



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION II
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW, SUITE 23T85
ATLANTA, GEORGIA 30303-8931

August 30, 2007

EA-07-040

Carolina Power & Light Company
ATTN: Mr. Robert Duncan, II
Vice President - Harris Plant
Shearon Harris Nuclear Power Plant
P. O. Box 165, Mail Code: Zone 1
New Hill, NC 27562-0165

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY
(SHEARON HARRIS NUCLEAR PLANT - NRC OFFICE OF INVESTIGATIONS
REPORT NO. 2-2006-011 AND INSPECTION REPORT NO.
05000400/2007403)

Dear Mr. Duncan:

This refers to an investigation completed by the Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) on September 27, 2006, (Report 2-2006-011) and an NRC in-office inspection completed on April 13, 2007, (Report 05000400/2007402). The purpose of the investigation and inspection was to determine whether contract security officers at Progress Energy/Carolina Power and Light Company's (CPL) Shearon Harris Nuclear Plant (HNP) were provided answers by supervisors during the administration of NRC required requalification testing. The results of our review of this matter, including the identification of two apparent violations, were transmitted to CPL by our letter dated April 13, 2007.

On May 30, 2007, a predecisional enforcement conference was conducted in the NRC's Region II Office with CPL to discuss the apparent violations, the significance, root causes, and CPL's corrective actions. At the conference, CPL did not contest the apparent violations, and provided a detailed description of its corrective actions taken in response to the issue. CPL stated that its root cause analysis concluded that the violations were caused by a lapse of integrity on the part of contract supervisors and inadequate management oversight.

Based on the information developed during the inspection and investigation, and the information you provided during the conference, the NRC has determined that one violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the subject inspection report and OI investigation.

The violation involved the requirements of 10 CFR 73.55(b)(4)(I), Section II.E. of Appendix B to 10 CFR Part 73, the Shearon Harris Security Training and Qualification Plan, Revision 9, Section 3.3.1, and Technical Specification (TS) 6.8. In September 2005, a supervisor deliberately provided the answer key with tests he handed out during NRC-required annual written security re-qualification testing (Armed Guard/Responder Crucial Task Test). During 2005, that same supervisor and two other supervisors deliberately provided answers to security officers while administering NRC-required annual written security re-qualification testing (Armed Guard/Responder Crucial Task Test) and while administering the NRC required annual re-qualification computer based testing (Plant Access, Radiation Worker and Respiratory Protection Training). As a result, numerous security officers were not tested or qualified as required. Consequently, it could not be concluded with any degree of certainty that contract security officers achieved the minimum passing score of 80 percent on the Plant Access, Radiation Worker and Respiratory Protection Training, as specified by TS and Progress Energy Nuclear Generation Group (Shearon Harris) Standard Procedure TRN-NGGC-0010, Plant Access, Radiation Worker and Respiratory Protection Training, Revision 5. It also could not be concluded with any degree of certainty that contract security officers achieved the minimum passing score of 70 percent on the Armed Guard/Responder Crucial Task Test, as specified by the Shearon Harris Security Training and Qualification Plan.

Although CPL's subsequent actions confirmed that contract security officers, in fact, possessed the requisite knowledge as evidenced by their satisfactory completion of additional examinations, the NRC considers the above violation to represent a significant deficiency in CPL's processes for qualifying and testing of officers. In addition, the deliberate misconduct of security supervisors raises a significant concern regarding CPL's oversight of its security contractor, and calls into question the integrity of its contractor's implementation of the qualification process for its security officers. Therefore, this violation is categorized in accordance with the NRC Enforcement Policy at Severity Level III.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$65,000 is considered for a Severity Level III violation. Because the violation was willful, the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy.

In this case, concerns regarding possible improper testing were brought to the attention of the NRC by outside stakeholder organizations in December 2005. The NRC notified CPL of the concerns during its investigation into the matter as part of an on-site inspection/investigation in January 2006. Therefore, credit is not warranted for the factor of *Identification*.

In response to this incident, CPL took numerous corrective actions, including: (1) performance of a root cause investigation into the circumstances of this matter; (2) changes in the administration of examinations such that examinations now will be given only by State certified HNP security training personnel; (3) developing and including formal documentation of examination requirements in HNP's procedures; and (4) re-administering examinations to security officers by State certified training personnel.

CPL also noted that the individuals involved in the deliberate misconduct were no longer employed by its security contractor, and provided details of various activities at the site to improve the recruitment and retention of security staff.

Additional corrective actions included licensee and contractor emphasis on improvements in communications at all levels of the security organization, the performance of additional field observations of security related activities, and the increased use of the corrective action program by security personnel. Based on the above, credit is warranted for the factor of *Corrective Action*.

Therefore, to emphasize the importance of prompt identification of violations, and in recognition of the significance of deliberate violations involving the training and qualification of security officers, I have been authorized, after consultation with the Director, Office of Enforcement, to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) in the base amount of \$65,000 for this Severity Level III violation.

The NRC has concluded that information regarding the reasons for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in this letter and in the information provided by CPL at the conference. 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.

For administrative purposes, this letter is issued as a separate NRC Inspection Report, 05000400/2007403, and the above violation is identified as VIO 05000400/2007403-01, Administration of NRC Required Annual Security Re-qualification Testing. Accordingly, Apparent Violations (AVs) 05000400/2007402-01, Administration of NRC Required Annual Written Security Re-qualification Testing, and 05000400/2007402-02, Administration of NRC Required Annual Plant Access, Radiation Worker and Respiratory Protection Training Testing, are closed.

If you disagree with this enforcement sanction you may request Alternative Dispute Resolution (ADR) with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflicts outside of court using a neutral third party. The technique that the NRC has decided to employ is mediation. Additional information concerning the NRC's program is described in the enclosed brochure (NUREG/BR-0317) and can be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as an intake neutral. Please contact ICR at 877-733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and enclosures will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Should you have any questions concerning this letter, please contact Mr. Joseph Shea, Director, Division of Reactor Safety, at (404) 562-4600.

Sincerely,

/RA/

William D. Travers
Regional Administrator

Docket No.: 50-400
License No.: NPF-63

Enclosures:

1. Notice of Violation and Proposed Imposition
of Civil Penalty
2. NUREG/BR-0317
3. NUREG/BR-0254

cc w/encls:

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ADAMS: x Yes ACCESSION NUMBER: _____

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SIGNATURE	/RA Ssparks for/	/RA/		/RA Mburrell via telephone for/	/via email/	
NAME	CEVANS	JSHEA		R. Correia	G. Longo	
DATE	8/24/07	8/28/07		7/22/07	8/22/07	
E-MAIL COPY?	YES	NO	YES	NO	YES	NO

OFFICIAL RECORD COPY DOCUMENT NAME: C:\FileNet\ML072420225.wpd

Subject: Letter to Mr. Duncan Dated:

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PUBLIC

**NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY**

Shearon Harris Nuclear Plant
Unit 1

Docket No. 50-400
License No. NPF-63
EA-07-040

During an NRC investigation completed on September 27, 2006, and NRC in-office inspection completed on April 13, 2007, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the NRC proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The violation and associated civil penalty are set forth below:

10 CFR 73.55(b)(4)(I), states, in part, that each guard, watchman, armed response person, and other member of the security organization shall requalify in accordance with Appendix B to this part at least every 12 months.

10 CFR Part 73, Appendix B, Section II.E., states, in part, that security personnel shall be requalified at least every 12 months to perform assigned security-related job tasks and duties for both normal and contingency operations. Requalification shall be in accordance with NRC-approved licensee training and qualification plan.

Shearon Harris Nuclear Plant, Security Training and Qualification Plan, Revision 0, dated October 18, 2004, Section 3.3.1, states, in part, that an annual written examination shall be administered to armed security officers which samples the knowledge requirements identified in the security training program.

Shearon Harris Nuclear Plant Technical Specification 6.8, requires, in part, the licensee to develop and adhere to procedures listed in NRC Regulatory Guide 1.33, including procedures for instructing workers on radiological safety.

Progress Energy Nuclear Generation Group (Shearon Harris) Standard Procedure TRN-NGGC-0010, Plant Access, Radiation Worker and Respiratory Protection Training, Revision 5, Section 9.5.2, paragraph 6, states in part, Plant Access Re-training (PAR) is required annually with a tolerance of the remainder of the month in which the training was completed. Section 9.5.3, paragraph 5, states in part, Radiation Worker Retraining (RWR) is required annually with a tolerance of the remainder of the month in which the training was completed. Section 9.8.3 states in part, Respiratory Protection Retraining (RPR) is required annually with a tolerance of the remainder of the month in which the training was completed.

Contrary to the above, in September 2005, the licensee failed to requalify members of its security organization as required by 10 CFR Part 73 and Shearon Harris Nuclear Plant Technical Specification 6.8. Specifically, a security supervisor provided the answer key with tests he handed out during NRC-required annual written security re-qualification testing (Armed Guard/Responder Crucial Task Test). Also, in 2005, that same supervisor and two other supervisors provided answers to security officers during

the administration of NRC-required annual written security re-qualification testing (Armed Guard/Responder Crucial Task Test) and while administering the NRC-required annual re-qualification computer based testing (Plant Access, Radiation Worker and Respiratory Protection Training). As a result, numerous security officers were not tested or qualified as required.

This is a Severity Level III Violation (Supplement III).
Civil Penalty - \$65,000.

The NRC has concluded that information regarding the reasons for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in the information provided by licensee at the pre-decisional enforcement conference, and in the cover letter transmitting this Notice. However, if the description therein does not accurately reflect your position or your corrective actions, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation and Proposed Imposition of Civil Penalty, EA-07-040" and send it to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville, MD 20852-2738, with a copy to the Regional Administrator, U.S., Nuclear Regulatory Commission, Region II, and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice.

Within 30 days of the date of this Notice, the Licensee may pay the civil penalty proposed above in accordance with NUREG/BR-0254 and by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, a statement indicating when and by what method payment was made, or may protest imposition of the civil penalty in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should the Licensee fail to answer within 30 days of the date of this Notice, the NRC will issue an order imposing the civil penalty. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violations listed in this Notice, in whole or in part; demonstrate extenuating circumstances; (3) show error in this Notice; or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the response should address the factors addressed in Section VI.C.2, "Civil Penalty Assessment," of the Enforcement Policy.

Any written answer addressing these factors pursuant to 10 CFR 2.205, should be set forth separately from the statement or explanation provided pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205 to be due, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

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 document system (ADAMS), to the extent possible, it should not include any personal privacy, proprietary, classified or safeguards information so that it can be made available to the public without redaction.

ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request that such material is withheld from public disclosure, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

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

Dated this 30th day of August 2007