



FPL Energy Duane Arnold, LLC
3277 DAEC Road
Palo, Iowa 52324

FPLEnergy.

Duane Arnold Energy Center

May 31, 2006

NG-06-0387
10 CFR 2.201

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Mail Station 0-P1-17
Washington, DC 20555-0001

Duane Arnold Energy Center
Docket 50-331
License No. DPR-49

Reply to a Notice of Violation; EA-04-053

This letter and enclosure are provided in response to the Notice of Violation (NOV) transmitted in Notice of Violation and Exercise of Enforcement Discretion (Office of Investigations Report Nos. 3-2003-021 and 3-2004-023) (Duane Arnold Energy Center); EA-04-053, dated May 1, 2006. Please note that the NOV heading refers to "FPL Energy, LLC" rather than the licensee, FPL Energy Duane Arnold, LLC, which is a subsidiary of FPL Energy, LLC.

If you have any questions, please call Steve Catron, Licensing Manager, at (319) 851-7234.

This letter contains no new commitments and no revisions to existing commitments.

Gary D. Van Middlesworth
Site Vice President, Duane Arnold Energy Center
FPL Energy Duane Arnold

Enclosure

cc: Administrator, Region III, USNRC
Project Manager, DAEC, USNRC
Resident Inspector, DAEC, USNRC
Enforcement Officer, Region III, USNRC

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ENCLOSURE

FPL Energy Duane Arnold
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VIOLATION:

During an NRC investigation completed on February 6, 2004, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Duane Arnold Energy Center (DAEC) Technical Specification 5.4.1. provides, in part, that written procedures shall be established, implemented and maintained covering the applicable procedures recommended in Regulatory Guide 1.33, Revision 2, Appendix A, February 1978.

Section 7 of Appendix A to Regulatory Guide 1.33, "Quality Assurance Program Requirements (Operation)," Revision 2, February 1978, provides, in part, that the licensee establish written procedures for radiation protection.

Section 3.2.7 of DAEC Administrative Control Procedure ACP1407-2, "Material Control in the Spent Fuel Pool and Cask Pool," Revision 10, dated November 4, 2002, a procedure that implements Technical Specification 5.4.1 and Regulatory Guide 1.33, provides, in part, that health physics shall be notified and present prior to relocating or removing any item stored in the spent fuel pool and cask pool.

Contrary to the above, on July 23, 2003, a Refueling Floor Supervisor directed an operator to relocate irradiated items in the cask pool without notifying health physics or ensuring that health physics personnel were present prior to relocating the irradiated items.

This is a Severity Level III violation (Supplements I, IV and VII) (EA-04-053).

RESPONSE TO THE VIOLATION:

1. REASON FOR THE VIOLATION

On July 23, 2003, in preparation to place spent fuel storage canisters in the refuel floor cask pool, it was necessary to transfer a number of irradiated parts from the cask pool to the spent fuel pool. In the morning of July 23, 2003, the Refuel Floor Supervisor overseeing the material movement contacted Health Physics Access Control to request support for the transfers. The support of Health Physics personnel for this activity is required by ACP 1407.2, "Material Control in the Spent Fuel Pool and Cask Pool," Rev. 10. The Health Physics Technicians monitor the radiological conditions that could change when moving items within the spent fuel or cask pools. In response to the request, Health Physics Access Control informed the Refuel Floor Supervisor that Health Physics Technicians were not available to provide the needed coverage.

ENCLOSURE

Subsequently, the Refuel Floor Supervisor decided that Health Physics coverage was not required for the irradiated material transfer and during the afternoon of July 23, 2003, proceeded to perform the transfer with the assistance of a Refuel Bridge Operator. Health Physics was not informed of this decision and Health Physics Technicians were not present during the transfer. The movement of irradiated components from the cask pool to the fuel pool was a violation of ACP 1407.2, which specifically states that Health Physics shall be notified and present prior to relocating or removing any item stored in the spent fuel pool or cask pool.

In the late afternoon of July 23, 2003, a Health Physics Technician identified the procedure violation.

The procedure violation resulted in no actual impact on plant operation or personnel safety. However, this was considered a significant radiological event due to the potential consequences of overexposure to personnel if the transfer activity had not been performed properly.

The reason for this violation is the Refuel Floor Supervisor's failure to follow procedure.

2. CORRECTIVE STEPS TAKEN AND THE RESULTS ACHIEVED

- Upon identification of the procedural non-compliance, Health Physics entered this event into the site's corrective action program by initiating CAP 28338. The immediate corrective actions included:
 - Notification of supervision, senior site management, corporate management, and NRC.
 - Conduct of a fact finding meeting.
 - Temporary suspension of site access for Refuel Floor Supervisor and Refuel Bridge Operator.
 - Assignment of an independent manager to investigate the event.
 - Initiation of assessment into whether there was cause to terminate the Refuel Floor Supervisor's employment at DAEC (note that the refuel floor supervisor voluntarily resigned his employment at DAEC).
 - Resetting of the Site Human Performance Event Clock.
- An Apparent Cause Evaluation (ACE) of this event was performed by an independent manager. As a result of the ACE, the following additional actions were taken:
 - Reviewed the key leadership failures that led to this event with site supervisors and managers.

ENCLOSURE

- Incorporated additional management oversight for key plant activities such as moving irradiated components within the fuel or cask pools into the daily work scheduling process.

3. **CORRECTIVE STEPS THAT WILL BE TAKEN TO AVOID FURTHER VIOLATIONS**

None required.

4. **DATE WHEN FULL COMPLIANCE WILL BE ACHIEVED**

Full compliance was achieved on July 23, 2003 with the initiation of CAP 28338.