

May 8, 2003

EA-03-045

Mr. Mark E. Warner
Site Vice President
c/o James M. Peschel
FPL Energy Seabrook, LLC
Seabrook Station
P.O. Box 300
Seabrook, NH 03874

SUBJECT: SEABROOK STATION - NOTICE OF VIOLATION
NRC OFFICE OF INVESTIGATIONS CASE NO. 1-2002-028

Dear Mr. Warner:

On January 31, 2003, the NRC's Office of Investigations (OI) completed an investigation after FPL Energy Seabrook, LLC, informed the NRC on August 12, 2002, that it had identified a security department sergeant, employed by Burns International Security Services (BISS), who had falsified a record documenting required annual physical fitness requalification testing for a security officer (also employed by BISS). Based on the OI investigation, the NRC has concluded that a single instance had occurred in which (1) the sergeant deliberately falsified a record for a security officer who failed to complete one portion of the requalification test, (2) the security officer knowingly participated in the creation of this false record when he failed to complete a portion of the requalification test, and (3) the security officer continued working as an armed responder/security officer even though both the officer and the sergeant knew that he had not fulfilled an element of his requalification.

After careful consideration of the information developed during the investigation, the NRC has concluded that a violation of NRC requirements occurred. Specifically, 10 CFR 73.55(b)(4)(i) requires guards to requalify in accordance with the NRC-approved licensee training and qualification plan at least every 12 months, and the requalification must be documented and retained as a record for 3 years. The actions taken by the sergeant and security officer described above caused you to be in violation of 10 CFR 73.55(b)(4)(i). In addition, since the sergeant and security officer knew their actions were contrary to procedural requirements, the violation was deliberate.

In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, which is available on the NRC's website at <http://www.nrc.gov/what-we-do/regulatory/enforcement.html>, the NRC has classified the violation at Severity Level IV, after considering the significance of the violation and its deliberate nature. The violation is described in the enclosed Notice of Violation. Similar violations in the future could, however, result in escalated enforcement action.

The NRC evaluated this case against the criteria in Section VI.A.1 of the Enforcement Policy, and considered issuance of a non-cited violation because: (1) you restored compliance within a reasonable time after identification, i.e., you corrected the violation on August 12, 2003, after you identified it on August 8, 2003; (2) you placed the issue in your corrective action system and your corrective actions consisted of, but were not limited to, decertifying and disarming the security officer and currently requiring more than a single supervisor to witness physical fitness testing; (3) the issue was not repetitive nor identified by the NRC; and (4) although the violation was deliberate, (a) you identified the violation and notified the NRC; (b) the violation was isolated to the two individuals; and (c) you took significant remedial action which consisted of terminating the security sergeant's employment and you suspended the security officer pending an investigation and counseled him upon his return to work. However, because the violation was caused, in part, by the security sergeant, who was a first line supervisor, and therefore a licensee official as defined within the context of the NRC Enforcement Policy, the NRC has concluded that issuance of a non-cited violation is not appropriate.

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 is already adequately addressed on the docket as summarized herein. Therefore, you are not required to respond to this letter unless the description herein 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 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be available electronically for public inspection in the NRC Public Document Room (PDR) or from the Publically Available Records (PARS) component of the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Questions concerning this matter may be addressed to Mr. Richard Crlenjak, Deputy Director, Division of Reactor Safety, at 610-337-5128. We appreciate your prompt and comprehensive actions in this matter.

Sincerely,

/RA/ James T. Wiggins Acting For

Hubert J. Miller
Regional Administrator

Docket No. 50-443
License No. NPF-86

Enclosures: (1) Notice of Violation
(2) Synopsis of NRC Investigation 1-2002-028

cc w/encls:

J. A. Stall, FPL Senior Vice President, Nuclear & CNO
J. M. Peschel, Manager - Regulatory Programs
G. F. St. Pierre, Station Director - Seabrook Station
R. S. Kundalkar, FPL Vice President - Nuclear Engineering
D. G. Roy, Nuclear Training Manager - Seabrook Station
J. Devine, Polestar Applied Technology
D. Bliss, Director, New Hampshire Office of Emergency Management
D. McElhinney, RAC Chairman, FEMA RI, Boston, Mass
R. Backus, Esquire, Backus, Meyer and Solomon, New Hampshire
D. Brown-Couture, Director, Nuclear Safety, Massachusetts Emergency Management Agency
S. McGrail, Director, Massachusetts Emergency Management Agency
R. Hallisey, Director, Dept. of Public Health, Commonwealth of Massachusetts
M. Metcalf, Seacoast Anti-Pollution League
D. Tefft, Administrator, Bureau of Radiological Health, State of New Hampshire
S. Comley, Executive Director, We the People of the United States
W. Meinert, Nuclear Engineer, Massachusetts Municipal Wholesale Electric company
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NOTICE OF VIOLATION

FPL Energy Seabrook, LLC
Seabrook Station

Docket No. 50-443
License No. NPF-86
EA-03-045

During an investigation by the NRC Office of Investigations completed on January 31, 2003, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10 CFR 73.55(b)(4)(i) requires, in part, that guards, watchmen, armed response personnel, and other members of the security organization requalify in accordance with Appendix B to this part at least every 12 months. In addition, the licensee must document this requalification and retain the documentation record of each requalification for three years after the requalification.

Appendix B of 10 CFR Part 73, Section II.E, "Requalification," requires, in part, requalification to be in accordance with the NRC-approved licensee training and requalification plan.

The licensee's training and qualification plan, "Performance Checklist for Physical Fitness Qualification," Revision 8, requires completion of an outdoor run, an indoor run, and a run from cover as part of a security officer's requalification.

Contrary to the above, on November 15, 2001, a security officer did not complete the indoor run portion of the requalification test administered that day, yet a security sergeant falsified the requalification record when he denoted that the security officer had completed and passed the entire test. In addition, the security officer continued to function as a security officer/armed responder, even though the security sergeant knew that the security officer had not fulfilled an element of his requalification. This condition was not corrected until August 12, 2002, when the security officer was decertified and disarmed.

This is a Severity Level IV violation (Supplement VII)

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 is already adequately addressed on the docket as indicated in the letter transmitting this Notice of Violation (Notice). However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description herein 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; EA-03-045," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, Region I, 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.

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.

Dated this 8th day of May 2003

SYNOPSIS

On August 21, 2002, this investigation was initiated by the United States Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region I, to determine whether a Seabrook Security Department Sergeant, employed by Burns International Security Services, deliberately falsified a record documenting required annual physical fitness requalification testing for an armed responder/security officer, and whether the security officer participated in the falsification.

Based on the investigative results, OI concludes that the sergeant deliberately falsified the requalification record, and that, by his deliberate participation in the non-performance of the requalification test, the security officer caused the licensee to be in violation of NRC regulations when he knowingly continued working as an armed responder/security officer even though he knew he had not completed a portion of his required annual physical fitness requalification testing.