



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION IV  
1600 E. LAMAR BLVD.  
ARLINGTON, TX 76011-4511

May 25, 2016

IA-15-053

Terry LaBue  
[HOME ADDRESS DELETED  
UNDER 10 CFR 2.390(a)]

SUBJECT: NOTICE OF VIOLATION AND NRC INVESTIGATION REPORT 4-2014-017

Dear Mr. LaBue:

This letter refers to an investigation completed on May 19, 2015, by the U.S. Nuclear Regulatory Commission's (NRC's) Office of Investigations regarding your activities at Entergy Operations, Inc.'s, Waterford Steam Electric Station (Waterford). The investigation was conducted, in part, to determine if you, as a former supervisor, willfully provided incomplete and inaccurate information while employed at Waterford. A factual summary of the investigation, as it pertains to your actions, was issued as an enclosure to our letter dated March 14, 2016.

In the letter transmitting the factual summary of the Office of Investigations' report and the results of the investigation, we provided you the opportunity to address the apparent violation identified in the report by either attending a predecisional enforcement conference, requesting alternative dispute resolution, or providing a written response before we made our final enforcement decision. In a letter received on April 5, 2016, you provided a response to the apparent violation.

Based on the information developed during the investigation and the information that you provided in your response to our March 14 letter, the NRC has determined that a deliberate violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) (Enclosure1). The violation was determined to be the result of your actions as a facilities supervisor. Specifically, you deliberately failed to provide complete and accurate information to the licensee regarding several possible fire watch noncompliances that had been brought to your attention. On December 17, 2013, you initiated Condition Report CR-WF3-2013-06073 for a failure to conduct a required hourly fire watch tour. Although you had information that a number of fire watch tours had been missed, you failed to describe the extent of the problem involving fire watch tours in the condition report.

Your deliberate actions placed the licensee in violation of Title 10 of the *Code of Federal Regulations* (10 CFR) 50.9, Completeness and Accuracy of Information, and 10 CFR 50.48, Fire Protection. In addition, your deliberate actions placed you in violation of 10 CFR 50.5, Deliberate Misconduct. A copy of the letter and Confirmatory Order issued to Waterford is

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

provided in Enclosure 2. Given the significance of the underlying issue and the deliberate nature of your actions, this violation has been categorized as a Severity Level III violation in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. You should be aware that if you are involved in NRC-licensed activities in the future, additional deliberate violations could result in more significant enforcement action or criminal action.

Since you are (1) no longer employed by the licensee; (2) no longer have unescorted access authorization at Waterford; and (3) the corrective actions taken by the licensee to address the violation are documented in Enclosure 2, you are not required to respond to this letter. Should you choose to respond, follow the instructions specified in the enclosed Notice.

If you disagree with this enforcement action, you may request alternative dispute resolution (ADR) (Enclosure 3) with the NRC in an attempt to resolve this issue. Alternative dispute resolution is a general term encompassing various techniques for resolving conflicts using a neutral third party. The technique that the NRC has decided to employ is mediation. Mediation is a voluntary, informal process in which a trained neutral mediator works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions.

Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC's ADR program can be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr/post-investigation.html>. The Institute on Conflict Resolution at Cornell University has agreed to facilitate the NRC's program as a neutral third party. Please contact Cornell at 877-733-9145 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter, its enclosures, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or from 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>. 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. The NRC also includes significant enforcement actions on its Web site at <http://www.internal.nrc.gov/OE/eas.html>.

In addition, this letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, Enforcement Actions Against Individuals. This system, which is not publicly-accessible, includes all records pertaining to individuals who are being or have been considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

T. LaBue

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If you have any questions, please contact John Kramer at 817-200-1121.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc L. Dapas", written in a cursive style.

Marc L. Dapas  
Regional Administrator

Enclosures:

1. Notice of Violation
2. Waterford Steam Electric Station –  
Confirmatory Order NRC Inspection  
Report 05000382/2016007 and  
NRC Investigation Report 4-2014-0173
3. NUREG/BR-0317, Revision 1



## NOTICE OF VIOLATION

Terry LaBue  
[HOME ADDRESS DELETED]  
UNDER 10 CFR 2.390(a)]

IA-15-053

During an NRC investigation conducted from February 3, 2014, through May 19, 2015, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 CFR 50.5(a) states, in part, that any employee of a licensee may not (1) engage in deliberate misconduct that causes a licensee to be in violation of any rule or regulation; or (2) deliberately submit to a licensee information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

Title 10 CFR 50.48, Fire Protection, requires that a licensee must have a fire protection plan that, in part, outlines the plans for fire protection, fire detection, suppression capability, and limitation of fire damage.

Waterford Steam Electric Station Technical Specification 6.8.1.f states, in part, that written procedures shall be established, implemented, and maintained covering fire protection program implementation.

Entergy Operations, Inc., Procedure UNT-005-013, "Fire Protection Program," Section 5.8.8, requires, in part, that conditions adverse to quality relating to the Fire Protection Program will be identified and corrected in accordance with Procedure EN-LI-102, "Corrective Action Program."

Procedure EN-LI-102, Section 5.2[3](a), requires, in part, that prompt/timely initiation of a condition report is required once an adverse condition has been identified. In addition, Procedure EN LI-102, Attachment 9.2, Step 6, lists, in part, conditions that degrade the fire protection program, including degraded fire protection systems and barriers, as conditions adverse to quality.

Contrary to the above, on December 17, 2013, you engaged in deliberate misconduct that caused the licensee to be in violation of a rule or regulation, and deliberately submitted to the licensee information that you knew to be incomplete or inaccurate in some respect material to the NRC. Specifically, although you had information indicating that several individuals had not performed fire watch tours but had indicated on the associated fire watch logs that the tours had been conducted, you initiated a condition report in which you identified only one individual who missed a fire watch tour. You failed to report the extent of the problem with missed fire watch tours and falsified fire watch logs. Condition reports associated with missed fire watches are material to the NRC because they provide evidence of compliance with licensee procedures and NRC requirements.

This is a Severity Level III violation (Section 6.9).

The NRC has concluded that since you are (1) no longer employed by the licensee; (2) no longer have unescorted access authorization at Waterford Steam Electric Station; and (3) the



corrective actions taken by the licensee to address the violation are documented in the Confirmatory Order to Waterford Steam Electric Station (Enclosure 2), you are not required to respond to this letter. 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, IA-15-053," and send it to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001, with a copy to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region IV, 1600 East Lamar Blvd., Arlington, Texas 76011-4511, and marked "Open by Addressee Only," within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

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.

Your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room and in the NRC's Agencywide Document Access and Management System, 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 information so that it can be made available to the public without redaction. If personal privacy is necessary to provide an acceptable response, 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 2.390(b) to support a request for withholding confidential commercial or financial information).

This letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, Enforcement Actions Against Individuals. This system, which is not publicly-accessible, includes all records pertaining to individuals who are being or have been considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Dated this 25th day of May 2016

**Waterford Steam Electric Station – Confirmatory Order  
NRC Inspection Report 05000382/2016007 and  
NRC Investigation Report 4-2014-0173**



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**

REGION IV  
1600 E. LAMAR BLVD.  
ARLINGTON, TX 76011-4511

April 6, 2016

EA-15-100

Mr. Michael R. Chisum  
Site Vice President  
Entergy Operations, Inc.  
17265 River Road  
Killona, LA 70057-0751

**SUBJECT: WATERFORD STEAM ELECTRIC STATION - CONFIRMATORY ORDER  
NRC INSPECTION REPORT 05000382/2016007 AND NRC INVESTIGATION  
REPORT 4-2014-017**

Dear Mr. Chisum:

The enclosed Confirmatory Order is being issued to Entergy Operations, Inc. (Entergy) as a result of a successful alternative dispute resolution mediation session. The enclosed commitments were made as part of a settlement agreement between Entergy and the U.S. Nuclear Regulatory Commission (NRC). The settlement agreement concerns apparent violations of NRC requirements, as discussed in our letter dated December 14, 2015 (Agencywide Documents Access and Management System (ADAMS) ML15350A197).

Our December 14, 2015, letter provided Entergy with the results of an investigation conducted by the NRC's Office of Investigations to determine whether (1) fire watch personnel assigned to Entergy's Waterford Steam Electric Station willfully failed to conduct compensatory fire watch inspections and falsified fire watch logs; and (2) a fire watch manager willfully failed to provide complete and accurate details concerning the status of fire watch staff.

Our letter also informed Entergy that the apparent violations were being considered for escalated enforcement action in accordance with the NRC's Enforcement Policy and provided the option of (1) attending a predecisional enforcement conference; or (2) requesting Alternative Dispute Resolution with the NRC. In response to our letter, Entergy requested Alternative Dispute Resolution to address the apparent willful violations.

An Alternative Dispute Resolution mediation session was held on February 19, 2016, and a preliminary settlement agreement was reached. The elements of that agreement, formulated and agreed to at the mediation session, are incorporated in the enclosed Confirmatory Order (Enclosure 1). The Confirmatory Order confirms the commitments made as part of the preliminary settlement agreement.

The NRC has concluded that deliberate violations of Title 10 of the *Code of Federal Regulations* (10 CFR) 50.9, 10 CFR 50.48, and 10 CFR 73.56(f)(3) occurred. Specifically, between July 2013 and April 2014, fire watch records certified that observation or inspection of an area or room to assess for indications of a fire were completed; however, many fire watches were not performed. In addition, an Entergy supervisor willfully failed to identify and take corrective



actions when provided with information of suspected wrongdoing by contract fire watch individuals. Further, on January 13, 2014, a contractor manager deliberately provided incomplete and inaccurate information to an access authorization reviewing official regarding the trustworthiness and reliability of a contract fire watch individual. As stated in the aforementioned preliminary agreement, Entergy agreed with this conclusion.

In light of the significant corrective actions Entergy has taken and subject to the satisfactory completion of the additional actions Entergy committed to take, as described in the Confirmatory Order (Enclosure 1), the NRC will not issue a Notice of Violation and will not issue an associated civil penalty for the apparent violations discussed in the NRC's letter dated December 14, 2015. The NRC is satisfied that its concerns will be addressed by making Entergy's commitments legally binding through a Confirmatory Order. As evidenced by the signed "Consent and Hearing Waiver Form" (Enclosure 2), dated March 31, 2016, Entergy agreed to the issuance of this Confirmatory Order.

Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of this Confirmatory Order shall be subject to criminal prosecution, as set forth in that section. Violation of this Confirmatory Order may also subject the person to civil monetary penalties.

Apart from the actions required by the enclosed Confirmatory Order, you are not required to respond to this letter. However, if you choose to provide a response, please provide it to me within 30 days at the following address: U.S. Nuclear Regulatory Commission, Region IV, 1600 East Lamar Blvd., Arlington, Texas 76011-4511. Should you have questions concerning the enclosed Confirmatory Order, please contact John Kramer, of my staff, at 817-200-1121.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter and its enclosures will be made available electronically for public inspection in 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,

/RA/

Marc L. Dapas  
Regional Administrator

Docket: 50-382  
License: NPF-38

Enclosures:

1. Confirmatory Order w/Attachment
2. Consent and Hearing Waiver Form

cc: Electronic Distribution for  
Waterford Steam Electric Station

**Entergy Operations, Inc.**  
**Waterford Steam Electric Station, Unit 3**

**CONFIRMATORY ORDER**  
**(MODIFYING LICENSE)**

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
ALL POWER REACTOR LICENSEES	)	
OWNED AND OPERATED BY	)	
ENTERGY NUCLEAR OPERATIONS, INC.;	)	Docket Nos. (Attachment 1)
ENTERGY OPERATIONS, INC.; AND	)	Licensed Nos. (Attachment 1)
ENTERGY NUCLEAR GENERATION	)	
COMPANY	)	EA-15-100

CONFIRMATORY ORDER  
(MODIFYING LICENSE)

I

Entergy Operations, Inc. (Licensee or Entergy) is the holder of Reactor Operating License NPF-38 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Title 10 of the Code of Federal Regulations (10 CFR) Part 50 on March 16, 1985. The license authorizes the operation of the Waterford Steam Electric Station, Unit 3 (Waterford) in accordance with the conditions specified therein.

The term Entergy Nuclear Fleet used in the Confirmatory Order refers to all power reactor licensees owned and operated by Entergy Nuclear Operations, Inc.; Entergy Operations Inc.; and Entergy Nuclear Generation Company.

This Confirmatory Order is the result of a preliminary settlement agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on February 19, 2016.



## II

On February 3, 2014, the NRC's Office of Investigations (OI), Region IV Field Office, initiated an investigation to determine whether fire protection personnel assigned to Entergy's Waterford facility willfully falsified fire protection surveillance records and whether there was any managerial awareness with the failure to identify and correct. During the investigation, it became apparent that another manger failed to provide complete and accurate information to an access authorization reviewing official, associated with the reinstatement of unescorted access for one of the contract fire watch individuals. The investigation was completed on May 19, 2015, and was documented in OI Report 4-2014-017.

Based on the results of the investigation, the NRC concluded that willful violations of Title 10 of the Code of Federal Regulations (10 CFR) 50.9, 10 CFR 50.48, and 10 CFR 73.56(f)(3) occurred. Specifically, on multiple occasions between July 2013 and April 2014, seven contractor individuals willfully failed to conduct compensatory hourly fire watches and willfully falsified the fire watch tour logs by initialing that fire watches were performed with knowledge that watches had not been performed. In addition, an Entergy supervisor willfully failed to identify and take corrective actions when provided with information of suspected wrongdoing by contract fire watch individuals. Further, on January 13, 2014, a contractor manager willfully failed to provide complete and accurate information in all material respects, regarding the trustworthiness and reliability of an individual applying for unescorted access to Waterford.

In a letter dated December 14, 2015 (ML15350A197), the NRC provided Entergy the results of the investigation, informed Entergy that escalated enforcement action was being considered for the apparent violations, and offered Entergy the opportunity to attend a predecisional enforcement conference or to participate in ADR in which a neutral mediator with no decision-making authority would facilitate discussions between the NRC and Entergy. The neutral mediator would assist the NRC and Entergy in reaching an agreement, if possible. In response to the NRC's offer, Entergy requested use of the ADR process to resolve differences it had with the NRC. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

### III

During the ADR session held on February 19, 2016, a preliminary settlement agreement was reached. In addition, the NRC recognized the corrective actions that Entergy has already implemented associated with the events that formed the basis of this matter. These actions at Waterford include:

- A. Waterford Procedure FP-001-014, "Duties of a Firewatch," was revised. The following changes were incorporated:
  - 1. Added responsibility of Maintenance Support for systematic monitoring of performance within the fire watch program (corrective action to preclude repetition in the root cause analysis).

2. Added additional procedural requirements for the fire watch oversight monitoring program and required periodic review by an appropriate member of the site senior leadership team.
3. Clearly defined the duties, responsibilities, and qualifications of a contract fire watch and the fire watch supervisor.
4. Revised Attachment 8.1, "Fire Watch Log," to clearly state who the fire watches should notify if there are any issues identified during their tours.
5. Included a requirement that the fire watches maintain the log (Attachment 8.1) in their possession during tours and that place keeping be used.
6. Included a requirement to periodically verify that Attachment 8.1 is consistent with the fire impairments required by the technical requirements manual.

**B. Fire watch supervisory monitoring program is being implemented as follows:**

1. The Maintenance Support Superintendent shall provide sufficient oversight to verify that fire watch inspections are completed as required.
2. A minimum of twice per month, personnel designated by the Maintenance Support superintendent shall observe the fire watch during the performance of their duties.



3. The Maintenance Support supervisor will also coordinate with security to obtain keycard and/or door alarm histories and conduct a review to ensure fire watch personnel are performing tours satisfactorily.
- C. An evaluation of other contractors performing work on the Waterford site to ensure proper level of oversight is being provided was completed. The level of oversight for contractors performing work was determined to be appropriate.
- D. An Entergy Nuclear Fleet operating experience review was performed. This review determined that each Entergy Nuclear Fleet site needed to review the root cause for this issue. Actions were issued at each site to determine any vulnerabilities. All other Entergy Nuclear Fleet sites concluded the site specific procedures adequately covered the gaps identified at Waterford except one site. That site initiated a condition report to address gaps in its fire watch program and performed procedure changes. The actions were completed by February 5, 2015.
- E. Communicated the lessons-learned to Waterford supervisors and departmental performance improvement personnel (department corrective action program personnel).
- F. Expectations were reinforced with Maintenance Support leadership for implementation of the fire watch program and for implementation of contract manager responsibilities.
- G. On October 29, 2014, implemented a Guard 1 Plus<sup>R</sup> electronic documentation system. This system is used in conjunction with the paper fire watch log.

- H. Effectiveness review action was performed and concluded that the corrective action plan was effective.
- I. Waterford Nuclear Independent Oversight (quality assurance) review of the site response was completed on December 9, 2014. The follow-up surveillance determined the quality assurance finding was adequately dispositioned and addressed.
- J. Independent of the events underlying these violations and issues, Entergy developed and administered training on the provisions of 10 CFR 50.5 and 50.9 for all Entergy employees at its Entergy Nuclear Fleet sites.

On March 31, 2016, Entergy consented to issuing this Confirmatory Order with the commitments, as described in Section V below. Entergy further agreed that this Confirmatory Order is to be effective 30 days after its issuance and that Entergy has waived its right to a hearing.

#### IV

Since the licensee has agreed to take additional actions to address NRC concerns, as set forth in Item III above, the NRC has concluded that its concerns can be resolved through issuance of this Confirmatory Order.

I find that Entergy's commitments as set forth in Section V are acceptable and necessary, and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that Entergy's commitments be confirmed by this Confirmatory Order. Based on the above and Entergy's consent, this Confirmatory Order is effective 30 days after its issuance.

## V

Accordingly, pursuant to Sections 104b, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, IT IS HEREBY ORDERED, THAT:

- A. Entergy will retain an industrial psychologist, or similarly qualified person, and within 9 months of the issuance date of the Confirmatory Order, will complete a review of those integrity events within the Entergy Nuclear Fleet over the past 5 years to look for common themes or causes associated with the events and to recommend actions that Entergy can take to prevent similar events in the future. This review will also include an evaluation of previous fleet-wide training effectiveness. Entergy will share the results of this review and any contemplated actions with the NRC. Within 18 months of the issuance date of the Confirmatory Order, if the review reveals general industry insights/lessons learned, Entergy will share those insights with the industry in an appropriate industry forum to be determined based on consultation with the NRC.

- B. In December 2014, Entergy issued Procedure EN-OM-126, "Management and Oversight of Supplemental Personnel," to enhance Entergy's management and oversight of supplemental workers. Within 9 months of the issuance date of the Confirmatory Order, Entergy will conduct an effectiveness review of implementation of Procedure EN-OM-126 at all Entergy Nuclear Fleet sites. Entergy will share the results of this review and its proposed actions to address any identified performance gaps with the NRC.
- C. Within 6 months of the issuance date of the Confirmatory Order, Entergy will assign a corporate lead for governance and oversight of the Entergy Nuclear Fleet fire watch program. In conjunction with this assignment, Entergy will issue an Entergy Nuclear Fleet procedure or revise an existing procedure, as appropriate, to provide the common requirements for Entergy Nuclear Fleet fire watch programs. The responsibilities of the lead will include ensuring the consistent application of the subject procedure across the Entergy Nuclear Fleet.
- D. Within 3 months of the issuance date of the Confirmatory Order, Entergy will revise the appropriate Entergy Nuclear Fleet procedure to provide a process to address requests for the reinstatement of unescorted access authorization for a worker whose unescorted access has been temporarily placed "on hold" or assigned some other comparable interim status. The revision must ensure that the Access Authorization Reviewing Official has the relevant information and appropriate approvals before deciding whether to reinstate the worker's unescorted access.

- E. Within 6 months of the issuance date of the Confirmatory Order, Entergy will review and revise, as necessary, Entergy Nuclear Fleet supervisor training to ensure that it addresses the responsibilities and actions of supervisors who become aware of facts and circumstances potentially impacting a person's trustworthiness and reliability. If Entergy determines revisions to the supervisory training are necessary, the training will be delivered within 12 months of the issuance date of the Confirmatory Order. Additionally, within 2 months of the issuance date of the Confirmatory Order, Entergy will develop and publish a communication to all supervisors at its Entergy Nuclear Fleet sites reminding them of their responsibility to report issues impacting workers' trustworthiness and reliability to access authorization personnel.
- F. Within 3 months of the issuance date of the Confirmatory Order, Entergy will have conducted a briefing of all fire watch personnel, at each of its Entergy Nuclear Fleet sites, on the importance of the fire watch activity to the nuclear safety of the facility. In addition, within 3 months of the issuance date of the Confirmatory Order, this briefing will be incorporated as part of new fire watch personnel training. Within 9 months of the issuance date of the Confirmatory Order, Entergy will perform a review of other tasks where the importance of the task to reactor safety may not be apparent to the personnel performing the task and conduct similar training.
- G. Notifications to the NRC when actions are completed.
1. Unless otherwise specified, Entergy will submit written notification to the Director, Division of Reactor Safety, USNRC Region IV, 1600 East Lamar Blvd., Arlington,



Texas 76011-4511, at intervals not to exceed 6 months until the terms of this Confirmatory Order are completed, providing a status of each item in the Order.

2. Entergy will provide its basis for concluding that the terms of the Confirmatory Order have been satisfied, to the NRC, in writing.

H. Administrative items.

1. The NRC will consider the Confirmatory Order an escalated enforcement action with respect to any future enforcement actions.
2. In consideration of the elements delineated above, the NRC agrees not to issue a Notice of Violation for the violations discussed in NRC Inspection Report 05000382/2015011 and NRC Investigation Report 4-2014-017 dated December 14, 2015 (EA-15-100) and not to issue an associated civil penalty.
3. This agreement is binding upon successors and assigns of Entergy.

The Regional Administrator, Region IV, may, in writing, relax or rescind any of the above conditions upon demonstration by Entergy of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than Entergy may request a hearing within 30 days of the issuance date of this Confirmatory Order. Where good cause is

shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007, as amended at 77 FR 46562, August 3, 2012), which is codified in pertinent part at 10 CFR Part 2, Subpart C. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at 301-415-1677, to (1) request a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic

docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Electronic Filing Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. Further information on the Web-based submission form is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the

document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Electronic Filing Help Desk through the "Contact Us" link located on the NRC's Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call to 866-672-7640. The NRC Electronic Filing Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on

all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket, which is available to the public at <http://ehd1.nrc.gov/ehd/>, unless excluded pursuant to an order of the Commission or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, participants are requested not to include copyrighted materials in their submission, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application.

If a person other than Entergy requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue a separate order designating the time and place of any hearings, as appropriate. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.



In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be effective and final 30 days after the issuance date of this Confirmatory Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Marc L. Dapas  
Regional Administrator

Dated this 6<sup>th</sup> day of April 2016

ALL POWER REACTOR LICENSEES OWNED AND OPERATED BY  
ENTERGY NUCLEAR OPERATIONS, INC.; ENTERGY OPERATIONS, INC.; AND  
ENTERGY NUCLEAR GENERATION COMPANY

Arkansas Nuclear One, Units 1 and 2

Entergy Operations, Inc.  
Docket Nos. 50-313, 50-368  
License Nos. DRP-51; NPF-6

Mr. Jeremy Browning, Site Vice President  
Arkansas Nuclear One  
Entergy Operations, Inc.  
1448 SR 333  
Russellville, AR 72802-0967

Grand Gulf Nuclear Station

Entergy Operations, Inc.  
Docket No. 50-416  
License No. NPF-29

Mr. Kevin Mulligan, Site Vice President  
Entergy Operations, Inc.  
Grand Gulf Nuclear Station  
P.O. Box 756  
Port Gibson, MS 39150

Indian Point Nuclear Generating, Units 2 and 3

Entergy Nuclear Operations, Inc.  
Docket Nos. 50-247 and 50-286  
License Nos. DPR-26 and DPR-64

Mr. Larry Coyle, Site Vice President  
Entergy Nuclear Operations, Inc.  
Indian Point Energy Center  
450 Broadway, GSB  
Buchanan, NY 10511-0249

James A FitzPatrick Nuclear Power Plant  
Entergy Nuclear Operations, Inc.  
Docket No. 50-333  
License No. DPR-59

Mr. Brian Sullivan, Site Vice President  
Entergy Nuclear Operations, Inc.  
James A FitzPatrick Nuclear Power Plant  
P.O. Box 110  
Lycoming, NY 13093

Palisades Nuclear Plant  
Entergy Nuclear Operations, Inc.  
Docket No. 50-255  
License No. DPR-20

Mr. Anthony Vitale, Vice President, Operations  
Entergy Nuclear Operations, Inc.  
Palisades Nuclear Plant  
27780 Blue Star Memorial Highway  
Covert, MI 49043

Pilgrim Nuclear Power Station  
Entergy Nuclear Generation Company  
Docket No. 50-293  
License No. DPR-35

Mr. John Dent, Site Vice President  
Entergy Nuclear Operations Inc.  
Pilgrim Nuclear Power Station  
600 Rocky Hill Road  
Plymouth, MA 02360-5508

River Bend Station  
Entergy Operations, Inc.  
Docket No. 50-458  
License No. NPF-47

Mr. Eric W. Olson, Site Vice President  
Entergy Operations, Inc.  
River Bend Station  
5485 US Highway 61 N  
St. Francisville, LA 70775

Vermont Yankee Nuclear Power Station  
Entergy Nuclear Operations, Inc.  
Docket No. 50-271  
License No. DPR-28

Mr. Christopher Wamser, Site Vice President  
Entergy Nuclear Operations, Inc.  
Vermont Yankee Nuclear Power Station  
P. O. Box 250  
Vernon, VT 05354

Waterford Steam Electric Station. Unit 3  
Entergy Operations, Inc.  
Docket No. 50-382  
License No. NPF-38

Mr. Michael R. Chisum, Site Vice President  
Entergy Operations, Inc.  
Waterford Steam Electric Station  
17265 River Road  
Killona, LA 70057-0751

# **CONSENT AND HEARING WAIVER FORM**

### CONSENT AND HEARING WAIVER FORM

Entergy Operations, Inc. hereby agrees to comply with the terms and conditions of the Confirmatory Order arising out of an alternative dispute resolution mediation session on February 19, 2016, to be issued relating to enforcement action No. 2015-100. The Confirmatory Order will be effective 30 days after its issuance. By signing below, Entergy Operations, Inc. consents to the issuance of the referenced Confirmatory Order, and, by doing so, agrees to waive the right to request a hearing on all or any part of the Confirmatory Order.



John F. McCann  
Vice President, Regulatory Assurance  
Entergy Operations, Inc.

3/31/2016

Date



**NUREG/BR-0317**  
**Post-Investigation Alternative**  
**Dispute Resolution Program, Revision 1**

## Mediation Location and Duration

The parties usually hold the mediation at, or in the vicinity of, one of the NRC's offices. However, the parties may mutually agree upon any alternate location. Mediation sessions are usually no longer than 1 day. In some cases, the mediation may take longer than 1 day with the mutual consent of the parties.

## The NRC Mediation Team

The responsible Regional Administrator or his or her designee will serve as the principal negotiator for the NRC in cases that involve wrongdoing and related technical issues, if any. When a case involves discrimination, the Director of the Office of Enforcement will normally serve as the principal negotiator. The other members of the NRC mediation team typically include an enforcement specialist, an attorney, and a staff representative who is familiar with the technical issues under discussion.

## The Confirmatory Order

A CO is a legally binding document that includes the terms of the AIP. For a licensee, a CO serves as an amendment to its NRC license. Regardless of the type of entity, a CO has the same legal force against any party to which it is issued.

The NRC will only issue a CO with the prior written consent of the other party, and with a waiver of the right to a hearing. After the entity or the individual, as applicable, has completed the terms of the CO, the NRC will conduct verification activities to ensure that the terms of the CO have been satisfied in a timely manner. Because the CO is legally binding, failing to comply with its terms exposes the entity or individual to additional enforcement action.

Although the substance of the mediation session remains confidential, the details of the settlement will normally be made public via a press release and the publication of the CO in the *Federal Register*.

## Timeliness Goals

The timely resolution of issues is one of the goals of the post-investigation ADR program. Accordingly, the NRC expects a timely progression of a case at each stage of the mediation process. In cases where the parties achieve settlement, the NRC expects to issue a CO within 90 calendar days of the date of the agency's letter offering the ADR option to an entity the other party.

## Additional Sources of Information

Further information about the NRC's ADR program is available from the following:

- Cornell toll free at (877) 733-9145
- NRC ADR Program Manager in the Office of Enforcement toll free at (800) 368-5642 or (301) 415-2741
- NRC enforcement ADR program on the agency's Web site at [www.nrc.gov/about-nrc/regulatory/enforcement/adr.html](http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html)



NUREG/BR-0317 Rev. 1  
July 2011



## Post-Investigation Alternative Dispute Resolution Program



## The Program

The U.S. Nuclear Regulatory Commission's (NRC's) post-investigation alternative dispute resolution (ADR) program provides an amicable process to resolve enforcement matters. It may produce more timely and effective outcomes for the NRC and an entity (e.g., an NRC licensee, certificate holder, or contractor of an NRC licensee or certificate holder) or an individual who is subject to an enforcement action. Following the congressional endorsement of the use of ADR by Federal agencies, the NRC established the post-investigation ADR program in 2004. Post-investigation ADR offers the opportunity to resolve discrimination cases or other wrongdoing and related matters through mediation rather than through the NRC's traditional enforcement process.

Post-investigation ADR refers to the use of mediation *after* the completion of an investigation by the NRC Office of Investigations and the staff's conclusion that pursuit of an enforcement action appears warranted. As long as the enforcement matter is within the scope of the program, the NRC normally offers post-investigation ADR at each of the following stages of the enforcement process: (1) before an initial enforcement action, (2) after the initial enforcement action is taken, typically upon issuance of a notice of violation, and (3) when a civil penalty is imposed but before a hearing request.

Mediation is an informal process in which a trained and experienced mediator works with the parties to help them reach a resolution. The parties are the NRC and the entity or an individual, as applicable, in the mediation. The mediator focuses the attention of the parties on their needs and interests rather than on their stated positions. Mediation gives the parties an opportunity to discuss issues, clear up misunderstandings, identify creative ways to address issues, find areas of agreement, and resolve their dispute.

Participation in the program is entirely voluntary. The NRC and the entity or the individual, as applicable, may withdraw from the mediation process at any time.

## The Program Administrator

The NRC has a contract with the Cornell University Scheinman Institute on Conflict Resolution (Cornell) to serve as the program administrator for the post-investigation ADR program. Cornell administers the program's day-to-day operations, including handling the logistical matters and working with the parties to select a mediator from Cornell's roster of mediators. Cornell uses a network of independent and experienced mediators who help the parties find areas of agreement and help them settle their dispute.

## The Mediator

The mediator is an experienced neutral individual who is mutually selected by the parties. He or she has no stake in the outcome of the mediation or any power to make decisions that may bind either party. The role of the mediator is to facilitate communication between the parties and to provide an environment where the parties have an opportunity to address their differences. The mediator uses consensus building skills and knowledge of negotiation to help the parties find ways to overcome any misunderstandings and attempt to find areas of agreement. The mediator does not act as legal counsel or provide legal advice to any party. Each party should consult an attorney for legal advice as such party deems appropriate.

## The Mediation Process

Historically, most post-investigation ADR mediations have occurred at the first stage of the enforcement process (i.e., before an initial enforcement action). In those cases, the NRC presents the entity or an individual, as applicable, with the opportunity to engage in mediation with the agency before it makes an enforcement decision. If the entity or the individual elects ADR, Cornell will help the NRC and the entity or the individual, as applicable, to jointly select a mediator. After the parties select a mediator, the parties, in coordination with the mediator, set a date and place for the mediation. Typically, the mediator holds a pre-mediation teleconference with the parties to discuss logistical matters or any special needs of either party.

During the mediation, the mediator will give the parties an opportunity to discuss their views on the issue. Often, the mediator will meet privately with each party to develop a clear understanding of the party's perspective and explore and assess options. Although the mediator does not have any power to make decisions that may bind either party, he or she may ask questions intended to help the parties assess the merits of their positions, help them converse in a respectful atmosphere, and identify potential settlement options.

If the parties reach a settlement agreement during the mediation session, they will typically document the terms of their agreement in writing by developing an agreement in principle (AIP) document. The AIP is not enforceable by either party against the other, but it is the basis on which the NRC drafts a confirmatory order (CO), which is a legally binding document used to confirm the commitments made in the AIP.

However, if the parties do not reach a settlement agreement, the traditional enforcement process resumes—that is, the enforcement process continues as it would have, had the parties not engaged in ADR.

## Confidentiality

Although the terms of an ADR settlement become publicly available through the issuance of the CO, with certain exceptions, the substance of the discussions during the mediation session is confidential regardless of the mediation outcome. The mediator is prohibited from discussing the mediation proceedings, testifying on anyone's behalf concerning the mediation, or submitting a report on the substance of the discussions.

## Cost

The NRC and the entity or individual, as applicable, equally share the fees and travel expenses of the mediator and any meeting room fees. However, each party is responsible for its own expenses, such as travel, lodging, and legal representation.