



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064**

August 24, 2000

EA-00-190

Randal K. Edington, Vice President - Operations
River Bend Station
Entergy Operations, Inc.
P.O. Box 220
St. Francisville, Louisiana 70775

**SUBJECT: APPARENT VIOLATION OF EMPLOYEE PROTECTION REQUIREMENTS
(NRC INVESTIGATION REPORT 4-2000-017A)**

Dear Mr. Edington:

This is in reference to an apparent violation of NRC requirements prohibiting discrimination against employees who engage in protected activities, i.e., 10 CFR 50.7. The apparent violation involves remarks made by a River Bend Station (RBS) security manager to members of the security force at a shift turnover meeting on March 3, 2000. This apparent violation was discussed with you and members of your staff on August 17, 2000.

The apparent violation is based on findings from an NRC investigation conducted by the Office of Investigations (OI). A summary of the pertinent evidence in this case is enclosed. Based on a review of the evidence, the NRC believes 10 CFR 50.7 was violated. Specifically, the evidence developed by OI in this case indicates that: 1) concerns about required agility testing of security force employees were brought to the attention of the NRC; 2) the security manager clearly believed that a member of the security force had contacted the NRC with these concerns; 3) the security manager addressed members of the security force at a shift turnover meeting, saying if he found out who went to the NRC he would choke that person, or remarks to that effect, and that he could make the agility test so difficult that no one could pass it; 4) the security manager's remarks were the direct result of his suspicion that a member of the security force had contacted the NRC with these concerns; and 5) the security manager's remarks were perceived as threatening by some members of the security force in attendance at the shift turnover meeting. In sum, as a direct result of concerns having been brought to the attention of the NRC, a protected activity, employees were subjected to remarks that suggested their jobs may be in jeopardy for engaging in this form of protected activity.

This apparent violation of 10 CFR 50.7 is being considered for escalated enforcement action in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600. The NRC is not issuing a Notice of Violation at this time; you will be advised by separate correspondence of the results of our deliberations on this matter. Also, please be aware that the characterization of the apparent violation described in this letter may change as a result of further NRC review.

As discussed with you on August 17, the NRC acknowledges that Entergy conducted a prompt investigation of this matter after being notified by the NRC, that Entergy's investigation of this matter found the security manager's remarks inappropriate, that Entergy removed the security manager from his position, and that Entergy initiated several actions to mitigate the impact of the security manager's remarks and improve the understanding of a safety-conscious work environment within the security department and at RBS in general. Should the NRC conclude that a violation occurred, the NRC will take Entergy's actions into consideration in making an enforcement decision.

Before the NRC makes its enforcement decision, we are providing you an opportunity to either respond to the apparent violation in writing within 30 days of the date of this letter, or request a predecisional enforcement conference. If a conference is held, it will be closed to public observation, consistent with the NRC's policy for cases involving OI investigations, and will be transcribed. The NRC will also issue a press release to announce the conference. Please contact William D. Johnson at (817)860-8148 within 7 days of the date of this letter to notify the NRC of your intended response.

If you choose to respond in writing, your response should be clearly marked as a "Response to An Apparent Violation" and should include: 1) the reason for the apparent violation, or, if contested, the basis for disputing the apparent violation; 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 was or will be achieved. Your response should be submitted under oath or affirmation and may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a predecisional enforcement conference.

The decision to consider escalated enforcement action does not mean that the NRC has made a final determination that a violation has occurred or that enforcement action will be taken. Whether Entergy responds in writing or requests a conference, this is an opportunity for Entergy to provide its perspective on whether a violation occurred as well as: 1) the severity level of the apparent violation; 2) the application of the factors that the NRC considers when it determines the amount of a civil penalty that may be assessed in accordance with Section VI.C.2 of the Enforcement Policy; and 3) any other application of the Enforcement Policy to this case, including the exercise of discretion in accordance with Section VII.

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 **or** from the *Publicly Available Records (PARS) component of NRC's document system (ADAMS)*. *ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room).*

Entergy Operations, Inc.

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Should you have any questions about this matter, please contact Gary Sanborn of my staff at (817)860-8222.

Sincerely,

/RA/

Ellis W. Merschoff
Regional Administrator

Enclosure: As stated

Docket No.: 50-458
License No.: NPF-47

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EA-00-190 LETTER.WPD

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8/24/00	8/24/00			

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FACTUAL SUMMARY
OFFICE OF INVESTIGATIONS REPORT NUMBER 4-2000-017A

OI case No. 4-2000-017A involved alleged threatening remarks made by a River Bend Station security manager in response to his suspicion that an employee in the security organization had provided the NRC allegations about NRC-required agility testing of certain security employees.

The investigation determined that on March 2, 2000, an NRC inspector contacted the security manager to discuss an upcoming NRC inspection and told the security manager that the NRC wanted to observe several members of the security force repeat their agility tests (specifically, a timed, quarter-mile run). On March 3, 2000, during a security shift turnover meeting attended by members of the security force, the security manager said if he found out who went to the NRC, he would choke that person, or something to that effect, and that he could make the agility test so difficult that no one could pass it.

The investigation determined that the remarks were interpreted by some as threatening and that the remarks created a chilling effect among some in the audience. Some of the security personnel interviewed by OI testified that they would be reluctant to bring concerns to the NRC as a result of the security manager's remarks. The investigation also determined that the security manager engaged in discussions with security force personnel in an apparent attempt to find out who had made the allegations to the NRC, and that despite receiving feedback from a contract security manager that his remarks at the shift turnover had a negative effect on some in the audience, the security manager took no remedial action.

The security manager told OI that he did not specifically recall making the remarks about choking someone, although he may have said something to that effect, and that his intent in making his remarks was to express his disappointment that Entergy was not given an opportunity to resolve these concerns before someone took them to the NRC. He also told OI that he stated at the shift turnover meeting that individuals had a right to go to the NRC, and that he had no intent to take retaliatory action against anyone who had gone to the NRC.

OI's review of Entergy's investigation of this same matter determined that Entergy drew similar conclusions about the security manager's remarks at the shift turnover meeting, that Entergy considered the remarks inappropriate and removed the security manager from his position, and that Entergy took numerous corrective actions to address the impact of the remarks.