

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

In the Matter of)	Docket Nos. 50-321 and 50-366
Southern Nuclear Operating Co., Inc.)	License Nos. DPR-57 and NPF-5
(Edwin I. Hatch Nuclear Plant,)	EA-16-163
Unit Nos. 1 and 2))	

Confirmatory Order Modifying License

I

Southern Nuclear Operating Company, Inc. (SNC, the licensee) is the holder of Facility Operating License Nos. DPR-57 and NPF-5 issued by the U.S. Nuclear Regulatory Commission (NRC) pursuant to Part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), "Domestic Licensing of Production and Utilization Facilities," on August 6, 1974 and June 13, 1978, respectively. The licenses authorize the operation of the Edwin I. Hatch Nuclear Plant, Unit Nos. 1 and 2 (HNP), in accordance with conditions specified therein. HNP is located in Appling County, Georgia.

II

In a letter dated October 4, 2013 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML13280A299), SNC notified the U. S. Nuclear Regulatory Commission (NRC) of its intent to adopt National Fire Protection Association (NFPA) Standard 805, "Performance Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants, 2001 Edition," at HNP in accordance with 10 CFR 50.48(c). In this October letter, SNC committed to commence its transition to the performance-based standard in the last quarter of 2013, and submit its license amendment request (LAR) approximately 36 months

after the transition start date, which would be October 4, 2016.

On July 12, 2011, the NRC published in the *Federal Register* (76 FR 40777) the latest revision to its Interim Enforcement Policy (Policy) regarding enforcement discretion for certain fire protection issues, allowing licensees to request enforcement discretion for pursuing transition to NFPA 805. The Policy states, in general, that enforcement discretion starts on the date of the letter of intent and ends 3 years after that initial start date. Once an acceptable LAR is submitted and under review, enforcement discretion will continue to be in place until the NRC disposes the LAR.

In a letter dated December 2, 2013 (ADAMS Accession No. ML13322B259), the NRC staff acknowledged SNC October 4, 2013, letter of intent to adopt NFPA 805 and approved enforcement discretion for 36 months starting on October 4, 2013.

III

On February 24, 2012, NRC staff issued SECY-12-0031, "Enforcement Alternatives for Sites that Indicate Additional Time Required to Submit Their License Amendment Requests to Transition to 10 CFR 50.48(c) National Fire Protection Association Standard 805." In SECY-12-0031, the NRC staff identified enforcement alternatives for licensees that indicate additional time is required to submit their LAR to transition to NFPA 805. SECY-12-0031 describes three possible scenarios if delays occur. In Scenario A.1, licensees may request to change the submittal schedule by substituting one site for another. In Scenario A.2, the NRC staff could issue a confirmatory order that would extend enforcement discretion if the licensee provides adequate justification. In Scenario B, the licensee does not submit an acceptable LAR by its scheduled date and does not meet the alternatives described in Scenario A.1 or A.2.

In a public meeting on June 21, 2016 (ADAMS Accession No. ML16179A186), between the NRC and SNC, the licensee described its progress for transitioning HNP to NFPA 805. SNC also informed the NRC that an extension of the schedule for its LAR submittal is needed to

allow appropriate development of its Fire Probabilistic Risk Assessment (FPRA) model. In a letter dated July 6, 2016 (ADAMS Accession No. ML16188A341), SNC requested to extend its LAR submittal date 18 months from October 4, 2016, to April 4, 2018, in accordance with Scenario A.2 of SECY-12-0031.

In the July 6, 2016 letter, SNC provided the justification for revising the LAR submittal date. The extension is necessary to complete development of the FPRA model, to allow appropriate coordination and implementation of design modifications at HNP, and to incorporate those modifications into the fire PRA that support the NFPA 805 transition. The NRC staff reviewed the SNC's letter that discussed its NFPA 805 transition progress, physical modifications, monitoring program, LAR status, and major project milestones supporting submittal of the NFPA 805 LAR in April 2018.

The NRC has determined that, based on the above, the HNP NFPA 805 enforcement discretion along with the LAR submittal date should be extended. This Order is being issued to revise the HNP NFPA 805 LAR submittal date from October 4, 2016, to April 4, 2018. This new submittal date supports SNC's continued progress in activities related to the transition to NFPA 805, as described in their letter dated July 6, 2016.

SNC may, at any time, cease its transition to NFPA 805 and comply with HNP's existing licensing basis and the regulations set forth in 10 CFR 50.48, as applicable. As indicated in the Enforcement Policy, if SNC decides not to complete the transition to 10 CFR 50.48(c), it must submit a letter stating its intent to retain its existing licensing basis and withdraw its letter of intent to comply with 10 CFR 50.48(c). If SNC fails to meet the new LAR submittal date and fails to comply with its existing licensing basis, the NRC will take appropriate enforcement action, consistent with its Enforcement Policy.

On September 22, 2016, SNC consented to issuing this Order, as described in Section V below. SNC further agreed that this Order will be effective upon issuance and that it has waived its rights to a hearing.

IV

Based on the licensee's current status, scheduled key activities, and planned modifications, the NRC has determined that the licensee has provided adequate justification for its commitment given in Section V, and, thus, for the extension of enforcement discretion. Because the licensee will continue to perform modifications to reduce current fire risk in parallel with the development of its NFPA 805 LAR, the NRC staff finds this acceptable to ensure public health and safety. Based on the above and SNC's consent, this Order is effective upon issuance.

V

Accordingly, pursuant to Sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR 2.202, "Orders," IT IS HEREBY ORDERED THAT LICENSE NOS. DPR-57 and NPF-5 ARE MODIFIED AS FOLLOWS:

- A. SNC will submit an acceptable license amendment request for Edwin I. Hatch Nuclear Plant, Unit Nos. 1 and 2, to adopt NFPA Standard 805 by no later than April 4, 2018.
- B. SNC will continue to receive enforcement discretion until April 4, 2018. If the NRC finds that the license amendment request is not acceptable, the NRC will take steps consistent with the Enforcement Policy.

The Director of the Office of Enforcement, in consultation with the Director of the Office of Nuclear Reactor Regulation, may, in writing, relax or rescind any of the above conditions upon demonstration by the licensee of good cause.

VI

In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by this Order, other than SNC, may request a hearing within 30 days of the issuance date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007), as amended by 77 FR 46562; August 3, 2012 (codified in pertinent part at 10 CFR Part 2, Subpart C). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification

(ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene through the

EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time (ET) on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC's Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail to MSHD.Resource@nrc.gov, or by a toll-free call at (866) 672-7640. The NRC Meta System Help Desk is available between 8:00 a.m. and 8:00 p.m., ET, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary

of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is available to the public at <http://ehd1.nrc.gov/ehd/>, unless excluded pursuant to an order of the Commission or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, in some instances, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, participants are requested not to include copyrighted materials in their submission, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application.

If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue a separate Order designating the time and place of any hearings, as appropriate. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days after issuance of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

Dated at Rockville, Maryland, this 3rd day of October 2016.

For the Nuclear Regulatory Commission.

/RA/

Patricia K. Holahan, Director
Office of Enforcement