



Entergy Nuclear Northeast  
Entergy Nuclear Operations, Inc.  
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Pete Dietrich  
Site Vice President

May 26, 2009  
JAFP-09-0067

United States Nuclear Regulatory Commission  
Attn: Document Control Desk  
Washington, D.C. 20555

SUBJECT: James A. FitzPatrick Nuclear Power Plant  
Docket No. 50-333  
License No. DPR-59  
LER: 2009-003-00, "Individual Granted Unescorted Access Based on an Incomplete Background Check"

Dear Sir or Madam:

This report is submitted in accordance with 10 CFR 73.71(a)(4).

There is no commitment contained in this report.

Questions concerning this report may be addressed to Mr. Joseph Pechacek, Licensing Manager, at (315) 349-6766.

Sincerely,

Peter Dietrich

PD/JP/KS

Enclosure(s): 1. JAF LER 2009-003-00, "Individual Granted Unescorted Access Based on an Incomplete Background Check"

cc: USNRC, Region 1  
USNRC, Project Directorate  
USNRC Resident Inspector  
INPO Records Center

JE74  
MRR

**LICENSEE EVENT REPORT (LER)**

Estimated burden per response to comply with this mandatory collection request: 80 hours. Reported lessons learned are incorporated into the licensing process and fed back to industry. Send comments regarding burden estimate to the Records and FOIA/Privacy Service Branch (T-5 F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by internet e-mail to infocollects@nrc.gov, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0104), Office of Management and Budget, Washington, DC 20503. If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

<b>1. FACILITY NAME</b> <b>James A. FitzPatrick Nuclear Power Plant</b>	<b>2. DOCKET NUMBER</b> <b>05000333</b>	<b>3. PAGE</b> <b>1 OF 4</b>
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**4. TITLE**  
**Individual Granted Unescorted Access Based on an Incomplete Background Check**

5. EVENT DATE			6. LER NUMBER			7. REPORT DATE			8. OTHER FACILITIES INVOLVED	
MONTH	DAY	YEAR	YEAR	SEQUENTIAL NUMBER	REV NO	MONTH	DAY	YEAR	FACILITY NAME	DOCKET NUMBER
09	15	2008	2009	- 003 -	00	05	26	2009	N/A	05000
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<b>9. OPERATING MODE</b>  <div style="text-align:center; font-size: 24pt;">5</div>	<b>11. THIS REPORT IS SUBMITTED PURSUANT TO THE REQUIREMENTS OF 10 CFR §:</b> (Check all that apply)																																				
<b>10. POWER LEVEL</b>  <div style="text-align:center; font-size: 24pt;">0</div>	<table style="width:100%; border:none;"> <tr> <td><input type="checkbox"/> 20.2201(b)</td> <td><input type="checkbox"/> 20.2203(a)(3)(i)</td> <td><input type="checkbox"/> 50.73(a)(2)(i)(C)</td> <td><input type="checkbox"/> 50.73(a)(2)(vii)</td> </tr> <tr> <td><input type="checkbox"/> 20.2201(d)</td> <td><input type="checkbox"/> 20.2203(a)(3)(ii)</td> <td><input type="checkbox"/> 50.73(a)(2)(ii)(A)</td> <td><input type="checkbox"/> 50.73(a)(2)(viii)(A)</td> </tr> <tr> <td><input type="checkbox"/> 20.2203(a)(1)</td> <td><input type="checkbox"/> 20.2203(a)(4)</td> <td><input type="checkbox"/> 50.73(a)(2)(ii)(B)</td> <td><input type="checkbox"/> 50.73(a)(2)(viii)(B)</td> </tr> <tr> <td><input type="checkbox"/> 20.2203(a)(2)(i)</td> <td><input type="checkbox"/> 50.36(c)(1)(i)(A)</td> <td><input type="checkbox"/> 50.73(a)(2)(iii)</td> <td><input type="checkbox"/> 50.73(a)(2)(ix)(A)</td> </tr> <tr> <td><input type="checkbox"/> 20.2203(a)(2)(ii)</td> <td><input type="checkbox"/> 50.36(c)(1)(ii)(A)</td> <td><input type="checkbox"/> 50.73(a)(2)(iv)(A)</td> <td><input type="checkbox"/> 50.73(a)(2)(x)</td> </tr> <tr> <td><input type="checkbox"/> 20.2203(a)(2)(iii)</td> <td><input type="checkbox"/> 50.36(c)(2)</td> <td><input type="checkbox"/> 50.73(a)(2)(v)(A)</td> <td><input checked="" type="checkbox"/> 73.71(a)(4)</td> </tr> <tr> <td><input type="checkbox"/> 20.2203(a)(2)(iv)</td> <td><input type="checkbox"/> 50.46(a)(3)(ii)</td> <td><input type="checkbox"/> 50.73(a)(2)(v)(B)</td> <td><input type="checkbox"/> 73.71(a)(5)</td> </tr> <tr> <td><input type="checkbox"/> 20.2203(a)(2)(v)</td> <td><input type="checkbox"/> 50.73(a)(2)(i)(A)</td> <td><input type="checkbox"/> 50.73(a)(2)(v)(C)</td> <td><input type="checkbox"/> OTHER</td> </tr> <tr> <td><input type="checkbox"/> 20.2203(a)(2)(vi)</td> <td><input type="checkbox"/> 50.73(a)(2)(i)(B)</td> <td><input type="checkbox"/> 50.73(a)(2)(v)(D)</td> <td style="font-size: 8pt;">Specify in Abstract below or in NRC Form 366A</td> </tr> </table>	<input type="checkbox"/> 20.2201(b)	<input type="checkbox"/> 20.2203(a)(3)(i)	<input type="checkbox"/> 50.73(a)(2)(i)(C)	<input type="checkbox"/> 50.73(a)(2)(vii)	<input type="checkbox"/> 20.2201(d)	<input type="checkbox"/> 20.2203(a)(3)(ii)	<input type="checkbox"/> 50.73(a)(2)(ii)(A)	<input type="checkbox"/> 50.73(a)(2)(viii)(A)	<input type="checkbox"/> 20.2203(a)(1)	<input type="checkbox"/> 20.2203(a)(4)	<input type="checkbox"/> 50.73(a)(2)(ii)(B)	<input type="checkbox"/> 50.73(a)(2)(viii)(B)	<input type="checkbox"/> 20.2203(a)(2)(i)	<input type="checkbox"/> 50.36(c)(1)(i)(A)	<input type="checkbox"/> 50.73(a)(2)(iii)	<input type="checkbox"/> 50.73(a)(2)(ix)(A)	<input type="checkbox"/> 20.2203(a)(2)(ii)	<input type="checkbox"/> 50.36(c)(1)(ii)(A)	<input type="checkbox"/> 50.73(a)(2)(iv)(A)	<input type="checkbox"/> 50.73(a)(2)(x)	<input type="checkbox"/> 20.2203(a)(2)(iii)	<input type="checkbox"/> 50.36(c)(2)	<input type="checkbox"/> 50.73(a)(2)(v)(A)	<input checked="" type="checkbox"/> 73.71(a)(4)	<input type="checkbox"/> 20.2203(a)(2)(iv)	<input type="checkbox"/> 50.46(a)(3)(ii)	<input type="checkbox"/> 50.73(a)(2)(v)(B)	<input type="checkbox"/> 73.71(a)(5)	<input type="checkbox"/> 20.2203(a)(2)(v)	<input type="checkbox"/> 50.73(a)(2)(i)(A)	<input type="checkbox"/> 50.73(a)(2)(v)(C)	<input type="checkbox"/> OTHER	<input type="checkbox"/> 20.2203(a)(2)(vi)	<input type="checkbox"/> 50.73(a)(2)(i)(B)	<input type="checkbox"/> 50.73(a)(2)(v)(D)	Specify in Abstract below or in NRC Form 366A
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**12. LICENSEE CONTACT FOR THIS LER**

FACILITY NAME <b>Mr. Joseph Pechacek, Licensing Manager</b>	TELEPHONE NUMBER (Include Area Code) <b>(315) 349-6766</b>
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**13. COMPLETE ONE LINE FOR EACH COMPONENT FAILURE DESCRIBED IN THIS REPORT**

CAUSE	SYSTEM	COMPONENT	MANU-FACTURER	REPORTABLE TO EPIX	CAUSE	SYSTEM	COMPONENT	MANU-FACTURER	REPORTABLE TO EPIX

<b>14. SUPPLEMENTAL REPORT EXPECTED</b> <input type="checkbox"/> Yes (If yes, complete 15. EXPECTED SUBMISSION DATE) <input checked="" type="checkbox"/> NO	<b>15. EXPECTED SUBMISSION DATE</b> MONTH: ___ DAY: ___ YEAR: ___
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**ABSTRACT** (Limit to 1400 spaces, i.e., approximately 15 single-spaced typewritten lines)

On 3/24/2009 the James A. FitzPatrick Nuclear Power Plant (JAF) was contacted by another licensee regarding the adjudication of a previous denial of access for an individual granted unescorted access at JAF on 9/15/08, during supplemental personnel in-processing for the fall 2008 Refueling Outage.

Subsequent review of the individual's Access Authorization file determined that the previous denial had been identified on the individual's Personal History Questionnaire (PHQ) when unescorted access was requested at JAF, but had not been properly adjudicated, resulting in an incomplete background check. When the previous denial was reviewed, it was determined that the individual should not have been granted unescorted access. This was reported to the NRC pursuant to 10 CFR 73.71(b) via Event Notification 44932. This LER provides the follow-up report pursuant to 10 CFR 73.71(a)(4).

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**NARRATIVE**

**BACKGROUND**

Paragraph (b) of Appendix G to Part 73, Reportable Safeguards Events, requires within one hour of discovery, notification followed by a written report within 60 days of "an actual entry of an unauthorized person into a protected area, vital area, or transport." Upon discovering that an individual, who should not have been granted access, had entered into the FitzPatrick protected area, a notification was made pursuant to 10 CFR 73.71(b). This LER constitutes the required follow-up written report.

**EVENT DESCRIPTION**

On 03/24/09, the James A. FitzPatrick Nuclear Power Plant (JAF) Access Authorization office was contacted by the Fermi Nuclear Power Plant inquiring about the adjudication of an applicant's previous denial of unescorted access to a nuclear facility. JAF reviewed the applicant's access authorization file and determined that the information had not been adjudicated. The applicant in question was processed on September 15, 2008 as a supplemental employee for the fall 2008 Refueling Outage. The applicant had indicated derogatory information on both the self-disclosure questionnaire and the employment / unemployment history questionnaire. The applicant clearly stated that they had failed to comply with Fitness For Duty testing requirements at Constellation Energy's Nine Mile Point Nuclear Station in 2006. This self declaration was not properly adjudicated prior to granting the applicant unescorted access to JAF. Based on the question from the Fermi Plant a follow-up on the basis of the original denial was performed. It was determined that the applicant had refused to supply a second urine analysis sample, when the temperature of his first sample was out of the normal range. This refusal resulted in a presumptive positive test and access denial at Nine Mile Point. Based on the previous denial for a presumptive positive test, the applicant did not meet the criteria for granting unescorted access at JAF. Therefore, it was determined that the supplemental employee's request for unescorted access would have been denied at JAF if a complete background investigation had been performed.

This condition was reportable under 10 CFR 73.71(b) which requires reporting of events described in 10 CFR 73 Appendix G Paragraph I, within one hour and requires a follow-up written report to be submitted within 60-days. The initial reporting was provided the NRC, via ENS Notification 44932, in less than one hour after it was determined that access should not have been granted.

**EVENT ANALYSIS**

When Unescorted Access (UA) is requested for an applicant, the site contact submits a Badge Action Request (BAR) to Access Authorization (AA). The BAR includes the name, date of birth, social security number, and company affiliate of the applicant requesting UA. The information contained in the BAR is used to create a file for the individual requesting UA. The AA personnel then enter the social security number from the file into the Personnel Access Data System (PADS) and generate a PADS synopsis (database report) for workers existing in PADS. Individuals that have never applied for UA will not be in PADS. If the applicant has previously requested UA a PADS synopsis is printed out and placed in the applicant's file.

During in processing the applicant requesting UA completes a Personal History Questionnaire (PHQ) which delineates previous employment history and nuclear plant access. When completed the PHQ is placed in the file and is subsequently reviewed by AA personnel for completeness and any derogatory information should be adjudicated prior to granting UA.

In this case the individual conducting the review failed to recognize that derogatory information requiring further investigation and adjudication was present. Due to the fact that further investigation was not completed, access was granted based on an incomplete background investigation.

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**CAUSE OF EVENT**

The Root Cause Analysis, performed as a result of this event, determined that the personnel involved in this event were unaware of a procedural requirement. Entergy's Access Authorization procedure requires that the Access Authorization personnel responsible for preparing the access authorization file bring derogatory information to the Reviewing Official's (RO) attention upon discovery. This requirement was regarded as an expectation that was relaxed during outage in-processing to streamline the process. This procedural non-compliance is attributed to a lack of program evaluation process, i.e., an inadequate management practice, in that management reviews and self assessments of the process failed to identify this issue and correct it.

Inadequate work practices contributed to the event. The RO did not perform a comprehensive review of the applicant's file. Interviews with the RO determined that it was an accepted practice to start a file review by looking at three key sections of the PHQ (Section III – Self Disclosure, Section V – Credit History, and Section VI – Criminal History). The depth of further review was related to what was identified in those three sections. In this case there was information in the self disclosure section, but it was missed. A comprehensive review would have given the RO an opportunity to note 1) the self declaration was documented in other places as well as Section III of the PHQ; and 2) although the PHQ clearly identified that the applicant had prior nuclear experience there was no PADS synopsis in the file.

**EXTENT OF CONDITION**

Over thirteen-hundred BARs were processed between 8/1/08 to 10/31/08, for fall 2008 refueling outage supplementary personnel. One thousand two hundred and seventy-seven of these BARs were required to have a Personnel Access Data System (PADS) synopsis report in the associated file. These 1277 files were reviewed. The review identified one additional case where adjudication of derogatory information was not clearly documented. The background check for that case was re-performed, and it was determined that the individual was properly adjudicated. Based on there being no additional cases of improper granting of unescorted access in the 1277 files reviewed, it was determined that this was an isolated incident.

**CORRECTIVE ACTIONS**

Immediate Corrective Actions:

- 1) Developed and implemented an Access File Checklist addressing file content and review criteria.
- 2) Implemented a requirement for an off-site review of derogatory information by a qualified Reviewing Official until process revisions and training are completed.

Completed Corrective Actions:

- 1) Performed a root cause analysis.
- 2) Performed a Human Performance Error Review.
- 3) Reviewed all Badge Action Requests (BARs) processed between 8/1/08 and 10/31/08 to determine if a similar event had occurred.

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**CORRECTIVE ACTIONS (continued)**

Planned Corrective Actions:

- 1) Develop and implement systematic training to encompass roles and responsibilities for Access Authorization personnel.
- 2) Develop a change management plan for outage in-processing, to incorporate process changes for the high volume of personnel being processed.
- 3) Perform management observations on procedure use once per week for six months.
- 4) Perform "just-in-time" training prior to next refueling outage.

**ASSESSMENT OF SAFETY CONSEQUENCES**

There was a potential for a nuclear safety implication due to granting access to an individual that should not have been granted access. The supervisor of the individual verified that the work performed while on site did not involve work on critical or safety related plant components. The worker was a pipe fitter and each job was independently inspected at various stages to verify the integrity of the welds and piping. Other work performed was in the mechanical shop to augment staffing with work being conducted in a multi-discipline crew. Based on this review there is no nuclear safety issue associated with this event.

**SIMILAR EVENTS**

CR-JAF-2008-04235 discusses a similar occurrence identified in November of 2008. This event is associated with a supplemental employee being granted unescorted access during the fall 2008 refueling outage in-processing prior to adjudicating derogatory information. The case was later adjudicated as allowed by the regulatory process, and it was determined that the individual was acceptable for unescorted access. Therefore, no report was required.

**REFERENCES**

1. JAF Condition Report CR-JAF-2009-01063.
2. JAF Root Cause Analysis Report, "Unescorted Access (UA) Granted without Adjudicating a Prior Denial," CR-JAF-2009-1063, May 4, 2009.
3. JAF Condition Report CR-JAF-2008-04235.