



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION II
245 PEACHTREE CENTER AVENUE NE, SUITE 1200
ATLANTA, GEORGIA 30303-1257

March 4, 2013

EA-12-240

Mr. T. A. Lynch
Vice President
Southern Nuclear Operating Company, Inc.
Joseph M. Farley Nuclear Plant
P.O. Drawer 470, BIN B500
Ashford, AL 36312

SUBJECT: NOTICE OF VIOLATION – NUCLEAR REGULATORY COMMISSION OFFICE OF INVESTIGATIONS REPORT NO. 2-2012-011 AND NRC INSPECTION REPORT 05000348/2013009 AND 05000364/2013009

Dear Mr. Lynch:

This letter refers to an investigation initiated on February 2, 2012, by the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI). The purpose of the investigation was to review the circumstances surrounding missed fire watches that occurred at Southern Nuclear Operating Company's (SNC) Farley Nuclear Plant (FNP) between September and December 2011. The results of the investigation, including the identification of two apparent violations, were documented in NRC Inspection Report Nos. 05000348/2012008 and 05000364/2012008, dated January 9, 2013.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violations identified in the report by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In lieu of a predecisional enforcement conference, FNP provided a written response to the apparent violations, dated February 8, 2013. FNP did not contest the apparent violations, and provided details of its review of the matter and corrective actions.

Based on the information developed during the investigation and the information that you provided in your response of February 8, 2013, the NRC has determined that two violations of NRC requirements occurred. The violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in detail in the subject inspection report.

The violations occurred between September and December 2011, when four contract employees willfully failed to complete fire watch rounds required to ensure that Farley remained in compliance with 10 CFR 50.48, Fire Protection. In addition, these same employees falsified fire watch logs by annotating that hourly fire watches were completed when in fact they had not been performed. These actions caused FNP to be in violation of 10 CFR 50.48 together with a site implementing procedure requiring roving fire watch patrols, and 10 CFR 50.9(a), requiring the accurate and complete documentation of such fire watches.

In this case, the violations did not result in any actual consequences because there was no fire at the facility during the time period. In addition, the potential consequences of missed fire watches were low, due to the different forms of fire mitigation available such as fire detection systems, fire barriers, sprinklers, and fire extinguishers. Furthermore, FNP maintains a staffed fire brigade, and security and operations personnel conduct daily rounds throughout areas of the plant that overlap numerous fire watch areas.

However, the actions of multiple employees deliberately failing to complete fire watches and falsifying associated documentation is a concern. As discussed in the NRC Enforcement Policy, deliberate violations are of particular concern to the NRC because our regulatory program is based on licensees, contractors, and their employees acting with integrity. Based on the above, and in light of the interrelationship of the two violations, the NRC has concluded that the violations are appropriately characterized as a Severity Level III problem in accordance with the NRC Enforcement Policy.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$70,000 is considered for a Severity Level III problem. Because your facility has not been the subject of escalated enforcement actions within the last two years, the NRC considered whether credit was warranted for Corrective Action in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. As discussed in FNP's letter of February 8, 2013, corrective actions included but were not limited to: (1) the prompt initiation of an investigation into the matter, (2) an extent of condition review to determine whether the incident was isolated to one individual, (3) conduct of stand down meetings with the contractor to ensure performance expectations were clearly understood, (4) activities to improve active contractor oversight and control to verify the consistent performance of required fire watches, and (5) other SNC fleet activities to strengthen oversight of supplemental personnel. Based on the above, credit is warranted for the factor of Corrective Action.

Therefore, in recognition of your prompt and comprehensive corrective actions to preclude recurrence of similar future violations, I have been authorized, after consultation with the Director, Office of Enforcement, to propose that a civil penalty not be assessed in this case.

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket in FNP's letter of February 8, 2013. 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.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response (if you chose to provide one), will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, 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

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withholding of such information, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (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). The NRC also includes significant enforcement actions at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

For administrative purposes, this letter is issued as a separate NRC Inspection Report, No. 05000348/2013009 and 05000364/2013009. Accordingly, AVs 05000348/2012008-01 and -02 are closed, and VIO 05000364/2013009-01, Deliberate Failure to Conduct Fire Watches, is open.

Should you have any questions concerning this letter, please contact Mr. Rick Croteau at (404) 997-4500.

Sincerely,

/RA/

Victor M. McCree
Regional Administrator

Docket Nos.: 50-348, 50-364
License Nos.: NPF-2, NPF-8

Enclosure:
Notice of Violation

cc w/encl: (See page 4)

T. Lynch

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cc w/encl: (See page 4)

X PUBLICLY AVAILABLE NON-PUBLICLY AVAILABLE SENSITIVE X NON-SENSITIVE
ADAMS: Yes ACCESSION NUMBER: _____ X SUNSI REVIEW COMPLETE X FORM 665 ATTACHED

OFFICE	RII:DRP	RII:DRP	RII:DRP	RII:EICS		RII:ORA	RII:ORA
SIGNATURE	MOM /RA/	FJE /RA/	RPC /RA/	CFE /RA/			
NAME	MMiller	FEhrhardt	RCroteau	CEvans		LWert	VMcCree
DATE	02/20/2013	02/20/2013	02/20/2013	02/19/2013		02/25/2013	03/04/2013
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO
OFFICE	OE	NRR	OGC				
SIGNATURE	Via email	Via email	NLO				
NAME	LCasey	MHalter	MBarkman				
DATE	03/01/2013	03/01/2013	03/01/2013				
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

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cc w/encl:

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(cc w/encl continued next page)

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(cc w/encl continued)

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Chuck Mueller
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Electronic Mail Distribution

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Letter to T. A. Lynch from Victor M. McCree dated March 4, 2013

SUBJECT: NOTICE OF VIOLATION – NUCLEAR REGULATORY COMMISSION OFFICE OF INVESTIGATIONS REPORT NO. 2-2012-011 AND NRC INSPECTION REPORT 05000348/2013009 AND 05000364/2013009

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NOTICE OF VIOLATION

Southern Nuclear Operating Company, Inc.
Farley Nuclear Plant
Units 1 and 2

Docket Nos. 50-348, 50-364
License Nos. NPF-2, NPF-8
EA-12-240

During an NRC investigation initiated on February 2, 2012, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 50.48, *Fire Protection*, requires that a licensee must have a fire protection plan that, in part, outlines the plans for fire protection, fire detection, suppression capability, and limitation of fire damage.

Joseph M. Farley Nuclear Plant Renewed Facility Operating License, Unit 1 License Condition 2.C(4) and Unit 2 License Condition 2.C(6) {Amendments 175 and 168}, require in part, that Southern Nuclear implement and maintain in effect all provisions of the approved fire protection program as described in the Updated Final Safety Analysis Report (UFSAR) for the facility, which implements the fire protection requirements of 10 CFR 50.48 and 10 CFR 50, Appendix R.

The UFSAR requires, in part, that the fire protection program (FPP) meet Appendix A to Branch Technical Position (BTP) APCS 9.5-1, "Guidelines for Fire Protection for Nuclear Power Plants Docketed Prior to July 1, 1976," dated August 23, 1976.

Section C.2 of Appendix A to BTP APCS 9.5-1 requires, in part, that inspections, tests, administrative controls, fire drills and training that govern the fire protection program should be prescribed by documented instructions, procedures or drawings and should be accomplished in accordance with these documents.

Farley Administrative procedure FNP-0-AP-39 "Fire Patrols and Watches," Section 2.0, "Definitions," subsection 2.1, states: "A roving fire watch patrol that is assigned to monitor specific Fire Protection (FP) component impairment status and/or plant areas for indication of the presence of a fire or equipment status change. This is to be performed on an hourly basis such that each impairment is monitored at least once per 60 minutes (+/- 15 minutes)." Section 5.0, "Duties of Individuals Performing Fire Watches," subsection 5.1.4, states: "If for any reason the assigned fire watch must leave the area or cannot complete the assigned route, request the cognizant supervisor to provide a relief and notify the Fire Protection Administrator."

Contrary to the above, from September to December 2011, roving fire watch patrols assigned to monitor non-radiological areas for indication of the presence of a fire, due to impaired fire protection equipment, willfully failed to conduct hourly fire watch patrols as required by FNP-0-AP-39.

- B. 10 CFR 50.9(a), *Completeness and Accuracy of Information*, states in part that information required by the Commission's regulations, orders, or license conditions to be maintained by the licensee shall be complete and accurate in all material respects.

Enclosure

Farley Administrative procedure FNP-0-AP-39 "Fire Patrols and Watches," Section 5.4 "Hourly Fire Watch Patrols," states: "Document the performance of the fire watch in accordance with forms similar to Figure 1 as applicable." FNP-0-AP-39 contains the fire watch documentation log as Figure 1 of the procedure. The fire watch log is designated "R-Type-G7.12." R-Type-G7.12 has a record retention designation of "LP".

Administrative Procedure NMP-AD-025, "Quality Assurance and Non-Quality Assurance Records Administration," section 5.2.2.4, defines "LP" as "designated for those records to be maintained for Life of the Physical Plant Facility or for the life of a particular item while it is installed in the plant or stored for future use."

Contrary to the above, from September 2011 to December 2011, the licensee maintained records of hourly fire watch patrols that were not complete and accurate in all material respects. Specifically, fire watch patrol documentation as required by FNP-0-AP-39 annotated that hourly fire watches were completed when in fact such fire watches had not been performed. The hourly fire watch patrol data is material to the NRC in that it provides sufficient evidence of compliance with regulatory requirements.

This is a Severity Level III problem (Enforcement Policy paragraph 6.9).

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket in Farley Nuclear Plant's letter dated February 8, 2013. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation," include the EA number, and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, 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 the letter transmitting this Notice of Violation (Notice).

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), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

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

Dated this 4th day of March 2013

Enclosure