



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

June 15, 2011

Mr. M. J. Ajluni
Nuclear Licensing Director
Southern Nuclear Operating Company, Inc.
40 Inverness Center Parkway
Post Office Box 1295, Bin - 038
Birmingham, AL 35201-1295

SUBJECT: JOSEPH M. FARLEY NUCLEAR PLANT, UNITS 1 AND 2 – POSITION ON
SPENT FUEL CASK HANDLING (TAC NOS. ME5957 AND ME5958)

Dear Mr. Ajluni:

By letter dated April 8, 2011 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML111010110), Southern Nuclear Operating Company, Inc. (SNC), provided comments on a Nuclear Regulatory Commission (NRC) memorandum dated February 25, 2011 (ADAMS Accession No. ML110200478), that addressed a freestanding stack-up configuration of spent fuel handling components while those components are located in a facility for which the design has been reviewed by the NRC under the provisions of Title 10 of the *Code of Federal Regulations* (10 CFR), Part 50, "Domestic Licensing of Production and Utilization Facilities."

Your letter addressed the Joseph M. Farley Nuclear Plant, Units 1 and 2 (Farley), and the Edwin I. Hatch Nuclear Plant, Unit Nos. 1 and 2 (Hatch), and the last paragraph of your letter made the following request:

In order to avoid further confusion regarding the applicable requirements during spent fuel cask handling inside a Part 50 facility, it is requested that the NRC reconsider the position stated in the TAR [Technical Assistance Request] response in an expeditious manner in order to allow loading activities at Farley to resume.

There are two potential approaches regarding the analysis of a seismic event with respect to cask tipover during the stack up configuration consisting of either the demonstration by design and analysis that the cask will not tip over, or evaluation of the consequences of tipover.

For a facility such as the Farley nuclear power plant fuel-handling building that was reviewed and licensed under the provisions of Part 50, the change control process is governed by the requirements of 10 CFR 50.59, "Changes, tests and experiments." However, for the usage of spent fuel casks within the fuel-handling building by a general licensee under Subpart K of Part 72, the requirements of the NRC's Certificate of Compliance (CoC) authorizing the use of the cask by the general licensee must also be met.

For fuel casks, the design of the cask, as described in the Updated Final Safety Analysis Report (UFSAR) for the cask, has been reviewed by the NRC and a CoC authorizing usage of the cask has been issued pursuant to the requirements of 10 CFR Part 72. Similar to the requirements of § 50.59, the requirements of § 72.48 establish the conditions under which an independent spent fuel storage installation (ISFSI) licensee may make changes in the ISFSI facility, the cask

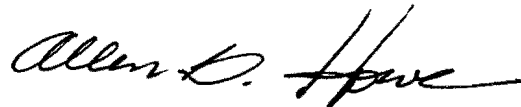
design, or procedures related to ISFSI operations. In Regulatory Guide 3.72, "Guidance for Implementation of 10 CFR 72.48, Changes, Tests, and Experiments," the NRC staff endorsed Appendix B to Nuclear Energy Institute (NEI) 96-07, "Guidelines for 10 CFR 72.48 Implementation." Section 4.1, "Applicability," of Appendix B to NEI 96-07 provides the following guidance with respect to changes to ISFSI operations within the Part 50 reactor facility:

A second situation that could require a licensee to apply both 72.48 and another regulation is when proposed changes could affect both the 10 CFR Part 50 reactor facility described in the reactor UFSAR and the 10 CFR Part 72 ISFSI facility or cask design described in the ISFSI/cask UFSAR. An example could be a change to a cask loading activity in the reactor spent fuel building. In this case, both a 50.59 and 72.48 screening/evaluation may need to be performed.

In summary, changes that occur within the scope of a facility governed by Part 50 requirements must be evaluated with respect to the requirements of § 50.59. However, a general licensee operating under the provisions of its general license pursuant to Subpart K of Part 72, must also meet the requirements of the general license in Subpart K of Part 72. If inconsistencies between the results of evaluations required by Part 50 and Part 72 arise, then they must be resolved either by modification of the Part 50 licensing basis and/or the Part 72 licensing basis. Accordingly, we are not in agreement with the statement made in your letter that heavy load handling in Part 50 facilities are governed solely by Part 50 requirements.

We trust that this is responsive to the principal issue raised by your letter. Please feel free to contact us if you should have further questions.

Sincerely,



Allen Howe, Deputy Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-348 and 50-364

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In summary, changes that occur within the scope of the facility governed by Part 50 requirements must be evaluated with respect to the requirements of § 50.59. However, a general licensee operating under the provisions of its general license pursuant to Subpart K of Part 72, must also meet the requirements of the general license in Subpart K of Part 72. If inconsistencies between the results of evaluations required by Part 50 and Part 72 arise, then they must be resolved either by modification of the Part 50 licensing basis and/or the Part 72 licensing basis. Accordingly, we are not in agreement with the statement made in your letter that heavy load handling in Part 50 facilities are governed solely by Part 50 requirements.

We trust that this is responsive to the principal issue raised by your letter. Please feel free to contact us if you should have further questions.

Sincerely,

/RA/

Allen Howe, Deputy Director
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