

10 CFR 2.201

October 29, 2010

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

**Subject: San Onofre Nuclear Generating Station, Units 2 and 3**  
**Docket Nos. 50-361, 50-362**  
**Reply to a Notice of Violation: EA 10-191**

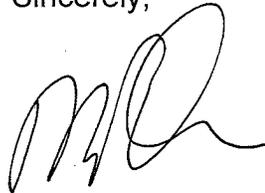
Reference: Letter, Mr. Neil O'Keefe (NRC) to Mr. James J. Sheppard (SCE), San Onofre Nuclear Generating Station – NRC Triennial Fire Protection Inspection Report 05000361/2010007 and 05000362/2010007 and Notice of Violation, dated September 30, 2010

Dear Sir or Madam:

The Nuclear Regulatory Commission's (NRC's) letter dated September 30, 2010 (referenced above), transmitted NRC Inspection Report No. 05000361/2010007 and 05000362/2010007 to Southern California Edison (SCE). The inspection report provided the results of the NRC Triennial Fire Protection Inspection at San Onofre Nuclear Generating Station (SONGS) Units 2 and 3 that was completed on August 16, 2010. The September 30, 2010 letter also transmitted a Notice of Violation (EA 10-191). The Enclosure to this letter provides the required response to the Notice of Violation. One new regulatory commitment is provided in Section VIII of the enclosure.

If you have any questions or require further information, please contact me or Mr. Richard St. Onge at (949) 368-6240.

Sincerely,



Enclosure: As stated

cc: E. E. Collins, Regional Administrator, NRC Region IV  
G. G. Warnick, NRC Senior Resident Inspector, SONGS Units 2 and 3  
R. Hall, NRC Project Manager, SONGS Units 2 and 3

**ENCLOSURE**  
**Reply to a Notice of Violation: EA 10-191**  
**Docket Nos. 50-361, 50-362**

**I. RESTATEMENT OF THE VIOLATION**

The Nuclear Regulatory Commission (NRC) Notice of Violation (NOV) states:<sup>1</sup>

License Condition 2.C(14), "Fire Protection," for Units 2 and 3, requires that the licensee shall implement and maintain in effect all provisions of the approved fire protection program as described in the Updated Fire Hazards Analysis through Revision 3 and as approved in the NRC staff's Safety Evaluation Report dated February 1981. The Updated Fire Hazards Analysis through Revision 3 specifies, in part, that fire protection features are provided consistent with the fire hazards analysis for each fire area/zone and the functional requirements necessary to achieve safe shutdown. Methods for assuring that necessary structures, systems and components are free of fire damage are provided. Deviations from the requirements of 10 CFR 50, Appendix R, Section III.G were identified along with the basis for acceptability as providing an equivalent level of protection. For nonalternative shutdown areas other than Fire Area 2-AC-50-29, the fire protection program required compliance with the requirements of 10 CFR 50, Appendix R, Section III.G.1 or III.G.2, unless deviations were specifically requested and approved.

Contrary to License Condition 2.C(14), since initial licensing of Unit 2 on February 16, 1982, the licensee failed to implement and maintain in effect all provisions of the approved fire protection program as described in the Updated Fire Hazards Analysis through Revision 3. Specifically, the licensee failed to ensure that one train of equipment necessary to achieve and maintain hot shutdown conditions from would remain free of fire damage. The licensee relied upon local manual actions to mitigate the effects of potential fire damage rather than provide the physical separation or protection required in the approved fire protection program.

On July 24, 2007, the NRC documented that this noncompliance was identified in Inspection Report 05000361/2007008 and 05000362/2007008. The NRC exercised discretion not to cite this violation at that time because the licensee met the criteria described in Enforcement Guidance Memorandum (EGM) 98-002, Revision 2, and Supplement 2 to that revision. EGM 07-004, issued on June 30, 2007, superseded EGM 98-002 and required licensees to initiate

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<sup>1</sup> In addition to the referenced License Condition, License Condition 2.C(12) is applicable to Unit 3. The license condition for Units 2 and 3 also includes: (1) revisions to the Updated Fire Hazards Analysis through Revision 3 by letters to the NRC dated May 31, July 22, and November 20, 1987, and January 21, February 22, and April 21, 1988; (2) Supplements 4 and 5 to the SER, dated January 1982 and February 1982; and (3) the Updated Fire Hazards Analysis Evaluation, Revision 1, dated January 29, 1988.

corrective actions and implement compensatory measure for noncompliances related to post-fire operator manual actions, excluding those for multiple-spurious actuations, by September 6, 2007, and to complete corrective actions by March 6, 2009. This violation is being cited due to the failure to complete corrective actions and restore compliance within the required time.

## II. **BACKGROUND**

During the 2007 Triennial Fire Protection Inspection, the NRC identified an Apparent Violation at the San Onofre Nuclear Generating Station (SONGS) for failing to comply with the approved Fire Protection Program, including implementation of License Condition 2.C(14), "Fire Protection" (Reference 1). In some instances, Southern California Edison (SCE) utilized operator manual actions (OMAs) not previously approved by the NRC instead of meeting the required separation criteria to ensure safe shutdown equipment would remain free of fire damage. The NRC granted SCE enforcement discretion in accordance with Enforcement Guidance Memorandum (EGM) 98-002, Revision 2, Supplement 2, for some OMAs that had not been previously addressed in an NRC Safety Evaluation Report (SER). The NRC granted this enforcement discretion because SCE had entered the noncompliance into the Corrective Action Program (CAP) in 2007, and appropriate compensatory measures were implemented.<sup>2</sup>

Enforcement discretion under EGM-98-002 (as superseded by EGM-07-004) expired in March 2009, and SCE had not resolved the noncompliances. SCE believed that its March 2008 letter of intent to transition to the National Fire Protection Association (NFPA) Standard 805, "Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants" (Reference 2), was an appropriate CAP response and provided continued enforcement discretion for the OMAs not previously approved by the NRC. The NRC Interim Enforcement Policy Regarding Enforcement Discretion for Certain Fire Protection Issues (10 CFR 50.48) stated that enforcement discretion for existing identified noncompliances only applied if the licensee submitted the letter of intent for transition to NFPA 805 by December 31, 2005. SCE submitted its letter of intent on March 28, 2008 (Reference 2).

Following discussions with the NRC during preparation for the 2010 NRC Triennial Fire Protection Inspection, SCE determined that the assumption that enforcement discretion applied during the NFPA 805 transition period for all OMAs was incorrect. SCE entered the failure to identify the expiration of enforcement discretion into the CAP in May 2010. The NRC conducted a Triennial Fire Protection Inspection at SONGS from June 14, 2010 through July 2, 2010, and exited the inspection on August 16, 2010.

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<sup>2</sup> As discussed in a telephone call with the NRC Region IV on October 22, 2010, both the 2007 and the 2010 Triennial Fire Protection Inspection reports misstate that hourly fire watches and manual actions constitute the compensatory measures for the violation. SCE instituted fire watches in certain areas for other reasons, but the OMAs are the credited compensatory measures taken for the violation.

The inspection included NRC follow-up on the findings from the 2007 Triennial Fire Protection Inspection and in particular, the implementation status of compensatory and corrective actions that formed the basis for granting enforcement discretion in accordance with EGM-98-002. The inspectors identified that the enforcement discretion period for addressing OMAs not previously approved by the NRC had expired in March 2009 without SCE completing the required corrective actions to resolve the noncompliances.

On September 30, 2010, the NRC issued its inspection report for the 2010 Triennial Fire Protection Inspection (Reference 3). Since compliance was not restored before lapse of enforcement discretion, the NRC issued EA 10-191 as part of the inspection report.

Southern California Edison (SCE) does not contest the violation or the NRC's determination of its significance.

### **III. REASON FOR THE VIOLATION**

As described in the Background section, SCE utilized some OMAs not previously approved by the NRC instead of meeting the required separation criteria to ensure safe shutdown equipment would remain free of fire damage. The NRC granted enforcement discretion in 2007 based on SCE having entered the noncompliance into the CAP and taken appropriate compensatory measures. However, the enforcement discretion expired in March 2009 without SCE having resolved the noncompliances, and SCE did not determine until May 2010 that the enforcement discretion had expired.

Because resolution of the noncompliances has been an integral part of the plan to transition to NFPA 805, the timing of that transition has contributed to the continued existence of the violation. In addition, SCE has determined that lack of a formal process to monitor and track new or evolving NRC requirements or regulatory issues was an apparent cause for SCE not having identified the expiration of the enforcement discretion period. A contributing cause was a decision making error of misinterpreting enforcement discretion.

### **IV. CORRECTIVE STEPS THAT HAVE BEEN TAKEN AND THE RESULTS ACHIEVED**

SCE has implemented adequate compensatory measures to protect public health and safety while it transitions to NFPA 805. Regulatory Issue Summary 2005-07 allows use of OMAs as alternate compensatory measures until compliance is restored. Additionally, NRC Inspection Procedure 71111.05TTP states, "the staff concluded that for the transition period [to NFPA 805], compensatory measures in the form of manual actions would be acceptable if the manual actions are feasible and reliable based on the criteria provided [in the Inspection Procedure]."

The SONGS evaluations that reviewed the feasibility of the SONGS post-fire safe shutdown compensatory measures are controlled in accordance with the SONGS Configuration Management Program. Prior to the 2007 Triennial Fire Protection Inspection, SCE performed a focused review of these documents and assessed a risk-based selection of OMAs to verify that interim actions were consistent with Regulatory Issue Summary 2005-07 and NRC Inspection Procedure 71111.05T. In fact, the NRC concluded in the Inspection Report for the 2007 Triennial Fire Protection Inspection that “[t]he manual actions, though unapproved, were reviewed by the team and determined to be reasonable and feasible in accordance with guidance in Inspection Procedure 71111.05T.”

Prior to the 2010 inspection, SCE initiated assessments to re-verify the adequacy of the OMAs. Following identification of the misunderstanding regarding the duration of enforcement discretion for the OMAs not previously approved by the NRC that were identified by the NRC in 2010, SCE expanded the assessment and re-verified that the time-critical post fire OMAs are feasible and reliable, as confirmation of the adequacy of ongoing compensatory actions. In the Inspection Report for the 2010 Triennial Fire Protection Inspection, the NRC found that “the finding was determined to have very low risk significance...because of a combination of the availability of long recovery times for feasible operator manual actions and low-probability fire damage scenarios” for the identified OMAs (Reference 3).

In response to the apparent and contributing causes of the violation, SCE has identified corrective actions to prevent recurrence of the regulatory misunderstanding. These corrective actions are being tracked in the CAP.

## **V. CORRECTIVE STEPS THAT WILL BE TAKEN**

The final corrective action to resolve the OMAs not previously approved by the NRC is for SONGS to transition to and implement NFPA 805. As noted above, SCE confirmed in its March 2008 letter to the NRC that SCE plans to transition to NFPA 805 (Reference 2). SCE has followed industry developments and made the necessary plans to make this transition. SCE reaffirms its plan to transition to NFPA 805 as soon as practicable. This approach is consistent with that allowed by the interim enforcement discretion policy section of the Enforcement Policy, dated September 30, 2010, which states, “...licensees that submitted letters of intent to transition to 10 CFR 50.48 (c) with existing noncompliances will have the option to implement corrective actions in accordance with the new performance-based regulation.” Therefore, transition to and implementation of NFPA 805 is an acceptable corrective action for non-conformances identified prior to submitting SCE’s letter of intent to transition to NFPA 805.

SCE has successfully completed the Fire Probabilistic Risk Assessment (PRA) peer review and is in the process of resolving comments. A preliminary list of variants to the deterministic requirements of NFPA 805 has been developed and risk evaluations to

assess those variants are scheduled to begin in November 2010. Detailed plans for transition to NFPA 805 are available for review.

## **VI. DATE WHEN FULL COMPLIANCE WILL BE ACHIEVED**

As discussed above, full compliance with Fire Protection requirements will be achieved once SONGS transitions to and implements NFPA 805. SCE has docketed its intention to transition its fire protection licensing basis to NFPA 805. Following SCE's submittal of the license amendment request and NRC's review and approval of the request, the date by which SCE will be required to complete its transition to NFPA 805 will be determined by the license condition that identifies the date by which the appropriate plant changes must be performed.

## **VII. REFERENCES**

1. Letter, Ms. Linda Smith (NRC) to Mr. Richard Rosenblum (SCE), San Onofre Nuclear Generating Station Units 2 and 3 – NRC Triennial Fire Protection Inspection Report 05000361/2007008 and 05000362/2007008, dated July 24, 2007.
2. Letter, Mr. Ross Ridenoure (SCE) to NRC Document Control Desk, Letter of Intent to Adopt NFPA 805, Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants, 2001 Edition, dated March 28, 2008.
3. Letter, Mr. Neil O'Keefe (NRC) to Mr. James Sheppard (SCE), San Onofre Nuclear Generating Station – NRC Triennial Fire Protection Inspection Report 05000361/2010007 and 05000362/2010007 and Notice of Violation, dated September 30, 2010.

## **VIII. LIST OF REGULATORY COMMITMENTS**

SCE commits to transition to and implement NFPA 805 for its SONGS Fire Protection Program.