



L-2011-177
10 CFR 52.3
10 CFR 2.201

May 4, 2011

U.S. Nuclear Regulatory Commission
Attn: Document Control Desk
Washington, D.C. 20555-0001

Re: Florida Power & Light Company
Proposed Turkey Point Units 6 and 7
Docket Nos. 52-040 and 52-041
Reply to Notices of Violation 2011-201-01 and 2011-201-02

Reference:

1. NRC Letter to FPL dated April 4, 2011, NRC Inspection Report Nos. 05200040/2011-201 and 05200041/2011-201 and Notice of Violation

On February 28, 2011 through March 4, 2011, the Nuclear Regulatory Commission (NRC) conducted an inspection at the headquarters of Florida Power & Light Company (FPL) in Juno Beach, FL. The purpose of the inspection was to verify that FPL effectively implemented quality assurance (QA) processes and procedures for activities related to the Turkey Point Unit 6 and 7 Combined License Application.

Based on the results of the inspection, the NRC determined that two severity Level IV violations of NRC requirements occurred. Pursuant to the provisions of 10 CFR 2.201, the responses to the notices of violation are attached.

If you have any questions, or need additional information, please contact me at 561-691-7490.

Sincerely,

William Maher
Senior Licensing Director – New Nuclear Projects

Attachment 1: Response to Notices of Violation 05200040/2011-201-01 and 05200041/2011-201-01

Attachment 2: Response to Notices of Violation 05200040/2011-201-02 and 05200041/2011-201-02

cc:

PTN 6 & 7 Project Manager, AP1000 Projects Branch 1, USNRC DNRL/NRO
Regional Administrator, Region II, USNRC
Senior Resident Inspector, USNRC, Turkey Point Plant 3 & 4
Chief, Quality and Vendor Branch 1, USNRC DCIP/CQVA/NRO

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Violation A:

A. Title 10 of the *Code of Federal Regulations* (10 CFR) 21.21(a), requires, in part, that each individual, corporation, partnership, or other entity subject to 10 CFR Part 21, "Reporting of Defects and Noncompliance," adopt appropriate procedures to evaluate deviations and failures to comply associated with substantial safety hazards (SSH) as soon as practicable.

In addition, 10 CFR 21.21(d)(3)(i), requires, in part, that an initial notification by facsimile or telephone be made to the NRC Operations Center within 2 days following receipt of information by the director or responsible corporate officer regarding identification of a defect or a failure to comply.

Furthermore, 21.21(d)(3)(ii), requires, in part, that a written notification be provided to the NRC within 30 days following receipt of information by the director or responsible corporate officer regarding identification of a defect or a failure to comply.

Contrary to the above, as of March 4, 2011, FPL has not adopted appropriate procedures to evaluate deviations and failures to comply associated with SSH, and to notify the NRC following receipt of information by the director or responsible corporate officer regarding identification of a defect or a failure to comply. Specifically, FPL procedures ENG-QI-2.2, "10 CFR 21 SSH Evaluation/Reporting," Revision 6, dated July 10, 2010, and IP-801, "Evaluating and Reporting Defects and Failures to Comply for Substantial Safety Hazards in Accordance with 10 CFR Part 21," Revision 15, dated September 8, 2008, do not contain the requisite guidance for the effective evaluation of deviations and failures to comply associated with SSH nor to notify the NRC within the timeframes established by 10 CFR Part 21.21(d)(3). In addition, ENG-QI-2.2 and IP-801 included definitions that differed from those provided in 10 CFR 21.3, "Definitions," thus altering the intended meaning of the terms.

This issue has been identified as Violations 05200040/2011-201-01 and 05200041/2011-201-01.

FPL Response A:

(1) The reason for the violation.

FPL's New Nuclear Projects (NNP) personnel took credit for existing nuclear fleet procedures without an adequate or full assessment of the applicability of the existing 10 CFR 21 program to NNP. The existing procedures referred the evaluation and reporting of potential 10 CFR 21 deviations and failures to comply as they apply to the operating fleet plant sites. Therefore, there was insufficient guidance for evaluating and reporting potential 10 CFR 21 deviations or failures to comply for NNP, which is based in FPL's Juno Beach corporate headquarters.

The definitions in the nuclear fleet procedures had not been updated to address the definitions related to 10 CFR 52 early site permits, design certifications, or combined license applications because they did not apply to the operating fleet. FPL NNP failed to ensure that the definitions in the fleet procedures were updated to include 10 CFR 52 activities applicable to NNP prior to endorsing the fleet process.

(2) The corrective steps that have been taken and the results achieved.

FPL reviewed the nuclear fleet procedures related to 10 CFR 21 reporting utilized at its Juno Beach headquarters. FPL identified the procedure and process changes necessary to ensure that potential deviations and failures to comply are identified, tracked, evaluated, and reported in a timely manner consistent with 10 CFR 21. FPL reviewed the corrective action program, administrative and engineering evaluation procedures to ensure that there are clear connections between the procedures and that the procedures applied to 10 CFR 52 activities.

Specific procedure and programmatic changes that FPL has made to avoid future violations are discussed in item 3 below.

(3) The corrective steps that have been taken to avoid further violations.

- a. FPL revised QI-2-NNP-01, Quality Assurance During the Pre-Construction Phase of the PTN 6 & 7 New Nuclear Project, to clarify the 10 CFR 21 process in use. FPL revised the QI to reference the procedures and processes for 10 CFR 21 identification, evaluation, and reporting requirements as they apply to 10 CFR 52 activities.
- b. FPL revised PI-JB-1000, NAMS Action Tracking and Corrective Action Program Guideline, to clarify the meaning of the "PART 21 ISSUE" block in Attachment 4. The screening attribute for 10 CFR 21 issues has been clarified so it is only applied to 10 CFR 21 related potential deviations and failures to comply and not to 10 CFR 21 programmatic deficiencies.
- c. FPL revised IP-801, Evaluating and Reporting Defects and Failures to Comply for Substantial Safety Hazards in Accordance with 10 CFR Part 21, to provide a process for evaluating and reporting deviations or failures to comply related to 10 CFR 52 activities and to align the procedural definitions with the regulations for 10 CFR 52 related activities.
- d. FPL revised PI-AA-205, Condition Evaluation and Corrective Action, to clearly reference the NNP 10 CFR 21 evaluation and reporting guidance in IP-801 and site procedures.
- e. FPL revised NP-808, Evaluating and Reporting Defects and Failures to Comply for Substantial Safety Hazards in Accordance with 10 CFR Part 21, to address NNP reporting responsibilities for 10 CFR 52 related activities.
- f. FPL revised ENG-QI-2.2, 10 CFR 21 SSH Evaluation/Reporting, to address the evaluation of 10 CFR 52 related deviations and failures to comply and to align the evaluation criteria with the current regulations.
- g. FPL revised ENG-QI-6.6, Glossary, to align the definitions with the current regulations and to address 10 CFR 52 related activities.

(4) The date when full compliance will be achieved.

Full compliance was achieved on May 3, 2011.

Violation B:

Criterion XVI, "Corrective Action," of Appendix B, "Quality Assurance Program Criteria for Nuclear Power Plants and Fuel Reprocessing Plants," to 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," states, in part, that measures shall be established to ensure that conditions adverse to quality, such as failures, malfunctions, deficiencies, deviations, defective material and equipment, and nonconformances are promptly identified and corrected.

Section A.6 of FPL-1, "Quality Assurance Topical Report," Revision 8, dated October 22, 2010, states, in part, that a corrective action program is implemented to promptly identify, control, document, classify, and correct conditions adverse to quality.

Contrary to the above, as of March 4, 2011, FPL failed to establish measures to ensure conditions adverse to quality, such as deviations, and nonconformances are promptly identified and corrected. Specifically, FPL failed to promptly correct nonconformances identified in Action Request (AR) 00477542, "Control of RAI, RFI, and NRC Correspondence QA Records," dated May 11, 2010. In addition, FPL failed to correctly identify and document the existence of deviations in AR 01622965, "New Plant OE – Part 21 Reporting Procedure," dated February 23, 2011.

This issue has been identified as Violations 05200040/2011-201-02 and 05200041/2011-201-02.

FPL Response B:

(1) The reason for the violation.

a. AR 00477542

The corrective action for the nonconformance identified in Action Request (AR) 00477542, Control of RAI, RFI, and NRC Correspondence QA Records, dated May 11, 2010, was not properly tracked in the Fleet Corrective Action Program (CAP) which uses the Nuclear Asset Management System (NAMS). The corrective actions were tracked in the NNP project tracking tool (PTT) which does not require any validation or review prior to closure of action items. The action item (AI) portion of PTT is used to track project management action items and is not as robust as the CAP process. This allowed the action to be closed by the responsible engineer without properly tracking the issue to completion.

b. AR 01622965

The screening attribute for "PART 21 ISSUE" in PI-JB-1000, NAMS Action Tracking and Corrective Action Program Guideline, was not clear. The NAMS screening guideline attribute for 10 CFR 21 related issues were unclear and as a result were incorrectly applied to potential programmatic deficiencies of FPL's 10 CFR 21 process instead of only to specific deviations and potential failures to comply identified under the 10 CFR 21 program. The screening attribute for 10 CFR 21 issues should have been applied only to potential deviations and failures to comply.

(2) The corrective steps that have been taken and the results achieved.

a. AR 00477542

COLA related NRC requests for additional information (RAI), quality assurance (QA) records, COLA internal and contractor-related requests for information (RFI) QA records, and NRC correspondence-related QA records were transmitted for permanent storage. This action brought the record storage activity in compliance with project procedures and corrected the nonconformance identified in AR 00477542.

b. AR 01622965

FPL revised PI-JB-1000, NAMS Action Tracking and Corrective Action Program Guideline, to clarify the meaning of the "PART 21 ISSUE" block in Attachment 4. The screening attribute for 10 CFR 21 issues has been clarified so it is only applied to 10 CFR 21 related potential deviations or failures to comply and not to 10 CFR 21 programmatic deficiencies.

(3) The corrective steps that have been taken to avoid further violations.

a. AR 00477542

FPL determined that PTT system action item closure validation was not as robust as NAMS. Therefore, a recurring action item for submitting records to permanent storage per the project instruction has been entered into the routine work tracking (RWT) subsystem in NAMS, which requires a supervisory review and acceptance prior to closing.

FPL revised QI-2-NNP-01, Quality Assurance During the Pre-Construction Phase of the PTN 6 & 7 New Nuclear Project, Section 6.17 to further define record requirements for transfer to permanent storage. In-process documents and completed records are maintained in temporary storage cabinet(s). Records are not maintained in temporary storage for greater than 36 months. Records are transmitted for permanent storage within approximately 30 days of completion of the applicable activity. Access to temporary QA Records storage cabinets is controlled. Records custodians prepare and maintain a log or index of the QA records received and currently being stored in the temporary storage cabinet(s).

FPL also revised NNP-PI-03, Project Document Retention, to clarify the definition of project related QA records. The revision identified Turkey Point Unit 3 & 4 Document Control as the official repository for permanent QA records generated in connection with the PTN 6 & 7 Project. The revision specified the requirements for temporary storage of QA records and the time requirements for submitting QA records from temporary storage to permanent storage. The revision specified the process to be used to transmit project related QA records.

b. AR 01622965

The procedure revision to PI-JB-1000, which clarifies that the "PART 21 ISSUE" block in NAMS, applies only to 10 CFR 21 related potential deviations and failures to comply should prevent further violations due to the misapplication of screening criteria.

Specific procedural guidance is given in PI-JB-1000 that the "PART 21 ISSUE" check block does not apply to 10 CFR 21 program deficiencies.

(4) The date when full compliance will be achieved.

Full compliance was achieved on May 3, 2011.