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52-026

ND-13-0681

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

Southern Nuclear Operating Company  
Vogtle Electric Generating Plant Units 3 & 4  
Reply to Notice of Violation 2013-007-001

Ladies and Gentlemen:

By letter dated March 12, 2013, the U.S. Nuclear Regulatory Commission (NRC) issued Inspection Report Numbers 05200025/2013-007 and 05200026/2013-007 concerning the inspection at Vogtle Electric Generating Plant (VEGP) Units 3 and 4.

The inspection report identified one Violation of NRC requirements. Enclosure 1 contains the response to Violation 05200025/2013-007-001, 05200026/2013-007-001.

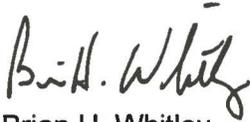
This letter contains NRC commitments as described in Enclosure 2.

If you have any questions regarding this letter, please contact Mr. Howard Mahan at (706) 437-6417.

Mr. Brian H. Whitley states he is the Regulatory Affairs Director 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



Brian H. Whitley

BHW/CHM/SDC

Enclosures: 1) Reply to a Notice of Violation 05200025/2013-007-001, 05200026/2013-007-001  
2) List of Regulatory Commitments

Sworn to and subscribed before me this 10<sup>th</sup> day of April, 2013

Notary Public: Kristin Marie Seibert

My commission expires: August 16, 2016



cc: Southern Nuclear Operating Company/ Georgia Power Company

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**Southern Nuclear Operating Company**

**ND-13-0681**

**Enclosure 1**

**Reply to a Notice of Violation**

**05200025/2013-007-001, 05200026/2013-007-001**

**Reply to a Notice of Violation 05200025/2013-007-001, 05200026/2013-007-001**

This enclosure provides Southern Nuclear Operating Company's (SNC's) reply to the Notice of Violation (NOV) issued to SNC by the U.S. Nuclear Regulatory Commission (NRC) in a letter dated March 12, 2013. The NOV was generated from NRC inspections ending on February 1, 2013 that were performed with the purpose of examining activities conducted under the combined license as they relate to safety and compliance with the Commission's rules and regulations and with the conditions of the license.

**Violation 05200025/2013-007-001, 05200026/2013-007-001 states:**

Regulations under 10 CFR 50.55(e)(3) require, in part, the licensee to adopt appropriate procedures to evaluate deviations and failures to comply and to identify:

(iii)(C) ... any significant breakdown in any portion of the quality assurance program conducted under the requirements of Appendix B to 10 CFR Part 50 which could have produced a defect in a basic component. These breakdowns in the quality assurance program are reportable whether or not the breakdown actually resulted in a defect in a design approved and released for construction, installation, or manufacture.

In addition, appropriate procedures must be adopted to:

(ii) Ensure that if an evaluation of an identified deviation or failure to comply potentially associated with a substantial safety hazard cannot be completed within 60 days from discovery of the deviation or failure to comply, an interim report is prepared and submitted to the Commission through a director or responsible officer or designated person as discussed in paragraph (e)(4)(v) of this section.

Contrary to the above, the adoption of the procedure for evaluating deviations and failures to comply was inadequate as follows:

- 1) From November 21, 2012, the licensee did not adopt adequate procedures to evaluate whether a significant breakdown in any portion of the quality assurance program conducted under the requirements of Appendix B could have produced a defect in a basic component. As evidenced by the evaluation in Southern Nuclear Company condition report 542665, the evaluations performed by the licensee implemented invalid criteria; specifically, 1) that a breakdown in source inspections alone could not produce a defect, and 2) that a breakdown in multiple areas of the quality assurance program was required for the condition to qualify as significant.
- 2) From March 9, 2012, the licensee failed to ensure procedures adopted by their agent for engineering, procurement, and construction were sufficient to identify significant breakdowns in any portion of the quality assurance program conducted under the requirements of Appendix B which could have produced a defect in a basic component. As evidenced by the following examples, evaluations prepared by Westinghouse Electric Corporation implemented invalid criteria; specifically, 1) procedure WEC 21.0 for evaluating reportability of breakdowns of quality assurance programs required a reportable breakdown to be manifested by degradation of multiple elements of the

quality program; and 2) the evaluation in issue report 12-062-M069 stated that significant breakdowns in quality assurance programs were not reportable unless an actual defect had resulted from the condition.

- 3) From March 9, 2012, the licensee did not adopt adequate procedures to ensure that if an evaluation of an identified deviation or failure to comply potentially associated with a substantial safety hazard cannot be completed within 60 days from discovery of the deviation or failure to comply, an interim report is prepared and submitted to the Commission through a director or responsible officer or designated person. The evaluation of Westinghouse issue report 12-062-M069 was conducted for a period of more than 180 days from discovery of the deviation and failure to comply without submittal of an interim report.

This is a Severity Level IV Violation.

**Reason(s) for Violation 05200025/2013-007-001, 05200026/2013-007-001:**

SNC accepts the violation and offers the following discussion regarding the circumstances which resulted in the violation:

SNC has contractually obligated its contractors to implement the regulatory requirements of 10 CFR 50.55(e), as appropriate. All members of the Vogtle 3&4 Consortium have procedures in place to implement 10 CFR 50.55(e). SNC has performed oversight on Chicago Bridge & Iron (formerly Shaw) and Westinghouse Electric Company, LLC (WEC) to ensure adequate implementation of 10 CFR 50.55(e). Misinterpretation by SNC led, in part, to the failure of SNC to identify inadequate implementation of the regulation by SNC and WEC.

For example 1 of the violation, objectionable criteria was used to evaluate whether condition report (CR) 542665 represented a reportable condition under the requirements of 10 CFR 50.55(e). SNC Nuclear Development (ND) did not discover any aspect of the evaluation to be objectionable prior to the NRC inspection because the interpretation by SNC of available regulatory guidance documents was not contrary to the position taken and criteria used in the evaluation of CR 542665.

Based on previously identified concerns from the NRC resident with regards to the adequate implementation of 10 CFR 50.55(e)(3)(iii)(C) reporting requirements, SNC ND took efforts to more clearly define the criteria to be used to perform an evaluation for reportability. Absent substantial relevant regulatory guidance, SNC ND utilized guidance from the recently revised enforcement policy regarding Construction Projects under 10 CFR 52 in coordination with a DRAFT Regulatory Basis Document submitted by the NRC for comments December 17, 2012 on Part 21 and 50.55(e). SNC's reliance on and interpretation of the referenced guidance documents caused SNC to misinterpret the 10 CFR 50.55(e) requirements as applied by NRC Region II during the January 2013 Inspection. Therefore the SNC procedure for reporting of defects and noncompliance did not adequately interpret and implement appropriate reporting requirements with regards to 10 CFR 50.55(e)(3)(iii)(C).

For example 2 cited above, the reason for the violation was the procedure used by WEC for evaluating deviations and failures to comply appeared to be inconsistent with 10 CFR 50.55(e)

leading to improper application. The Westinghouse procedure for "Identification and Reporting of Conditions Adverse to Nuclear Safety" contains criteria that address the requirements of 10 CFR 50.55(e) with respect to a Significant Breakdown in a Quality Assurance Program. Specifically, this procedure contains three criteria which are necessary for a condition to be considered "significant". The third criterion states that there must be "...a degradation of multiple elements of the quality program such that there is a loss of control over the activities." This is contrary to 10 CFR 50.55(e)(3)(iii)(C) which states in part that "Undergoes any significant breakdown in any portion of the quality assurance program."

For example 3 cited above, the reason for the violation was the procedure used for evaluating deviations and failures to comply was unclear leading to improper application. The information documented in the issue report 12-062-M069 did not provide clear objective evidence that 10 CFR 50.55(e)(3)(iii)(C) was considered in the reportability review on March 14, 2012. The discrepancy with the regulation and the procedure for evaluations under 10 CFR 50.55(e) to require a defect to consider reporting under 10 CFR 50.55(e) resulted in the time discrepancy noted in the NRC inspection report since as stated, "an actual defect had not resulted from the condition." Westinghouse procedural guidance is adequate to ensure that if an evaluation of an identified deviation or failure to comply potentially associated with a substantial safety hazard cannot be completed within 60 days from discovery of the deviation or failure to comply, an interim report is prepared and submitted to the Commission through a director or responsible officer or designated person.

**Corrective Steps Already Taken and Results Achieved:**

The following interim corrective actions have been put into place by SNC. These actions are enacted to ensure that SNC is compliant with the regulations and ensures that objectionable criteria are not used in evaluating a condition for reportability.

- An interim report was submitted to the NRC on February 4, 2013 titled "Interim 10 CFR 50.55(e) Report Regarding Control of Purchased Material, Equipment, and Services for AP1000 Project." This report encompasses the failure to comply identified in CR 542665 and as such, the Vogtle 3&4 project is in compliance with the regulations of 10 CFR 50.55(e).
- The SNC procedure for reporting of defects and noncompliance was revised and implemented to require Licensing Manager Approval for evaluations of reportability performed on potential Significant Quality Assurance (QA) Breakdowns.
- Training was provided to personnel performing screens and evaluations from Lessons Learned on objectionable criteria pertaining to a Significant QA Breakdown identified during the Inspection on the week of January 28 by Region II NRC inspectors.

Westinghouse opened a Corrective Action Issue Report (IR) to address the issue identified in examples 2 and 3. WEC provided an interim definition to supplement the WEC procedure for use by appropriate Westinghouse personal. This interim definition is compliant with the requirements of 10 CFR 50.55(e)(3)(iii)(C). In addition to the provision of a supplemental interim definition, familiarization to appropriate Regulatory Compliance staff was provided on the interim definition. The interim definition prevents the condition represented in examples 2 and 3

of noncompliance with 10 CFR 50.55(e). The fundamental change in definition includes the consideration of a reportable condition as a Significant Breakdown of a QA program that could result in a defect and ensures that the adequate procedural requirements for an interim report are correctly implemented and considered in a timely manner in accordance with regulatory requirements.

Westinghouse regulatory personnel also completed the extent of condition review and updated the issue evaluation for issue report 12-062-M069 utilizing the compliant interim definition requirements. The conclusion of that evaluation was that the condition remained not reportable.

**Corrective Steps That Will Be Taken To Avoid Further Violations:**

- SNC will revise and implement the SNC procedure for reporting of defects and noncompliance to provide unobjectionable criteria for the definition or defined attributes of a Significant QA Breakdown and to give guidance for the performance of evaluations with respect to the determination of a Significant QA Breakdown. Due date is September 30, 2013.

The revision will be the result of enhancement actions taken to establish common and unobjectionable implementation of the reporting requirements of 10 CFR 50.55(e) via industry consensus and NRC engagement.

- Westinghouse Procedure for Identification and Reporting of Conditions Adverse to Nuclear Safety will be revised to address the reporting criteria to remove any ambiguity in its application. Due date is September 30, 2013.
- Formal training which is provided to Westinghouse Personnel for the WEC Procedure for Identification and Reporting of Conditions Adverse to Nuclear Safety will also be revised to ensure the requirements of 10 CFR 50.55(e)(3)(iii)(C) are fully understood by Westinghouse personnel involved in support of the licensee. Due date is September 30, 2013.

**Date When Full Compliance Will Be Achieved:**

Full compliance will be achieved by September 30, 2013.

**Southern Nuclear Operating Company**

**ND-13-0681**

**Enclosure 2**

**Vogtle Electric Generating Plant (VEGP) Units 3 and 4**

**List of Regulatory Commitments**

### List of Regulatory Commitments

The following table identifies those actions committed to by the Southern Nuclear Operating Company in this submittal. Any other statements are provided for information purposes and are not considered to be regulatory commitments.

Regulatory Commitments	Due Date
1) SNC will revise and implement the SNC procedure for reporting of defects and noncompliance to provide unobjectionable criteria for the definition or defined attributes of a Significant QA Breakdown and to give guidance for the performance of evaluations with respect to the determination of a Significant QA Breakdown.	September 30, 2013
2) Westinghouse Procedure for Identification and Reporting of Conditions Adverse to Nuclear Safety will be revised to address the reporting criteria to remove any ambiguity in its application.	September 30, 2013
3) Formal training which is provided to Westinghouse Personnel for the WEC Procedure for Identification and Reporting of Conditions Adverse to Nuclear Safety will also be revised to ensure the requirements of 10 CFR 50.55(e)(3)(iii)(C) are fully understood by Westinghouse personnel involved in support of the licensee.	September 30, 2013