



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

September 25, 2009

EA-09-198

Mr. J. R. Morris
Site Vice President
Duke Energy Carolinas, LLC
Catawba Nuclear Station
4800 Concord Road
York, SC 29745-9635

**SUBJECT: CATAWBA NUCLEAR STATION - NRC INSPECTION REPORT
05000413/2009007 AND 05000414/2009007, NRC OFFICE OF
INVESTIGATIONS REPORT 2-2008-053 AND NOTICE OF VIOLATION**

Dear Mr. Morris:

This refers to the investigation completed on July 9, 2009, by the NRC Office of Investigations (OI). The purpose of this investigation was to determine if licensee contract personnel deliberately falsified records pertaining to fire watches at Catawba Nuclear Station. Notwithstanding the conclusions documented in the enclosed OI synopsis, further NRC review determined that individuals deliberately pre-signed fire watch logs resulting in inaccurate fire surveillance records. The results of the investigation were discussed on September 16, 2009, with Kevin Phillips and other members of your staff. The enclosed inspection report presents the findings resulting from this investigation.

Based on the staff's review of the facts and circumstances in this case, the NRC has identified one self-revealing finding of very low safety significance (Green) that was determined to be a violation of regulatory requirements. However, because the finding was of very low safety significance and the violation has been entered into your corrective action program, this violation is being treated as a non-cited violation in accordance with Section VI.A of the NRC's Enforcement Policy.

In addition, the NRC has determined that a Severity Level IV violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in the enclosed inspection report. The violation is being cited in the Notice because you failed to properly oversee contract personnel who were performing required fire watches. As a result, a number of contract fire watch employees deliberately pre-signed Impairment and Compensatory Measures (ICM) forms which resulted in the creation of inaccurate fire watch records.

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.

If you contest these violations, you should provide a response within 30 days of the date of this letter, with the basis for your denial, to the Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington DC 20555-0001, with copies to: the Regional Administrator, Region II; and the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001. Additionally, if you disagree with the characterization of any finding in this report, you should provide a response within 30 days of the date of this inspection report, with the basis for your disagreement, to the Regional Administrator, Region II, and the NRC Resident Inspector at Catawba. The information you provide will be considered in accordance with Inspection Manual Chapter 0305.

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>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

Sincerely,

/Joel T. Munday RA for/

Leonard D. Wert, Jr., Director
Division of Reactor Projects

Docket Nos.: 50-413, 50-414
License Nos.: NPF-35, NPF-52

cc w/Encl: (See Page 3)

Enclosures: 1. Notice of Violation
2. Inspection Report 05000413/2009007 and 05000414/2009007
w/Attachment: Supplemental Information
3. OI Synopsis, Investigation 2-2008-053

If you contest these violations, you should provide a response within 30 days of the date of this letter, with the basis for your denial, to the Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington DC 20555-0001, with copies to: the Regional Administrator, Region II; and the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001. Additionally, if you disagree with the characterization of any finding in this report, you should provide a response within 30 days of the date of this inspection report, with the basis for your disagreement, to the Regional Administrator, Region II, and the NRC Resident Inspector at Catawba. The information you provide will be considered in accordance with Inspection Manual Chapter 0305.

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X PUBLICLY AVAILABLE NON-PUBLICLY AVAILABLE SENSITIVE X NON-SENSITIVE
ADAMS: Yes ACCESSION NUMBER: _____ X SUNSI REVIEW COMPLETE

OFFICE	RII:DRP	RII:DRP	RII:DRP	RII:EICS			
SIGNATURE	EJS /RA/	JHB /RA/	JTM /RA for/	CFE /RA/			
NAME	EStamm	JBartley	LWert	CEvans			
DATE	09/22/2009	09/22/2009	09/25/2009	09/23/2009			
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

OFFICIAL RECORD COPY DOCUMENT NAME: G:\RPB1\CATAWBA\ESCALATED ENFORCEMENT\FIRE WATCH\LICENSEE COVER LETTER REV4 - STAMM.DOC

cc w/encl:

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DEC

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Letter to J. R. Morris from Leonard D. Wert, Jr. dated September 25, 2009

SUBJECT: CATAWBA NUCLEAR STATION - NRC INSPECTION REPORT
05000413/2009007 AND 05000414/2009007, NRC OFFICE OF
INVESTIGATIONS REPORT 2-2008-053 AND NOTICE OF VIOLATION

Distribution w/encl:

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OE Mail

RIDSNRRDIRS

PUBLIC

RidsNrrPMCatawba Resource

NOTICE OF VIOLATION

Duke Energy Carolinas, LLC
Catawba Nuclear Station

Docket Nos.: 50-413, 50-414
License Nos.: NPF-35, NPF-52
EA-09-198

During an NRC investigation conducted between August 21, 2008, and July 9, 2009, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 50.9(a), states, in part that information required by the Commission's regulations, orders, or license conditions to be maintained by the licensee shall be complete and accurate in all material respects. Technical Specification 5.4.1.d states that written procedures shall be established, implemented and maintained covering commitments contained in the UFSAR Chapter 16.0. Chapter 16.2 of the UFSAR states the Catawba Selected Licensee Commitments (SLC) manual contains a listing of commitments for which Catawba TS 5.4.1.d requires written procedures to be established, implemented and maintained. SLC 16.9-5, Condition A, requires that an hourly fire watch patrol be established when a required fire rated assembly is inoperable. Nuclear System Directive (NSD) 316, Fire Protection Impairment and Surveillance, implements the requirements contained in the SLC and requires that fire watch Impairment and Compensatory Measures (ICM) forms be retained for a period of at least 3 years.

Contrary to the above, between August 5, 2007, and February 12, 2008, multiple contract fire watch employees of DZ Atlantic Group at Catawba Nuclear Station created information required to be maintained by the licensee which was inaccurate by deliberately pre-signing the Impairment and Compensatory Measures (ICM) forms. Specifically, on seven occasions, the individual who signed the ICM form for the Unit 1 and 2 auxiliary feedwater (CA) pump rooms was not the person who performed the actual fire watch surveillance, resulting in inaccurate ICM forms being retained by the licensee. The ICM forms are material to the NRC, in that this information is created and maintained to provide sufficient evidence that the licensee's Fire Protection Program satisfies regulatory requirements.

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

Pursuant to the provisions of 10 CFR 2.201, Duke Energy Carolinas, LLC is hereby required to submit a written statement or explanation 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). This reply should be clearly marked as a "Reply to a Notice of Violation; EA-09-198" 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; and (4) the date when full compliance will be achieved. Your response may reference or include previous 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

Enclosure 1

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 NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>, 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 basis 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 2.390(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.

Dated this 25 day of September 2009

U. S. NUCLEAR REGULATORY COMMISSION

REGION II

Docket Nos.: 50-413, 50-414

License Nos.: NPF-35, NPF-52

Report Nos.: 05000413/2009007, 05000414/2009007

Licensee: Duke Energy Carolinas, LLC

Facility: Catawba Nuclear Station, Units 1 and 2

Location: York, SC 29745

Dates: July 13, 2009 through September 16, 2009

Inspectors: E. Stamm, Project Engineer

Approved by: Jonathan H. Bartley, Chief
Reactor Projects Branch 1
Division of Reactor Projects

SUMMARY OF FINDINGS

IR 05000413/2009007, 05000414/2009007; 7/13/2009 - 9/16/2009; Catawba Nuclear Station, Units 1 and 2; Fire Protection

The report covered an in-office review of NRC Office of Investigations (OI) Report No. 2-2008-053 by a project engineer. One Green non-cited violation (NCV) and one Severity Level IV violation were identified. The significance of most findings is indicated by their color (Green, White, Yellow, Red) using IMC 0609, "Significance Determination Process." Findings for which the Significance Determination Process does not apply may be Green or be assigned a severity level after NRC management review. The NRC's program for overseeing the safe operation of commercial nuclear power reactors is described in NUREG-1649, Reactor Oversight Process (ROP), Revision 4, dated December 2006.

Cornerstone: Mitigating Systems

- Green: The NRC identified a non-cited violation of 10 CFR 50.48 when a contract fire watch employee failed to complete fire watch surveillances on twelve occasions. The fire watch employee pre-signed the fire watch Impairment and Compensatory Measures (ICM) form then failed to perform the associated fire watch surveillance. The licensee entered the deficiency into the corrective action program for resolution.

This finding is more than minor because it is associated with the "Protection Against External Factors" attribute of the Mitigating Systems cornerstone and affected the cornerstone objective of ensuring the availability, reliability and capability of the systems that respond to initiating events to prevent undesirable consequences. The inspectors determined the finding to be of very low safety significance (Green) because the missed fire watch surveillance reflected a low degradation of the Fire Prevention and Administrative Controls fire protection program element in that other area fire protection defense-in-depth features such as automatic fire detection (smoke detectors), automatic fire suppression capability (sprinklers), manual suppression capability (fire brigade), and safe shutdown capability from the main control room were still available. The finding directly involved the cross-cutting area of Human Performance under the "Supervisory and Management Oversight of Work" aspect [H.4(c)] of the "Work Practices" component. (Section 1RO5.1)

- Severity Level IV: The NRC identified a violation of 10 CFR 50.9(a) requirements when it was determined that multiple contract fire watch employees deliberately pre-signed fire watch ICM forms resulting in inaccurate fire watch records. Specifically, on seven occasions fire watch employees deliberately pre-signed the fire watch ICM forms and then another qualified employee performed the fire watch but failed to correct the inaccurate ICM form. The licensee entered the deficiency into the corrective action program for resolution.

This issue was dispositioned using traditional enforcement due to the willful aspects of the performance deficiency. Furthermore, the failure to provide complete and accurate information has the potential to impact the NRC's ability to perform its regulatory function. Although the investigation revealed that no fire watch surveillances were actually missed, this issue is considered more than minor due to the willful aspects of the performance deficiency. In accordance with the guidance in Supplement VII of the Enforcement Policy,

this issue is considered a Severity Level IV violation because it involved information that the NRC required be kept by a licensee that was incomplete or inaccurate and of more than minor safety significance. No cross-cutting aspect was identified because this performance deficiency was dispositioned using traditional enforcement. (Section 1RO5.2)

REPORT DETAILS

1. REACTOR SAFETY

Cornerstones: Initiating Events, Mitigating Systems, Barrier Integrity,

1R05 Fire Protection

a. Inspection Scope

The inspector reviewed the OI summary and transcripts of interviews conducted by OI investigators related to fire watches conducted by contract personnel to determine if violations of regulatory requirements occurred.

b. Findings

- .1 Introduction: The NRC identified a Green non-cited violation of 10 CFR 50.48 when a contract fire watch employee failed to complete fire watch surveillances. On twelve separate occasions, the employee pre-signed the fire watch Impairment and Compensatory Measures (ICM) form then failed to perform the associated fire watch surveillance.

Description: In May 2007, the licensee initiated hourly fire watch surveillances in several fire areas, including the Unit 1 auxiliary feedwater (CA) pump room, as a result of the Catawba Nuclear Station Fire Protection Safe Shutdown Reconstitution Project. As part of an OI investigation, the fire watch ICM forms and security badge reader records for the CA pump rooms were audited for suspected instances of missed fire watches between May 2007 and February 2008. As a result of the audit it was identified that, on twelve separate occasions, a contract fire watch employee had pre-signed the fire watch ICM forms for the Unit 1 CA pump room but failed to perform the required hourly fire watch surveillance. In addition, interviews revealed that fire watch employees did not know who their Duke supervisor was, nor did the supervisors provide adequate routine oversight of the fire watch rounds and records.

Analysis: The failure to conduct twelve required hourly fire watch surveillances is a performance deficiency. The finding was more than minor because it was associated with the "Protection Against External Factors" attribute of the Mitigating Systems cornerstone and adversely affected the cornerstone objective in that it degraded the defense-in-depth of the fire protection program. The inspectors determined the finding to be of very low safety significance (Green) using the Phase 1 Screening Worksheet of Appendix F, "Fire Protection Significance Determination Process" of Inspection Manual Chapter 0609 because other area fire protection defense-in-depth features such as automatic fire detection (smoke detectors), automatic fire suppression capability (sprinklers), manual suppression capability (fire brigade), and safe shutdown capability from the main control room were still available. The finding directly involved the cross-cutting area of Human Performance under the "Supervisory and Management Oversight of Work" aspect [H.4(c)] of the "Work Practices" component, in that the licensee failed to effectively supervise the contract fire watch employee, which resulted in fire watch surveillances being missed.

Enforcement: 10 CFR 50.48 states that each operating nuclear power plant must have a fire protection plan that satisfies Criterion 3 of Appendix A of this part. Catawba operating license condition 2.C.5, for Unit 1, states that the licensee shall implement and maintain in effect all provisions of the approved Fire Protection Program (FPP) as described in the Updated Final Safety Analysis Report (UFSAR), as amended, for the facility and as approved in the SER through Supplement 5. UFSAR Chapter 16.1 states that the Catawba Nuclear Station Selected Licensee Commitments (SLC) Manual constitutes Chapter 16 of the Catawba FSAR. The approved FPP is implemented, in part, by Section 16.9-5 of the SLC. SLC 16.9-5, Condition A, requires that an hourly fire watch patrol be established when the required fire rated assembly is inoperable. Contrary to the above, between September 2, 2007, and October 8, 2007, an hourly fire watch patrol was not conducted on twelve occasions for an inoperable fire rated assembly in the Unit 1 CA pump room. Because this violation was of very low safety significance and has been entered into the licensee's corrective action program as PIP C-09-03214, it is being treated as a non-cited violation consistent with Section VI.A of the NRC Enforcement Policy: NCV 0500413/2009007-01, Failure to Perform Required Hourly Fire Watch Patrols

- .2 Introduction: The NRC identified a Severity Level IV violation of 10 CFR 50.9(a) requirements when it was determined that multiple contract fire watch employees deliberately pre-signed fire watch ICM forms resulting in inaccurate fire watch ICM records. Specifically, on seven occasions between August 5, 2007, and February 12, 2008, fire watch employees deliberately pre-signed the fire watch ICM forms and another qualified fire watch employee completed the watch but failed to correct the inaccurate ICM forms.

Description: In May 2007, the licensee established hourly fire watch surveillances in several fire areas including the Unit 1 CA Pump Room, Unit 1 Electrical Penetration Room, Unit 2 CA Pump Room, and Unit 2 Electrical Penetration Room. As part of an investigation by the NRC's Office of Investigations, the fire watch ICM forms and security badge reader records (for CA Pump rooms) were audited for suspected instances of missed fire watches during the period between May 2007 and February 2008. The results of the audit revealed that, on seven separate instances, multiple individuals had pre-signed the fire watch ICM forms, for the fire areas listed above, and then another individual performed the required fire watch surveillance. The licensee became aware of one example, which occurred on February 12, 2008, and entered it into their corrective action program as PIP C-08-01036.

Analysis: The failure to provide complete and accurate information on the fire watch ICM form was a performance deficiency. This issue was dispositioned using traditional enforcement due to the willful aspects of the performance deficiency. Furthermore, the failure to provide complete and accurate information has the potential to impact the NRC's ability to perform its regulatory function. In accordance with the guidance in Chapter 2 of the Enforcement Manual, although the investigation revealed that no fire watch surveillances were actually missed, this issue is considered more than minor due to the willful aspects of the performance deficiency. In accordance with the guidance in Supplement VII of the Enforcement Policy, this issue is considered a Severity Level IV violation because it involved information that the NRC required be kept by a licensee

that was incomplete or inaccurate and of more than minor safety significance. No cross-cutting aspect was identified because this performance deficiency was dispositioned using traditional enforcement.

Enforcement: 10 CFR 50.9(a), states, in part, that information required by the Commission's regulations, orders, or license conditions to be maintained by the licensee shall be complete and accurate in all material respects. Technical Specification 5.4.1.d states that written procedures shall be established, implemented and maintained covering commitments contained in the UFSAR Chapter 16.0. Chapter 16.2 of the UFSAR states the Catawba SLC manual contains a listing of commitments for which Catawba TS 5.4.1.d requires written procedures to be established, implemented and maintained. SLC 16.9-5, Condition A, requires that an hourly fire watch patrol be established when a required fire rated assembly is inoperable. NSD 316, Fire Protection Impairment and Surveillance, implements the requirements contained in the SLC and requires that ICM forms be retained for a period of at least 3 years. Contrary to the above, between August 5, 2007 and February 12, 2008, multiple contract fire watch employees of DZ Atlantic Group at Catawba Nuclear Station created information required to be maintained by the licensee which was inaccurate. Specifically, on seven occasions, the individual who signed the ICM form for the Unit 1 and 2 CA pump rooms was not the person who performed the actual fire watch surveillance, resulting in inaccurate ICM forms being retained by the licensee. The ICM forms are material to the NRC, in that this information is created and maintained to provide sufficient evidence that the licensee's Fire Protection Program satisfies regulatory requirements. This violation is being cited because the contract personnel deliberately pre-signed the fire watch logs: VIO 05000413,05000414/2009007-02, Inaccurate Fire Watch Records

40A6 Meetings, Including Exit

Exit Meeting Summary

On September 16, 2009, Jonathan Bartley, Chief, Reactor Projects Branch 1, presented the inspection results to Mr. Kevin Phillips, Catawba Safety Assurance Manager, and other members of licensee management, who acknowledged the findings. No proprietary information was provided or examined during the inspection.

SUPPLEMENTAL INFORMATION

KEY POINTS OF CONTACT

Licensee

D. Cummings, Legal Counsel, DEC General Office
R. Hart, Regulatory Compliance Manager, Catawba
K. Phillips, Safety Assurance Manager, Catawba

NRC

J. Bartley, Chief, Division of Reactor Projects (DRP), Reactor Projects Branch 1 (RPB1)
E. Stamm, Project Engineer, DRP, RPB1

LIST OF ITEMS OPENED, CLOSED, AND REVIEWED

Opened and Closed

05000413/2009007-01	NCV	Failure to Perform Required Hourly Fire Watch Patrols (Section 1R05)
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Opened

05000413,414/2009007-02	VIO	Inaccurate Fire Watch Records (Section 1R05)
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LIST OF DOCUMENTS REVIEWED

NSD 316, Fire Protection Impairment and Surveillance, Rev. 008
Computer Based Training, Fire Impairments and Compensatory Measures (NSD 316), dated 7/16/09
PIP C-07-02458, Potential breaker coordination/cable routing issue associated with safe shutdown capability, dated 5/16/07
PIP C-08-01036, Documentation error noted on the hourly firewatch record for 2/12/08, dated 2/20/08
Selected Licensee Commitments Manual, Section 16.9, Auxiliary Systems, Rev. 004

SYNOPSIS

This investigation was initiated by the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region II (RII), on August 21, 2008, to determine whether two former fire watch employees for DZ Atlantic Group (DZ Atlantic), working at the Catawba Nuclear Station (Catawba), willfully falsified fire watch records. During the course of the investigation, OI:RII identified three additional concerns; DZ Atlantic fire watch employees pre-signed the fire watch surveillance logs; seven former or present DZ Atlantic fire watch employees created inaccurate fire watch surveillance logs; and one former DZ Atlantic fire watch employee failed to conduct fire watches.

Based on the evidence, documentation and testimony developed during this investigation, OI:RII did not substantiate that two former fire watch employees for DZ Atlantic Group (DZ Atlantic), working at the Catawba, willfully falsified fire watch records. Additionally, it was determined that DZ Atlantic fire watch employees did not willfully pre-sign the fire watch surveillance logs, and seven former or present DZ Atlantic employees did not willfully create inaccurate fire watch records. However, it was determined that one former DZ Atlantic fire watch employee deliberately failed to conduct the fire watch.

Approved for release by Oscar DeMiranda on September 23, 2009

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