



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET SW SUITE 23T85
ATLANTA, GEORGIA 30303-8931**

January 10, 2002

EA-01-316
EA-01-317

Tennessee Valley Authority
ATTN: Mr. J. A. Scalice
Chief Nuclear Officer and
Executive Vice President
6A Lookout Place
1101 Market Street
Chattanooga, TN 37402-2801

SUBJECT: NOTICE OF VIOLATION, SEQUOYAH NUCLEAR PLANT (NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-2000-019A AND INSPECTION REPORT NOS. 50-327/01-07, 50-328/01-07)

Dear Mr. Scalice:

This is in reference to an investigation conducted by the Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) between July 3, 2000, and November 28, 2001, and an in-office review of an Apparent Violation (AV) discussed in NRC Inspection Report Nos. 50-327,328/00-06, issued on October 30, 2000. The AV (AV 50-327,328/00-06-02) involved the failure to search an individual prior to granting access to the protected area in accordance with access control procedures. The purpose of the OI investigation was to review the circumstances surrounding the personal search of an individual entering the protected area access portal at Tennessee Valley Authority's (TVA) Sequoyah Nuclear Plant on April 19, 2000. The investigation sought to determine whether security personnel failed to adhere to security procedures, whether the security manager ordered a security shift coordinator to violate security procedures, and whether the shift coordinator intimidated a contract security officer who was ordered to violate security procedures. The synopsis to the OI report and a summary of the report is included as Enclosures 2 and 3, respectively.

Based on the information developed during the investigation and inspections, 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 reports and Enclosure 3. The first violation involves the failure to adhere to Sequoyah Nuclear Plant Physical Security Instruction PHYSI-32, Security Instructions for Members of the Security Force, Revision 24, as required by the Sequoyah Physical Security Plan. This procedure required that individuals entering the protected area shall be subjected to a personal search, including processing through the metal detector. This procedure further provided that if an alarm is received on the metal detector, the individual who caused the alarm shall be asked to ensure that all metal is removed (including shoes) and to process through the metal detector again. Should the individual alarm the detector again, the procedure required a member of the security force to physically search the individual. In this case, security personnel failed to follow this procedure on April 19, 2000, in that a senior licensee official was physically

searched after receiving an alarm instead of being requested to remove his shoes and process through the metal detector again. Although the violation was of very low safeguards significance because an adequate search was conducted, the NRC determined that the failure to follow PHYSI-32 was deliberate. Therefore, in accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions," NUREG-1600 (Enforcement Policy), this violation is characterized at Severity Level IV. The NRC has also determined that this violation should be cited with a written response required because of the deliberate nature of the non-compliance. For tracking purposes, this violation is identified as Violation 50-327,328/01-07-01, Failure to adhere to personal search procedure, and AV 50-327,328/00-06-02 is closed.

The NRC also concluded that a violation of 10 CFR 50.7, Employee Protection, occurred. Prior to the senior licensee official's arrival, the security manager instructed the security shift coordinator to advise security personnel that the senior licensee official should not be requested to remove his shoes should he receive an alarm while processing through the metal detector. The security shift coordinator subsequently instructed the security personnel not to require the licensee official to remove his shoes should he receive an alarm. The contract security officer became aware of the instruction and subsequently voiced his concern to the security shift coordinator. The verbal communications between the security shift coordinator and the contract security officer included a discussion that failure to adhere to this instruction might result in termination. Based on these events, the NRC concluded that the contract security officer was intimidated as a result of the communication, and subsequently acquiesced and deliberately did not follow the search procedure. In accordance with the Enforcement Policy, this violation is characterized at Severity Level IV based primarily on the uncertainty of the intent of the verbal communications, and the low underlying safeguards significance of the procedural violation (i.e., the procedure was subsequently revised to allow security guards the discretion to conduct a physical search instead of requiring an individual to remove his or her shoes and process through the metal detector again). The NRC has also determined that this violation should be cited with a written response required to ensure our understanding of any corrective actions that have been taken or planned to address safety conscious work environment issues at the site, given the relatively widespread knowledge of this event. This violation is identified as Violation 50-327,328/01-07-02, Discrimination against a contract security officer.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements. The NRC also requests that you address any broad corrective actions taken or planned as a result of the violation of 10 CFR 50.7 to address safety conscious work environment issues at the site.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response to the Notice will be available electronically for public inspection in the NRC Public Document Room (PDR) or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). To the extent possible, your response

TVA

3

should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR and PARS without redaction.

If you have any questions regarding this matter, please contact Paul Fredrickson, Chief, Projects Branch 6 at 404-562-4530.

Sincerely,

/RA/ L. Wert for

Victor M. McCree, Acting Director
Division of Reactor Projects

Docket Nos. 50-327, 50-328
License Nos. DPR-77, DPR-79

Enclosures:

1. Notice of Violation
2. Synopsis to OI Report 2-2000-019A
3. Summary of OI Report 2-2000-019A

TVA

4

cc w/encls:

Karl W. Singer
Senior Vice President
Nuclear Operations
Tennessee Valley Authority
Electronic Mail Distribution

Jon R. Rupert, Vice President (Acting)
Engineering and Technical Services
Tennessee Valley Authority
Electronic Mail Distribution

Richard T. Purcell
Site Vice President
Sequoyah Nuclear Plant
Electronic Mail Distribution

General Counsel
Tennessee Valley Authority
Electronic Mail Distribution

Robert J. Adney, General Manager
Nuclear Assurance
Tennessee Valley Authority
Electronic Mail Distribution

Mark J. Burzynski, Manager
Nuclear Licensing
Tennessee Valley Authority
Electronic Mail Distribution

Pedro Salas, Manager
Licensing and Industry Affairs
Sequoyah Nuclear Plant
Tennessee Valley Authority
Electronic Mail Distribution

D. L. Koehl, Plant Manager
Sequoyah Nuclear Plant
Tennessee Valley Authority
Electronic Mail Distribution

Lawrence E. Nanney, Director

TN Dept. of Environment & Conservation
Division of Radiological Health
Electronic Mail Distribution

County Executive
Hamilton County Courthouse
Chattanooga, TN 37402-2801

Ann Harris
341 Swing Loop Road
Rockwood, Tennessee 37854

John D. White, Jr., Director
Tennessee Emergency Management
Agency
Electronic Mail Distribution

Distribution w/encls:

R. Hernan, NRR
H. Berkow, NRR
F. Congel, OE
N. Hilton, OE
D. Dambly, OGC
G. Claxton, RII OI
P. Fredrickson, RII
A. Boland, RII
R. Gibbs, RII
PUBLIC

OFFICE	OI	RII:EICS	RII:ORA	RII:DRP	RII:DRS	OE
SIGNATURE	/RA/	SES FOR	/RA/	LWERT FOR	HC	VIA EMAIL FROM HILTON
NAME	GCLAXTON	ABOLAND	CEVANS	FREDRICKSON	KBARR	FCONGEL
DATE	12/31/01	1/9/02	12/31/01	12/31/01	12/31/01	1/09/02
COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

C:\MYFILES\Copies\FINAL REV 1.wpd

NOTICE OF VIOLATION

Tennessee Valley Authority
Sequoyah Nuclear Plant Units 1 & 2

Docket Nos.: 50-327, 50-328
License Nos. DPR-77, DPR-79
EA-01-316 and EA-01-317

During an investigation conducted by the Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) between July 3, 2000, and November 28, 2001, and NRC inspections completed on October 30, 2000, and January 10, 2002, violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions," NUREG-1600, the violations are listed below:

- A. Sequoyah Physical Security Plan, paragraph 5.3.1, Personal Searches, establishes personal search requirements for individuals entering the protected area. The licensee implements personal search requirements through Sequoyah Nuclear Plant Physical Security Instruction PHYSI-32, Security Instructions for Members of the Security Force.

PHYSI-32, Rev. 24, Step 3.3.C, required that individuals entering the protected area shall be subjected to a personal search, including processing through the metal detector. If an alarm is received on the metal detector, the individual who caused the alarm shall be asked to ensure that all metal is removed (including shoes) and to process through the metal detector again. Should the individual alarm the detector again, the member of the security force shall physically search the individual.

Contrary to the above, on April 19, 2000, the licensee deliberately failed to follow PHYSI-32 during the personal search of an individual entering the protected area. Specifically, a senior licensee official received an alarm from the metal detector while entering into the protected area, and a security officer did not ask him to ensure that all metal, including his shoes, was removed. The contract security officer physically searched the official instead of requesting that he remove his shoes and process through the metal detector again.

This is a Severity Level IV violation (Supplement III).

- B. 10 CFR 50.7 prohibits, in part, discrimination by a Commission licensee or a contractor of a Commission licensee against an employee for engaging in certain protected activities. Discrimination includes discharge or other actions relating to the compensation, terms, conditions, and privileges of employment.

Contrary to the above, on April 19, 2000, the licensee discriminated against a contract security officer as a result of his engaging in protected activity. Specifically, the officer's protected activity involved his objection to being instructed not to follow Physical Security Instruction PHYSI-32, Security Instructions for Members of the Security Force,

Revision 24, which was part of his assigned responsibilities. The licensee made statements which resulted in the employee's belief that his employment was being threatened if he followed certain procedural steps. Subsequently, the contract security officer deliberately did not implement some personal search requirements when a metal detector alarmed during a senior licensee official's entry into the protected area. The intimidation represented a discriminatory action related to the compensation, terms, conditions, and privileges of the contract security officer's employment.

This is a Severity Level IV violation (Supplement VII).

Pursuant to the provisions of 10 CFR 2.201, Tennessee Valley Authority is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator, Region II, and a copy to the NRC Resident Inspector at the Sequoyah Nuclear Plant, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) 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, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS), to the extent possible, it 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, 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 withholding of such material, 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 2.790(b) to support a request

NOV

3

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.

Dated this 10th day of January 2002

SYNOPSIS

This investigation was initiated by the U.S. Nuclear Regulatory Commission, Office of Investigations, Region II, on July 3, 2000, to determine whether the security manager at the Tennessee Valley Authority Sequoyah Nuclear Plant (SNP) ordered an SNP shift coordinator to violate security procedures. The investigation further sought to determine whether the shift coordinator intimidated an SNP contract security officer who was ordered to violate security procedures or be terminated.

Based on the evidence developed during the investigation, it was not substantiated that the security manager willfully ordered the shift coordinator to violate security procedures.

The evidence developed during the investigation substantiated that the shift coordinator willfully intimidated the contract security officer by threat of termination, if the security officer refused to violate security procedures. Further, the evidence substantiated that the shift coordinator deliberately ordered the security officer to violate physical security procedures.

**~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION~~**

SUMMARY OF NRC OFFICE OF INVESTIGATIONS REPORT 2-2000-019A

An investigation was conducted by the Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) between July 3, 2000, and November 28, 2001, to review the circumstances surrounding the personal search of a senior licensee official entering the protected area access portal at Tennessee Valley Authority's (TVA) Sequoyah Nuclear Plant on April 19, 2000. The investigation sought to determine whether security personnel willfully failed to adhere to security procedures, whether the security manager willfully ordered a security shift coordinator to violate security procedures, and whether the shift coordinator intimidated a contract security officer to violate security procedures.

Sequoyah Nuclear Plant Physical Security Instruction PHYSI-32, Security Instructions for Members of the Security Force, requires that individuals entering the protected area shall be subjected to a personal search, including processing through the metal detector. If an alarm is received on the metal detector, the individual who caused the alarm shall be asked to ensure that all metal is removed (including shoes) and to process through the metal detector again. Should the individual alarm the detector again, the member of the security force shall physically search the individual.

Prior to the licensee official's arrival, the security manager instructed the security shift coordinator to advise security personnel that he should not be requested to remove his shoes should he receive an alarm while processing through the metal detector. The security manager was unaware, at the time of his instruction, that PHYSI-32 had been revised recently to require removal of shoes should an individual receive an alarm on the metal detector. Although the security shift coordinator was aware of the specific requirements of PHYSI-32, he did not inform the security manager of the revised security procedural requirements. The security shift coordinator subsequently instructed the security personnel not to require the licensee official to remove his shoes should he receive an alarm while processing through the metal detector.

The contract security officer became aware of the instruction not to require the official to remove his shoes, and subsequently voiced his concern to the security shift coordinator. The subsequent verbal communication between the security shift coordinator and the contract security officer involved a discussion that failure to adhere to this instruction may result in termination. Conflicting statements exist as to the exact statements made during the verbal exchange. However, OI concluded that the contract security officer was intimidated as a result of the communication, and subsequently acquiesced and did not follow the search procedure.

Based on the evidence, OI concluded that the security personnel willfully failed to adhere to procedure PHYSI-32. Furthermore, OI concluded that the security shift coordinator intimidated the contract security officer and caused him to violate security procedures. OI did not substantiate that the security manager willfully ordered the security shift coordinator to violate security procedures.