May 25, 2011, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. Title 10 of the Code of Federal Regulations (10 CFR) Part 20 Subpart F – Surveys and Monitoring Section 20.1501 requires, in part, that licensees make surveys that may be necessary to comply with the regulations in Part 20 and are reasonable under the circumstances to evaluate the magnitude and extent of radiation levels and the potential radiological hazards. Pursuant to 10 CFR 20.1003, *survey* means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal or presence of radioactive material or other sources of radiation.

Contrary to the above, as of April 21, 2011, the licensee failed to make surveys to evaluate the potential radiological hazards incident to work activity to assure compliance with 10 CFR 20.1201, which limits the occupational dose to individual adults. Specifically, the licensee did not perform an evaluation of the potential radiological hazards associated with the work activity prior to authorizing removal of an irradiated in-core source range monitor (SRM).

- B. Technical Specification 5.7.1.b states, in part, that entry into high and locked high radiation areas be made after the dose rate levels in the area have been established and personnel are made aware of them.

Contrary to the above, on April 21, 2011, the licensee permitted entry into a high radiation area without establishing the dose rate levels in the area and without personnel being made aware of the dose rates. Specifically, the licensee did not perform a complete radiological characterization of the SRM (a radiological source of unknown magnitude), which was being pulled toward the work area and toward the workers' escape path. Consequently, the licensee did not inform the workers of the potential dose rate levels associated with their entry into the high radiation area.

- C. Technical Specification 5.4.1 requires that written procedures be established, implemented, and maintained covering the activities in Regulatory Guide 1.33, Revision 2, Appendix A, dated February 1978.

Regulatory Guide 1.33, Revision 2, Appendix A Section 7 addresses, in part, procedures for control of radioactivity for limiting personnel exposure. Section 7.e(1) addresses procedures for access control to radiation areas including a radiation work permits system and Section 7.e(9) addresses procedures for implementation of an as low as is reasonably achievable (ALARA) program.

ENCLOSURE

The licensee established Procedure HPI-C0015, Revision 00, "Radiological Controls for Highly Radioactive and Irradiated Components or Materials," to control highly radioactive objects and materials removed from the reactor vessel.

The licensee established Procedure NOP-OP-4107, Revision 05, "Radiation Work Permit," in part, for implementation of an ALARA program. Step 4.3.2.3 of this procedure states, in part, that ALARA plans are developed with sufficient detail on what requirements, considerations and actions are to be ALARA for the work activity.

Contrary to the above, as of April 21, 2011, the licensee:

- a. Failed to establish a procedure that addressed access control to all radiation areas. Specifically, Procedure HPI-C0015 only addressed work activities on the refueling floor and did not address access control to the undervessel radiation area or control of highly radioactive objects and materials removed from the reactor vessel through the undervessel area.
- b. Failed to implement Procedure NOP-OP-4107, in that the ALARA plan for work on the SRM lacked sufficient detail about the requirements, consideration, and actions to ensure that the work activity was performed in an ALARA manner. Specifically, the ALARA plan did not ensure that the work activity to retract the irradiated SRM-C contained steps to ensure that the ambient radiation field in the work area in the carousel and sub-pile room areas was being controlled and that the worker actions were in accordance with ALARA considerations.

These violations are associated with a White Significance Determination Process finding (VIO 0500440/2011014-01).

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to be taken to correct the violations and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in NRC Inspection Report No. 05000440/2011013 and in your letter dated August 1, 2011. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position.

In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-11-148," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator and the Enforcement Officer, Region III, 2443 Warrenville Road, Suite 210, Lisle, IL 60532, and a copy to the NRC Resident Inspector at the Perry facility within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

ENCLOSURE

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated this 25th day of August 2011

ENCLOSURE

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to be taken to correct the violations and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in NRC Inspection Report No. 05000440/2011013 and in your letter dated August 1, 2011. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

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In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if any, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

Sincerely,
/RA/
 Mark A. Satorius
 Regional Administrator

Docket No. 050-00440
 License No. NPF-58

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 Notice of Violation
 cc w/encl: Distribution via ListServ

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OFFICE	RIII	RIII	RIII	OE	RIII	RIII
NAME	Orth for Loughheed	O'Brien for Dickson	O'Brien for Reynolds	Coleman for Zimmerman ¹	Orth	Satorius
DATE	08/25/11	08/25/11	08/25/11	08/09/11	08/25/11	08/25/11

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¹ OE concurrence received via e-mail from N. Coleman on August 9, 2011.

Letter to Mark Bezilla from Mark Satorius, dated August 25, 2011

SUBJECT: FINAL SIGNIFICANCE DETERMINATION OF WHITE FINDING WITH
ASSESSMENT FOLLOWUP AND NOTICE OF VIOLATION;
NRC INSPECTION REPORT NO. 05000440/2011014
PERRY NUCLEAR POWER PLANT

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