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MAY 15 2009

Docket Nos.: 52-025
52-026

ND-09-0681

U.S. Nuclear Regulatory Commission
Document Control Desk
Washington, DC 20555-0001

Southern Nuclear Operating Company
Vogtle Electric Generating Plant Units 3 and 4 Combined License Application
Reply to a Notice of Violation

Ladies and Gentlemen:

By letter dated April 16, 2009, the U.S. Nuclear Regulatory Commission (NRC) issued Inspection Report Numbers 05200025/2009-201 and 05200026/2009-201 concerning the March 3-6, 2009 inspection conducted at the Southern Nuclear Operating Company (SNC) office in Birmingham, AL. The NRC inspection involved a review of quality assurance (QA) processes and procedures, utilized by SNC's Nuclear Development (ND) organization, to verify their effective implementation associated with the Vogtle Electric Generating Plant (VEGP) Units 3 and 4 Combined License (COL) Application. One aspect of the inspection was its focus on assessing SNC's compliance with the provisions of 10 CFR 21, "Reporting of Defects and Noncompliance," and selected portions of 10 CFR 50 Appendix B, "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants."

The inspection report identified two Severity Level IV violations from the inspection. A Notice of Violation, included with the inspection report, cites these violations involving certain SNC ND QA policies and procedures not in compliance with the applicable requirements of Appendix B to 10 CFR 50. Enclosure 1 to this letter provides the SNC reply to the Notice of Violation. In addition, the inspection report also describes a non-cited violation involving a 10 CFR 21 training requirement deficiency for the ND job-performance-requirement (JPR) training program. SNC elected to inform the NRC of its resolution of this non-cited violation as well and thus, Enclosure 2 provides the SNC reply to this non-cited violation.

If you have any questions regarding this letter, please contact Mr. Wes Sparkman at (205) 992-5061.

DO92
NRC

Mr. J. A. (Buzz) Miller states he is an Executive Vice President of Southern Nuclear Operating Company, is authorized to execute this oath on behalf of Southern Nuclear Operating Company and to the best of his knowledge and belief, the facts set forth in this letter are true.

Respectfully submitted,

SOUTHERN NUCLEAR OPERATING COMPANY



Joseph A. (Buzz) Miller

Sworn to and subscribed before me this 15 day of May, 2009

Notary Public: Gloria H. Bui

My commission expires: April 1, 2013

JAM/BJS/dmw

Enclosures:

1. Reply to a Notice of Violation From NRC Inspection Report Nos. 05200025/2009-201 and 05200026/2009-201 on the VEGP Units 3 & 4 COL Application
2. Reply to a Non-Cited Violation From NRC Inspection Report Nos. 05200025/2009-201 and 05200026/2009-201 on the VEGP Units 3 & 4 COL Application

cc: Southern Nuclear Operating Company

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Mr. M. K. Smith, Technical Support Director
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Southern Nuclear Operating Company

ND-09-0681

Enclosure 1

Reply to a Notice of Violation

From NRC Inspection Report Nos.

05200025/2009-201 and 05200026/2009-201

on the

VEGP Units 3 & 4 COL Application

Reply to a Notice of Violation

This enclosure provides Southern Nuclear Operating Company's (SNC's) reply to the Notice of Violation (NOV) submitted to SNC by the U.S. Nuclear Regulatory Commission (NRC) in a letter dated April 16, 2009. The NOV was generated as a result of an NRC inspection, on March 3-6, 2009, of quality assurance (QA) processes and procedures, utilized by SNC's Nuclear Development (ND) organization, to verify their effective implementation associated with the Vogtle Electric Generating Plant (VEGP) Units 3 and 4 Combined License (COL) Application. The NOV cites SNC with two Severity Level 4 violations, both involving certain QA policies and procedures not in compliance with the applicable requirements of Appendix B to 10 CFR 50 (Appendix B). The violations, identified as 05200025/2009-201-01 and 05200026/2009-201-01, and 05200025/2009-201-02 and 05200026/2009-201-02, and SNC's reply to the violations are as follows.

Violations 05200025/2009-201-01 and 05200026/2009-201-01 (Procedure ND-ARL-017 Inadequacies)

Violation 05200025[26]/2009-201-01 states:

Criterion VI, "Document Control," of Appendix B, "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants," to Part 50, "Domestic Licensing of Production and Utilization Facilities," of Title 10 of the *Code of Federal Regulations* (10 CFR) states, in part, "that measures shall be established to control the issuance of documents, such as instructions, procedures, and drawings, including changes thereto, which prescribe all activities affecting quality. These measures shall ensure that documents, including changes, are reviewed for adequacy and approved for release by authorized personnel and are distributed to and used at the location where the prescribed activity is performed."

Section 6, "Document Control," of the Southern Nuclear Company (SNC) Nuclear Development Quality Assurance Manual (NDQAM) states, in part, that SNC Nuclear Development (ND) has established the necessary measures and governing procedures to control the preparation of, issuance of, and changes to documents that specify quality requirements or prescribe how activities affecting quality, including organizational interfaces, are controlled to ensure that correct documents are being employed. The control system shall be documented and provide for, among other things, review of documents for adequacy, completeness, and correctness prior to approval and issuance.

SNC ND ND-ARL-017, "10 CFR Part 21 and 10 CFR 50.55(e) Evaluating and Reporting of Defects and Noncompliance for Vogtle Units 3 and 4," Version 2, dated March 3, 2009, provides instructions for ND personnel to ensure that potential defects and failures to comply pursuant to 10 CFR Part 21, "Reporting of Defects and Noncompliance," and 10 CFR 50.55(e) are evaluated for potential substantial safety hazards and that notifications and reports are made as required.

Contrary to the above, as of March 6, 2009, ND-ARL-017 does not (1) accurately reflect the correct definitions of 10 CFR Part 21, (2) address all the requirements of 10 CFR 50.55(e), and (3) use the correct terminology throughout the procedure. Specifically:

1. ND-ARL-017 does not include the correct definition of "defect" and "discovery," nor does it differentiate the applicability of the definitions of "dedication."
2. ND-ARL-017 does not include the records retention requirements of 10 CFR 50.55(e) and is inconsistent with the requirements of 10 CFR 50.55(e)(3)(iii)(c) with regards to a significant breakdown of the quality assurance program.
3. ND-ARL-017 uses the terms "deviation" and "defect" interchangeably throughout the procedure.

Reason(s) For The Violation:

SNC Nuclear Development accepts the violation and offers the following discussion regarding the circumstances and corrective actions. Early site permit work began in 2005 under a QA program created for that purpose, utilizing existing operating fleet procedures. In 2006, SNC Nuclear Development was created separate from the SNC operating fleet with its own QA program. Initially, SNC Nuclear Development relied on the operating fleet's 10 CFR 21 program which was found acceptable during the NRC's QA inspection of the Vogtle Early Site Permit Application program in that same year. Under Item c of Section 2.11.1, 10 CFR Part 21 Implementation, from that NRC inspection report (Report No. 52-011/2006001, dated October 5, 2006), the NRC states:

"The team reviewed SNC's policies and procedures related to the evaluation and reporting of deviations and conducted interviews with cognizant applicant and contractor personnel. Therefore, the team concluded that the policies and procedures that the SNC and major contractor had in place to address 10 CFR Part 21 were adequate."

However, in 2008, SNC Nuclear Development recognized that reliance on existing SNC procedures used to implement the requirements of 10 CFR 21 did not fully address the requirements for a construction organization including the requirements of 10 CFR 50.55(e). Consequently, SNC Nuclear Development developed and implemented a single procedure (ND-ARL-017) to fulfill the requirements of both 10 CFR 21 and 10 CFR 50.55(e).

With regard to the violation regarding definitions, SNC Nuclear Development developed a procedure that implemented these unique requirements for an organization seeking a permit and license under 10 CFR 52. The subtle distinctions between 10 CFR 21 and 10 CFR 50.55(e) were not fully incorporated in this procedure development. Technical reviews of the procedure also failed to fully identify these differences.

With regard to the violation regarding records retention requirements of 10 CFR 50.55(e), technical reviews did not identify the differences between records retention requirements in 10 CFR 21 and 10 CFR 50.55(e) and consequently the record retention requirements of 10 CFR 50.55(e) were omitted from ND-ARL-017.

ND-09-0681

Enclosure 1

Reply to a Notice of Violation from NRC Inspection Report Nos. 05200025/2009-201 and 05200026/2009-201

With regard to the inconsistency between evaluation requirements of ND-ARL-017 regarding a significant breakdown in the quality assurance program and the notification requirements of 10 CFR 50.55(e)(3)(iii)(c), it was assumed that the evaluation requirements of 10 CFR 50.55(e)(3)(i) and 10 CFR 50.55(e)(3)(ii) regarding deviations and failures to comply applied to a breakdown in the quality assurance program as well. In addition, the terms used in ND-ARL-017 regarding a breakdown in the quality assurance program did not accurately translate the terminology used in 10 CFR 50.55(e). Consequently, evaluation requirements related to a significant breakdown in the quality assurance program were inappropriately described in ND-ARL-017.

With regard to the violation regarding the interchangeable use of the terms "defect" and "deviation", technical reviews failed to identify the inconsistent use of the terms.

Corrective Steps Already Taken and Results Achieved:

SNC took the initiative during the inspection to prepare a draft of the revised procedure. Training of the licensing staff was subsequently performed. Feedback from this training was used to further enhance the procedure. ND-ARL-017 was revised to reflect these changes. Due to a recent reorganization of SNC Nuclear Development and its procedures to prepare for future construction activities, ND-ARL-017 has been renumbered ND-LI-001.

Corrective Steps That Will Be Taken To Avoid Further Violations:

SNC Nuclear Development is in the process of revising the Nuclear Development procedure for writing procedures, ND-AD-001, Procedure Preparation and Control, to enhance the procedure technical review process. The enhancements will include a requirement that the procedure owner define specific review requirements before assigning technical reviewers.

Date When Full Compliance Will Be Achieved:

Full compliance will be achieved upon the effective date for the revision to procedure ND-AD-001. The revision to ND-AD-001 will become effective by May 31, 2009.

Violations 05200025/2009-201-02 and 05200026/2009-201-02 (Procedure NMP-GM-002 Inadequacies)

Violation 05200025[26]/2009-201-02 states:

Criterion XVI, "Corrective Action" of Appendix B to 10 CFR Part 50 states that "measures shall be established to assure that conditions adverse to quality are promptly identified and corrected. In the case of significant conditions adverse to quality, the measures shall assure that the cause of the condition is determined and corrective action taken to preclude repetition. The identification of the significant condition adverse to quality, the cause of the condition, and the corrective action taken shall be documented and reported to appropriate levels of management."

Section 16 of the SNC NDQAM requires procedures to establish high-level requirements and responsibilities for the control of conditions adverse to quality and requires personnel to report conditions adverse to quality to appropriate management for resolution in accordance with

appropriate procedures. Section 16.1 of the NDQAM describes the process that SNC ND has in place to identify, evaluate, and report defects and noncompliances in accordance with 10 CFR Part 21 and/or 10 CFR 50.55(e), as applicable. The SNC ND reporting program applies to safety-related activities and services performed by SNC ND and/or SNC ND suppliers and subsuppliers providing input to the combined license application.

Contrary to the above, as of March 6, 2009, SNC's NMP-GM-002 does not adequately provide procedural guidance to screen new condition reports for the potential applicability of 10 CFR Part 21 and does not provide a clear link to the 10 CFR Part 21 procedure ND-ARL-017. Specifically:

1. NMP-GM-002 does not include procedural guidance for 10 CFR Part 21 applicability under the corrective actions process and does not appropriately translate requirements of the NDQAM into the procedure.
2. NMP-GM-002 does not reference or include a mechanism to initially identify a potential 10 CFR Part 21 deviation for further evaluation using ND-ARL-017.

Reason(s) For The Violation:

SNC Nuclear Development accepts the violation and offers the following discussion regarding the circumstances and corrective actions. First, it is important to note that the NRC inspection found that SNC postings were performed in accordance with regulatory requirements. These postings properly identified the SNC personnel to contact should an individual identify a possible deficiency that may need to be evaluated pursuant to 10 CFR 21 or 10 CFR 50.55(e) requirements. However, SNC acknowledges and fully agrees with the importance of the corrective action program in identifying deficiencies that may need to be evaluated pursuant to the requirements of 10 CFR 21 or 10 CFR 50.55(e). SNC Nuclear Development agrees that the 10 CFR 21 and 10 CFR 50.55(e) requirements were not procedurally linked to the corrective action program and thus may not appropriately translate the requirements of the NDQAM into procedures.

Corrective Steps Already Taken and Results Achieved:

SNC Nuclear Development has trained internal licensing personnel on the requirements of the revised procedure ND-LI-001. SNC Nuclear Development licensing personnel have screened all VEGP 3 and 4 condition reports written within the SNC corrective action program from the inception of the project (i.e., since January 1, 2006) for possible 10 CFR 21 impacts (Note: Possible 10 CFR 50.55[e] impacts from these condition reports were not considered since 10 CFR 50.55[e] does not yet apply to the VEGP 3 and 4 Project). SNC Nuclear Development licensing personnel also performed additional evaluations to 10 CFR 21 requirements in those cases which were warranted. To date, no 10 CFR 21 reportable condition has been identified for condition reports written on the VEGP 3 and 4 project within the SNC corrective action program. SNC Nuclear Development will continue screening of VEGP 3 and 4 condition reports until the measures taken to avoid further violations (see below) have been implemented. Thus, this level of screening is an interim measure. This interim measure was established as a resolution action in a condition report for this adverse condition. The SNC Nuclear Development coordinator for the corrective action program, in conjunction with the VEGP 3 and

ND-09-0681

Enclosure 1

Reply to a Notice of Violation from NRC Inspection Report Nos. 05200025/2009-201 and 05200026/2009-201

4 COL Project Engineer, are responsible for ensuring that these interim measures are adhered to until the measures taken to avoid further violations (see below) have been implemented.

Corrective Steps That Will Be Taken To Avoid Further Violations:

SNC Nuclear Development is currently taking steps to develop a Nuclear Development Construction Corrective Action Program independent of the operating fleet's program which will apply to VEGP 3 and 4. Until such time as this separate program is in place, SNC Nuclear Development will continue to rely on the operating fleet's corrective action program and procedures, and the interim measures described in the previous paragraph. Currently, SNC Nuclear Development has revised its software to allow for this separate corrective action program. By July 1, 2009, SNC Nuclear Development will have created and approved the procedures for this separate corrective action program. These procedures will include procedural guidance for 10 CFR 21 and 10 CFR 50.55(e) applicability under the corrective actions process and will translate requirements of the NDQAM into the procedures. Full implementation of this separate Nuclear Development Construction Corrective Action Program will be complete by August 1, 2009 with all appropriate training conducted.

Date When Full Compliance Will Be Achieved:

Full compliance with the regulations is currently achieved by the interim measures put in place to screen VEGP 3 and 4 condition reports and by the review of past VEGP 3 and 4 condition reports written under the SNC corrective action program. Full permanent measures regarding the inclusion of 10 CFR 21 and 10 CFR 50.55(e) evaluation and reporting requirements in separate SNC Nuclear Development corrective action program procedures will be complete by August 1, 2009.

Southern Nuclear Operating Company

ND-09-0681

Enclosure 2

Reply to a Non-Cited Violation

From NRC Inspection Report Nos.

05200025/2009-201 and 05200026/2009-201

on the

VEGP Units 3 & 4 COL Application

Reply to a Non-Cited Violation

This enclosure provides Southern Nuclear Operating Company's (SNC's) reply to a non-cited violation submitted to SNC by the U.S. Nuclear Regulatory Commission (NRC) in a letter dated April 16, 2009. The non-cited violation was generated as a result of an NRC inspection, on March 3-6, 2009, of quality assurance (QA) processes and procedures, utilized by SNC's Nuclear Development (ND) organization, to verify their effective implementation associated with the Vogtle Electric Generating Plant (VEGP) Units 3 and 4 Combined License (COL) Application. The non-cited violation identifies a Part 21 training requirement deficiency involving an obsolete reference in a procedure that ND personnel are trained on. The non-cited violation, identified as 05200025/2009-201-03 and 05200026/2009-201-03, and SNC's reply to the non-cited violation are as follows.

Violation 05200025/2009-201-03 and 05200026/2009-201-03 (Part 21 Training Requirement Deficiency)

Violation 05200025[26]/2009-201-03 states:

Section 2.6 of the SNC NDQAM establishes that personnel assigned to implement elements of the NDQAM shall be capable of performing their assigned tasks. The NRC inspectors confirmed that SNC ND established and maintained formal indoctrination and training programs for personnel performing, verifying, or managing activities within the scope of the NDQAM. Also, the NRC inspection team verified that key SNC ND QA personnel involved with the Vogtle Units 3 and 4 COLA had records of training completion.

The NRC inspection team reviewed procedure ND-ARL-008, which provides training and qualification program requirements for ND personnel. The training program described in this procedure implements portions of the indoctrination, qualification, and training requirements specified in the NDQAM.

ND-ARL-008 requires that the supervisor develop a Qualification Guide for each individual who is performing site engineering, licensing, or construction activities for ND. The qualification guide is developed within a month of the individual's start in a position. ND supervisors are responsible for identifying which type of orientation training is needed and which job performance requirements (JPRs) should be assigned. JPRs identify the specific activities for which a person needs to be qualified to satisfy particular business needs. Personnel can meet the JPRs either by attending training or being evaluated on their understanding. Upon completion of all the qualification steps, the supervisor verifies completion of the qualifications and forwards the JPR form to the ND training coordinator for processing and filing of the JPR in the employee's training file.

The NRC inspection team reviewed a sample of training and qualification records for SNC ND. The inspection team verified that individuals were properly qualified and indoctrinated to perform safety-related work. Records reviewed included training record forms, JPRs, checklists, and attendance sheets. All training was documented on the appropriate training record forms in accordance with SNC ND procedures. Specifically, the NRC inspection team verified that all the training records reviewed as part of the sample selected required training on a 10 CFR Part 21 procedure. The NRC inspection team verified that SNC ND procedure ND-ARL-017 is one of

the requirements that SNC ND personnel need to complete as part of JPR ND-001, Version 6. However, during the review of training records the inspection team noted that only one of the five samples included the requirement to complete ND-ARL-017. Four of the records include an older version of JPR ND-001 which required the individuals to complete ND-001. The previous version of JPR ND-001 did not include ND-ARL-017 as a requirement because it was not implemented as the SNC ND Part 21 procedure.

Step 8.2 in ND-001 establishes that in addition to corrective action program (CAP) identification, any member of SNC ND who obtains credible evidence of the existence of a condition as described in 10 CFR Part 21 shall immediately notify management to ensure the appropriate evaluation per TS-005. However, TS-005 has been deleted and superseded by NL-005, "10 CFR 21 Evaluations," which is the corporate program that SNC has in place for the operating fleet. The NRC inspection team asked the SNC ND training coordinator about the 10 CFR Part 21 training requirement deficiencies found in JPR ND-001 and confirmed that the training coordinator was aware that ND-001 incorrectly references TS-005 rather than ND-ARL-017. SNC ND opened CR2009100137 to address the training inconsistencies related to 10 CFR Part 21. As part of their corrective actions, SNC ND planned to revise ND-001 and JPR ND-001 to reference the correct 10 CFR Part 21 procedure (ND-ARL-017). The NRC inspection team reviewed the proposed changes to ND-001 and JPR ND-001 and found them acceptable. Since SNC ND self-identified this deficiency and opened a CR to address this deficiency, the NRC inspection team identified this issue as Non-Cited Violation 0520025/2009-201-03 and 05200026/209-201-03.

Reason(s) For The Violation:

Although Nuclear Development procedure ND-001 states that training should be completed on 10 CFR 21 procedure ND-ARL-017, the inspection of training records revealed that some of the records included an older version of JPR-ND-001 (out of date) which did not list ND-ARL-017 as the requirement. At the implementation of ND-ARL-017, there was not a full review for impacts of this procedure introduction on all supporting procedures. This led to the incorrect reference found in ND-001 and the training records.

Corrective Steps Already Taken and Results Achieved:

SNC Nuclear Development initiated Condition Report 2009100137 to address procedure ND-001's incorrect reference. ND-001 (Version 5.0) now references the current 10 CFR 21 procedure, ND-LI-001. This action resolves the procedural inconsistency portion of this non-cited violation.

SNC Nuclear Development has revised JPR-ND-001 to include the reference to the current 10 CFR Part 21 procedure, ND-LI-001, thereby addressing the training portion of the non-cited violation.

ND-09-0681

Enclosure 2

Reply to Non-Cited of Violation from NRC Inspection Report No. 2009-201

Corrective Steps That Will Be Taken To Avoid Further Violations:

SNC Nuclear Development is in the process of revising the Nuclear Development procedure for writing procedures, ND-AD-001, Procedure Preparation and Control, to require an evaluation of training requirements and procedure linkage review for all future added or revised procedures. When approved, this enhanced procedure development/revision process will provide an impact review process for procedure implementation and revision, and for training requirements.

Date When Full Compliance Will Be Achieved:

SNC is currently in full compliance with the requirements of the Nuclear Development 10 CFR 21 training program as described in the "Corrective Steps Already Taken and Results Achieved." CR 2009100137 has been resolved and is closed.

Under the "Corrective Steps That Will Be Taken To Avoid Further Violations" section, the revision to procedure ND-AD-001 will become effective by May 31, 2009.