



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

June 18, 2013

EA-13-019

Mr. Michael D. Skaggs
Senior Vice President
Nuclear Generation Development and Construction
Tennessee Valley Authority
6A Lookout Place
1101 Market Street
Chattanooga, TN 37402-2801

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY -
\$70,000, NRC INSPECTION REPORT NUMBER 05000391/2013614

Dear Mr. Skaggs:

This letter refers to the inspection conducted between December 3 and 7, 2012, and between January 10 and February 14, 2013, at the Watts Bar Nuclear Plant Unit 2 (WB2). The purpose of the inspection was to perform a focused problem identification and resolution sample of Tennessee Valley Authority's (TVA) corrective actions for a previously noted violation associated with your commercial grade dedication program (see NRC Inspection Report 05000391/2011610, ADAMS Accession # ML12034A202). The results of this inspection, including the identification of three apparent violations (AVs), were discussed with you on February 14, 2013.

At your request, a predecisional enforcement conference was held at the NRC's Region II office on May 7, 2013, to discuss TVA's views on these issues. A meeting summary was issued on May 14, 2013, which included copies of the slide presentation made by TVA (ML13134A398). During the meeting, your staff described TVA's assessment of the significance of the findings, the corrective actions planned and taken, and the results of your root cause evaluations of the findings.

Based on our review of the information developed during the inspection, the information that you provided during and after the conference, as well as our independent evaluation, the NRC has determined that three violations of NRC requirements occurred. These violations are cited in the enclosed Notice of Violation (Notice). The circumstances surrounding them are described in detail in NRC Inspection Report No. 05000391/2013611 (ML13085A258), issued March 26, 2013.

The first violation involved a breakdown of the 10 CFR Part 50, Appendix B quality assurance (QA) program in the single work area of commercial grade dedication (CGD). Specifically, since at least 2008, TVA failed to translate or include the 10 CFR Part 21 definition of critical characteristic in its procedure NEDP-8, "Technical Evaluation for Procurement of Materials and

Services.” As such, TVA was not verifying critical characteristics for an unknown number of safety-related items procured for the WB2 project starting from the resumption of construction activities in 2008. A still undetermined total number of these items were installed in the facility. A second violation involved a failure to report the aforementioned breakdown in the QA program as required by 10 CFR 50.55(e)(4) and (5). An extent of condition analysis completed in May 2012 provided sufficient information to reasonably indicate that a significant breakdown in the QA program had occurred. However, it was not until January 3, 2013, that TVA submitted its initial report on the CGD QA program (Event Notification Report 48646), and that initial report failed to indicate that a significant breakdown had occurred. The apparent cause of this violation was the failure of procedure NC-PP-13, “Reporting Requirements,” Rev. 0 to require a significant breakdown of the QA program be reportable whether or not the breakdown actually resulted in a defect. The third violation involved the failure to identify a significant condition adverse to quality related to the previously mentioned breakdown in the QA program. The corrective action program entry for this issue was originally categorized as a “C” level problem evaluation report (PER) in July 2011, which adequately reflected the understood circumstances as a condition adverse to quality. Following the extent of condition analysis in May 2012, the corrective action categorization was required to be reevaluated in accordance with procedure NC-PP-3, “Watts Bar Unit 2 Corrective Action Program,” Rev. 15, because the condition was found to be more significant than originally reported. However, it was not until December 6, 2012, after prompting by NRC inspectors, that TVA rescreened the issue as an “A” level concern, which adequately reflected the issue as a significant condition adverse to quality.

The NRC evaluated the significance of these violations using the Enforcement Policy. For facilities under construction, the NRC considers the potential consequences of the violations on the quality of construction and its resulting effect on the safety and security of the facility. For reactor construction projects, the Enforcement Policy emphasizes the effectiveness of the QA program. The emphasis on effective implementation of the QA program reflects the lessons learned by the industry and the NRC during the original construction of the current operating fleet, as documented in NUREG 1055, “Improving Quality and the Assurance of Quality in the Design and Construction of Nuclear Power Plants.” The Enforcement Policy for operating reactors has been revised over the years to de-emphasize the “programmatic” aspects of the QA program as the operating fleet matured. Aspects of the mature nature of the operating fleet typically include stable workforces of highly trained and experienced staff who perform generally repetitive tasks and have performance indicators that allow continuous tracking of the plants’ performance, including system and component functionality. Construction projects, however, involve large numbers of workers, many of whom rotate through the project and do not have the opportunity to gain experience that staff at operating reactors have. Aspects of the QA program are often delegated to contractors and subcontractors for implementation. There are many activities being performed concurrently, and there are few performance indicators that can provide quick indication of potential inadequacies in construction. For these reasons, the additional emphasis on the effective implementation of the QA program during reactor construction contained in the Enforcement Policy was carried into the recently created Construction Reactor Oversight Process, as documented in NRC Inspection Manual Chapter 2519P, “Construction Significance Determination Process – Pilot.”

The NRC acknowledges that the testing you have completed to date has not indicated that there would have been a loss of safety function as a result of the incorrectly dedicated components. However, the potential consequences of the QA breakdown in the work area of commercial grade dedication were credible and significant because a majority of commercially dedicated items to be used in safety-related applications were of an unknown quality at the time of inspection. Additionally, the breakdown in the QA program was not reported to the NRC when

that information was reasonably apparent. In this case, had TVA formally reported the QA breakdown as required, the NRC may have conducted substantial further inquiry at a time well before the December 2012 inspection. Finally, the failure to identify the QA breakdown as a significant condition adverse to quality represented a lack of oversight in the implementation of TVA's corrective action program. Based on their interrelated nature, these violations have been characterized collectively as a severity level III problem in accordance with the Enforcement Policy.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$70,000 is considered for a severity level III problem. Because your facility has been the subject of escalated enforcement within the past two years¹, the NRC considered whether credit was warranted for identification and corrective action in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. With regard to the factor of identification, the NRC has concluded that credit is not warranted because the violations and the programmatic nature of the CGD issues were identified during the NRC's December 2012 inspection, and formally communicated to TVA as three AVs during the NRC's February 14, 2013 exit.

With regard to the factor of corrective action, the NRC has concluded that credit is warranted based on the following corrective actions taken by TVA which included, but were not limited to: 1) review of 100 percent of all CGD packages applicable to the WB2 project; 2) revision of all CGD packages needing technical revision; 3) review of contractor audit coverage and issuance of a QA surveillance/audit schedule; 4) review of CGD packages for material purchased or installed; 5) revision of the CGD procedure to reflect the 10 CFR Part 21 definition of critical characteristic; 6) training of staff to industry CGD standards; 7) creating and staffing a new position with CGD responsibilities; 8) suspending procurement and installation of items obtained using the originally defined CGD process; 9) revision of the reporting requirements procedure; 10) review of "A" and "B" level PERs for indications of reportable significant programmatic breakdowns; 11) review of "C" level PERs for additional evaluation of significant potential programmatic breakdowns; and 12) revision of corrective action documents to reflect a significant condition adverse to quality and take additional actions in accordance with the corrective action program. The NRC also noted that TVA continues to complete testing for safety function of procured or installed items.

Therefore, to emphasize the importance of maintaining effective commercial grade dedication that fully incorporates design control requirements, promptly reporting breakdowns in the quality assurance program, and promptly identifying significant conditions adverse to quality, I have been authorized, after consultation with the Director, Office of Enforcement, to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty in the base amount of \$70,000 for the severity level III problem.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. If you have additional information you believe the NRC should consider, you may provide it in your response to the Notice. The NRC's review of your response to the Notice will also include a determination regarding whether further enforcement action is necessary to ensure compliance with regulatory requirements.

If you disagree with the violation and proposed imposition of a civil penalty, you may either follow the instructions in the attached NOV or request alternative dispute resolution (ADR) with

¹ A confirmatory order was issued to WB2 on June 18, 2012 (EA-12-021).

the NRC. ADR is a general term encompassing various techniques for resolving conflict outside of court using a neutral third party. The technique that the NRC has decided to employ is mediation. In mediation, a neutral mediator with no decision-making authority helps parties clarify issues, explore settlement options, and evaluate how best to advance their respective interests. The mediator's responsibility is to assist the parties in reaching an agreement. However, the mediator has no authority to impose a resolution upon the parties. Mediation is a confidential and voluntary process. If the parties to the ADR process (the NRC and TVA) agree to use ADR, they select a mutually agreeable neutral mediator and share equally the cost of the mediator's services. Additional information concerning the NRC's ADR program can be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as an intake neutral. Intake neutrals perform several functions, including: assisting parties in determining ADR potential for their case, advising parties regarding the ADR process, aiding the parties in selecting an appropriate mediator, explaining the extent of confidentiality, and providing other logistic assistance as necessary. Please contact ICR at (877) 733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR.

For administrative purposes, this letter is issued as a separate NRC Inspection Report, No. 05000391/2013614. Accordingly, AVs 05000391/2013611-01, 05000391/2013611-02, and 05000391/2013611-03 are updated consistent with the regulatory positions described in this letter. Therefore AV 05000391/2013611-01, Commercial Grade Dedication Program Breakdown is updated as VIO 05000391/2013611-01; AV 05000391/2013611-02, Failure to Make a Required 10 CFR 50.55(e) Report, is updated as VIO 05000391/2013611-02; and AV 05000391/2013611-03, Failure to Identify Significant Condition Adverse to Quality, is updated as VIO 05000391/2013611-03. As discussed above, these violations have been characterized collectively as a severity level III problem in accordance with the Enforcement Policy.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and 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>. The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

Should you have any questions concerning this letter, please contact Mr. Randy Musser at (404) 997-4603.

Sincerely,

/RA by Frederick D. Brown for/

Victor M. McCree
Regional Administrator

Docket No. 50-391
Construction Permit No. CPPR-92

Enclosures:

1. Notice of Violation and Proposed Imposition of Civil Penalty
2. NUREG/BR-0254 Payment Methods (Licensee only)

Should you have any questions concerning this letter, please contact Mr. Randy Musser at (404) 997-4603.

Sincerely,

/RA by Frederick D. Brown for/

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Regional Administrator

Docket No. 50-391
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*For pervious concurrence see attached page

■PUBLICLY AVAILABLE

NON-PUBLICLY AVAILABLE ☐ SENSITIVE

■NON-SENSITIVE

ADAMS: ■ Yes ACCESSION NUMBER: ML13169A030

■SUNSI REVIEW COMPLETE

OFFICE	RII:DCI	RII:DCI	RII:DCI	RII:ORA/DRAC	RII:EICS	HQ:NRR	HQ:NRO
SIGNATURE	/RA/ ECM2*	/RA/ RXM1*	/RA/ JTY	/RA/ FDB	/RA/ CFE*	/RA/ MKG1	/RA/ VXH
NAME	E. Michel	R. Musser	J. Yerokun	F. Brown	C. Evans	M. Halter	V. Hall
DATE	5/28/2013	5/28/2013	5/ /2013	5/31/2013	5/29/2013	06/03/2013	06/05/2013
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO
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SIGNATURE	/RA/ RXF	/RA/ MLB9	/RA/ FDB for				
NAME	R. Fretz	M. Barkman	V McCree				
DATE	6/13/2013	6/13/2013	6/18/2013				
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

OFFICIAL RECORD COPY DOCUMENT NAME: G:\CC\INSPECTION REPORTS\WATTS
BAR\2013\WBN2 FINAL ENFORCEMENT PACKAGE 2013-614\EA-13-019 WB2 SLIII WITH CP FINAL.DOCX

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Tennessee Valley Authority
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Watts Bar 2 Licensing
Tennessee Valley Authority
Electronic Mail Distribution

Letter to Michael D. Skaggs from Victor M. McCree dated June 18, 2013.

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY -
\$70,000, NRC INSPECTION REPORT NUMBER 05000391/2013614

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NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

Tennessee Valley Authority (TVA)
Watts Bar Nuclear Plant, Unit 2
Spring City, Tennessee

Docket No. 50-391
Construction Permit No. CPPR-92
EA-13-019

During an NRC inspection conducted between December 3 and 7, 2012, and between January 10 and February 14, 2013, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the NRC proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violations and associated civil penalty are set forth below:

- A. 10 CFR 50, Appendix B, Criterion III, "Design Control," requires, in part, that measures be established to assure that applicable regulatory requirements are correctly translated into specifications, drawings, procedures, and instructions; and that measures be established for the selection and review for suitability of application of materials, parts, equipment, and processes that are essential to the safety-related functions of the structures, systems, or components (SSCs).

10 CFR 21.3 defines the dedication process to be undertaken to provide reasonable assurance that a commercial grade item to be used as a basic component will perform its intended safety function and, in this respect, is deemed equivalent to an item designed and manufactured under a 10 CFR 50, Appendix B, QA program. This assurance is achieved by identifying critical characteristics of the items and verifying their acceptability by inspections, tests, or analysis. 10 CFR 21.3 defines critical characteristics, in part, as those important design, material, and performance characteristics of a commercial grade item that, once verified, will provide reasonable assurance that the item will perform its intended safety function.

Contrary to the above, prior to December 2, 2011, the applicant failed to assure that 10 CFR Part 21 regulatory requirements for commercial grade dedication (CGD) were correctly translated into specifications, drawings, procedures, and instructions; and failed to adequately establish measures for the selection and review for suitability of application of materials, parts, equipment, and processes that are essential to the safety-related functions of the SSCs. Specifically, the applicant failed to translate the 10 CFR 21.3 definition of "critical characteristics" into NEDP-8, "Technical Evaluation for Procurement of Materials and Services," Rev. 0018, which resulted in insufficient measures for the selection of material, parts, and equipment essential to safety-related functions. As such, TVA was not verifying critical characteristics for all safety-related items procured for the Watts Bar, Unit 2 facility, starting from the resumption of construction activities in 2008. A still undetermined number of these items were installed in the facility.

- B. 10 CFR 50.55(e)(4)(iii) states that, "The holder of a facility construction permit subject to this part, combined license, or manufacturing license, who obtains information reasonably indicating that the quality assurance program has undergone any significant breakdown discussed in paragraph (e)(3)(iii)(C) of this section must notify the Commission of the breakdown in the quality assurance program through a director or

responsible officer or designated person as discussed in paragraph (4)(v) of this section.”

10 CFR 50.55(e)(5) requires the notification required by 10 CFR 50.55(e)(4), be filed, initially, to the NRC Operations Center within 2 days following receipt of the relevant information, and to the NRC Document Control Desk within 30 days of receipt of the information.

Contrary to the above, in May 2012 the applicant obtained information reasonably indicating that the quality assurance program had undergone a significant breakdown which could have produced a defect in a basic component and did not notify the Commission. The applicant submitted an initial event notification report to the Headquarters Operations Officer on January 3, 2013 (Event Notification Report 48646), and two interim reports on January 31, 2013, and May 6, 2013 (ML13037A455 and ML13129A176). None of these reports explicitly acknowledged or stated that a significant programmatic breakdown had occurred.

- C. 10 CFR 50 Appendix B Criterion XVI, “Corrective Action,” requires, in part, that measures shall be established to assure that in the case of a significant condition adverse to quality (SCAQ), the cause of the condition is determined and corrective action taken to preclude repetition. The identification of a SCAQ, the cause of the condition, and the corrective action taken shall be documented and reported to the appropriate levels of management.

TVA procedure NC-PP-3, “Watts Bar Unit 2 Corrective Action Program,” Rev.15, paragraph 3.2.2.15 requires that, “If during the development of the corrective action plan, extent of condition, apparent cause or RCA, the condition is found to be more significant than initially reported or additional scope needs to be added to the problem description, then the PER shall be returned for screening and PRC/CCMRC review for upgrading.” Additionally, the Appendix A definition of a Significant Condition Adverse to Quality includes, “A programmatic or process breakdown that...places doubt on the integrity of the affected program.”

Contrary to the above, the breakdown in the CGD process was not identified as a SCAQ following the May 2012 extent of condition review. It was not until December 6, 2012, after prompting by NRC inspectors, that the applicant rescreened the issue to adequately reflect that it was a significant condition adverse to quality.

This is a Severity Level III problem (Enforcement Policy Sections 6.5 [A], and 6.9 [B]).
Civil Penalty - \$ 70,000. (EA-13-019)

Pursuant to the provisions of 10 CFR 2.201, TVA is hereby required to submit a written statement or explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice of Violation and Proposed Imposition of Civil Penalty. This reply should be clearly marked as a "Reply to a Notice of Violation: (EA-13-019)" and should include for each alleged violation: (1) admission or denial of the alleged violation; (2) the reasons for the violation if admitted, and if denied, the basis for denying the validity of the violation; (3) the corrective steps that have been taken and the results achieved; (4) the corrective steps that will be taken; and (5) the date when full compliance will be achieved.

Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, the NRC may issue an order or a Demand for Information requiring you to explain why your license should not be modified, suspended, or revoked or why the NRC should not take other action as may be proper. Consideration may be given to extending the response time for good cause shown.

Within the same time provided for the response required under 10 CFR 2.201, TVA may pay the civil penalty proposed above, in accordance with NUREG/BR-0254 and by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, a statement indicating when and by what method payment was made, or may protest imposition of the civil penalty in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should the Licensee fail to answer within 30 days of the date of this Notice, the NRC will issue an order imposing the civil penalty. Should TVA elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violations listed in this Notice, in whole or in part; (2) demonstrate extenuating circumstances; (3) show error in this Notice; or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the response should address the factors addressed in Section 2.3.4 of the Enforcement Policy. Any written answer addressing these factors pursuant to 10 CFR 2.205, should be set forth separately from the statement or explanation provided pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of TVA is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205 to be due, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The responses noted above, i.e., Reply to Notice of Violation, Statement as to payment of civil penalty, and Answer to a Notice of Violation, should be addressed to: Roy Zimmerman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region II, and a copy to the NRC Senior Resident Inspector at Watts Bar Unit 2.

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), to the extent possible, it should not include any personal privacy or proprietary information so that it can be made available to the public without redaction. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. If personal privacy or proprietary information is necessary to provide an acceptable response, then 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 that such material is withheld from public disclosure, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim (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). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

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

Dated this 18th day of June, 2013