



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
245 PEACHTREE CENTER AVENUE N.E., SUITE 1200
ATLANTA, GEORGIA 30303-1200

January 4, 2022

EA-21-026

Ms. Cheryl A. Gayheart
Regulatory Affairs Director
Southern Nuclear Operating Co., Inc.
3535 Colonnade Parkway
Birmingham, AL 35243

SUBJECT: VOGTLE ELECTRIC GENERATING PLAN UNITS 1 & 2 –
NRC INVESTIGATION REPORT 2-2020-014 AND NOTICE OF VIOLATION –
NRC INSPECTION REPORT NOS. 05000424/2021090 AND 05000425/2021090

Dear Ms. Gayheart:

This letter refers to the investigation conducted from May 21, 2020 – March 1, 2021, by the Nuclear Regulatory Commission (NRC) Office of Investigations (OI) at Southern Nuclear Operating Company's (SNC) Vogtle Electric Generating Plant (Vogtle), Units 1 and 2. The purpose of the inspection and investigation was to determine whether a Senior Reactor Operator (SRO) deliberately failed to report a specific medication change. The results of the OI investigation, including one apparent violation (AV) and a factual summary of the investigation, were included in the NRC's letter issued to SNC on September 14, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21257A238).

In the letter transmitting the apparent violation and factual summary of the investigation, we provided you with the opportunity to address the apparent violation identified in the report by either attending a predecisional enforcement conference, by providing a written response, or by requesting resolution of the enforcement aspects via Alternative Dispute Resolution (ADR), before we made our final enforcement decision. In SNC's Letter NL-21-0887, dated October 19, 2021, you provided a written response to the apparent violation (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21292A311).

SNC's letter of October 19, 2021 documented its agreement that a violation of 10 CFR 50.9(a) and 10 CFR 55.27 occurred as stated in the NRC's September 14, 2021 letter. SNC also documented its corrective actions taken upon discovery of the violation, and actions taken to preclude recurrence of future violations. SNC's letter also provided substantial additional information for the NRC's consideration. In particular, SNC noted that based on its identification of the violation and the promptness and comprehensiveness of corrective actions, a civil penalty is not warranted. Additionally, based on its view of various sections of the Enforcement Policy, and previously issued enforcement actions for similar issues at other facilities (i.e., also willful but not escalated enforcement), SNC concluded that the willful aspects of this violation do not warrant escalated enforcement action.

Based on the information developed during the investigation, and the information that you provided in your response, the NRC has determined that a violation of NRC requirements occurred. This violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it were previously described in detail in the NRC's letter to SNC Vogtle on September 14, 2021 (ADAMS Accession No ML21257A238). The violation provided in the enclosed Notice involves SNC's failure to maintain complete and accurate information related to the SRO's medical history, in accordance with 10 CFR 50.9. Specifically, information maintained by SNC Vogtle did not accurately reflect the prescribed medications or doses that the former SRO was actually taking while he was performing the functions of an SRO senior operator from approximately June 2015 through May 2020.

No actual consequences occurred to the facility as a result of SNC's failure to maintain complete and accurate information regarding medical qualification data for a senior operator. However, the potential consequences of SNC's failure to maintain accurate information are significant. Because SNC's failure to maintain accurate information represented a lack of awareness of the medical status of a senior operator for several years, SNC could not adequately assess whether the senior operator was medically qualified to perform all necessary licensed duties. Additionally, the NRC relies on the completeness and accuracy of such information to provide the necessary assurance that licensed operators meet all medical requirements. In this case, the NRC did not have accurate information to make an assessment of the senior operator's medical status and the need to modify his senior reactor operator license. Additionally, as articulated in the NRC's Enforcement Policy, it is NRC policy to hold facility licensees responsible for the acts of their employees. Willful violations are of particular concern to the Commission because the NRC's regulatory program is based on licensees and their contractors, employees, and agents acting with integrity and communicating with candor. As such, a violation may be considered more significant than the underlying noncompliance if it includes indications of willfulness. In light of the above, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III.

Because your facility has not been the subject of escalated enforcement actions within the last 2 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. Your corrective actions included: 1) removal of the SRO's qualifications pending the Medical Review Officer's evaluation; 2) termination of the SRO's employment; 3) Operations management's reaffirmation of their expectation that all licensed operators to promptly report medical status changes; and 4) verification that the initial licensed operator training program includes this expectation for new operator applicants. Therefore, credit was warranted for the civil penalty assessment factor of *Corrective Action*.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, to propose that a civil penalty not be assessed in this case. However, significant violations in the future could result in a civil penalty.

The NRC has concluded that information regarding: (1) the reason for the violation; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in NRC's letter to SNC on September 14, 2021 (ADAMS Accession No ML21257A238) and in your October 19, 2021 Letter NL-21-0887 (ADAMS Accession No. ML21292A311). 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.

For administrative purposes, this letter is issued as NRC IR 05000424/2021090 and 05000425/2021090. The original AV and the circumstances surrounding it were previously described in detail in the NRC's letter to SNC Vogtle on September 14, 2021 (ADAMS Accession No. ML21257A238), and was assigned violation tracking number AV 05000424, 05000425/2021401-01. AV 05000424, 05000425/2021401-01 has been re-designated as Notice of Violation (NOV) 05000424, 05000425/2021401-01.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice and Procedure," a copy of this letter, its enclosure, and any response will be made available electronically for public inspection in the NRC Public Document Room and in the NRC's Agencywide Documents Access and Management 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/>).

If you have any questions concerning this matter, please contact Mr. Eugene Guthrie of my staff at (404) 997-4662.

Sincerely,

Laura A.
Dudes

Digitally signed by
Laura A. Dudes
Date: 2022.01.04
12:35:08 -05'00'

Laura A. Dudes
Regional Administrator

Docket No.: 50-424, 50-425
License No.: DPR-68, DPR-81

Enclosure:
Notice of Violation

cc w/encl: Distribution via ListServ

SUBJECT: VOGTLE ELECTRIC GENERATING PLANT - NRC INVESTIGATION REPORT
2-2020-014 AND NRC INSPECTION REPORT NOS. 05000424/2021090 AND
05000425/2021090

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NOTICE OF VIOLATION

Southern Nuclear Operating Company (SNC)
Vogtle Electric Generating Plant, Units 1 & 2 (Vogtle)

Docket Nos. 50-424, 50-425
License Nos. DPR-68, DPR-81
EA-21-026

During an NRC investigation conducted from May 21, 2020 to March 1, 2021, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR § 50.9(a), "Completeness and accuracy of information" states, in part, that information provided to the Commission by an applicant for a license or by a licensee or information required by statute or by the Commission's regulations, orders, or license conditions to be maintained by the applicant or the licensee shall be complete and accurate in all material respects.

10 CFR § 55.27, "Documentation" states that the facility licensee shall document and maintain the results of medical qualifications data, test results, and each operator's or senior operator's medical history for the current license period and provide the documentation to the Commission upon request. The facility licensee shall retain this documentation while an individual performs the functions of an operator or senior operator.

Contrary to the above, during the period from June 19, 2015 through May 5, 2020, SNC Vogtle failed to maintain complete and accurate medical qualification data for a senior operator in accordance with 10 CFR 50.9. 10 CFR 55.27 requires facility licensees to document and maintain medical qualification information and provide the information to the NRC on request. Specifically, medical qualification records for a senior operator failed to completely and accurately document the prescribed medications the senior operator was actually taking, including the doses. The medical qualification information is material to the NRC because the information directly influences the NRC's licensing decisions concerning medical qualification conditions imposed on the senior operator's license.

This is a Severity Level III violation (NRC Enforcement Policy, Section 6.9).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved are already adequately addressed on the docket in the NRC's September 14, 2021 letter to SNC Vogtle (ADAMS Accession No ML21257A238) and in SNC's October 19, 2021 response (Letter NL-21-0887, ADAMS Accession No. ML21292A311). 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).

Enclosure

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 January 2022

Enclosure