



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

REGION II  
SAM NUNN ATLANTA FEDERAL CENTER  
61 FORSYTH STREET, SW, SUITE 23T85  
ATLANTA, GEORGIA 30303-8931

August 6, 2009

IA-09-015

Mr. John W. Wade  
[HOME ADDRESS REMOVED  
PER 10 CFR § 2.390]

SUBJECT: NOTICE OF VIOLATION (NUCLEAR REGULATORY COMMISSION OFFICE OF INVESTIGATIONS REPORT NO. 2-2008-002)

Dear Mr. Wade:

This refers to the investigation conducted between October 12, 2007, and August 11, 2008, by the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) at Westinghouse Electric Company (WEC) in Columbia, South Carolina. The purpose of the investigation was to determine your involvement in connection with falsified ventilation filter reading data and apparently falsified entries in the electronic training records system. A factual summary describing the results of the OI investigation, including the identification of two apparent violations of 10 CFR § 70.10, Deliberate Misconduct, was forwarded to you in our letter of May 6, 2009.

In the May 6, 2009, letter, we provided you the opportunity to address the apparent violations by either attending a predecisional enforcement conference, providing a written response, or using the Alternative Dispute Resolution (ADR) process before we made our final enforcement decision. In a letter dated June 1, 2009, you provided a written response to the apparent violations. In your response, you provided information related to the circumstances and your decision-making process surrounding the apparent violations as well as your recognition of the importance of procedural compliance. You did not contest the factual information or apparent violations documented in our letter of May 6, 2009.

Based on the information developed during the investigation and the information you provided in your written response, the NRC has determined that violations of 10 CFR § 70.10, "Deliberate misconduct," occurred. The violations are cited in the enclosed Notice of Violation (Notice) (Enclosure 1). In summary, the first violation involves the requirements of 10 CFR § 70.10(a)(1), which states, in part, that a licensee or contractor employee may not engage in deliberate misconduct that causes a licensee to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license issued by the Commission. In this case, prior to September 7, 2007, while performing duties as a contract foreman at WEC's Columbia, South Carolina facility, you deliberately falsified training records by accessing and acknowledging procedures governing job responsibilities in the Electronic Training and Procedure Systems (ETAPS) for end Users, such that the End Users did not read and acknowledge procedures governing their job responsibilities. These actions caused WEC to be in violation of its license and Step 3.13 of

Columbia Plant Administrative Procedure CA-002, "Columbia Plant Procedure System." The Columbia Plant Administrative Procedure is required by NRC Materials License SNM 1107, and Westinghouse License Applications dated April 30, 1995 and June 27, 2007, and supplements thereof.

The second violation involves the requirements of 10 CFR § 70.10(a)(2), which states in part, that any employee of a licensee or contractor may not deliberately submit to the NRC or a licensee, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC. On three separate occasions (May 12-13, 2007, June 10, 2007, and July 7-8, 2007), you deliberately submitted information to WEC, an NRC licensee, that you knew at the time to be inaccurate. Acting in your official capacity as a contract foreman, you submitted documentation representing that plant roof ventilation filter differential pressure (dp) readings were performed by entering filter dp readings for the referenced dates, when in fact, no readings had been performed. The ventilation system data readings are material to the NRC, in that they are an Item Relied On For Safety (IROFS) related to nuclear criticality safety.

The falsification of training records for multiple employees, and the falsification of ventilation filter dp readings on multiple occasions, is significant because the NRC regulatory framework is based, in part, on the trustworthiness and integrity of individuals and their willingness to comply with regulatory requirements. Regarding the falsification of electronic training records, as a supervisor, your actions contributed to employees not receiving procedural information, and may have de-emphasized to End Users the importance of understanding procedural requirements. In addition, your falsification of ventilation filter readings had the potential to prevent or delay the early identification of equipment problems that could impact criticality safety at the facility. Your deliberate misconduct is of particular concern to the NRC because of the responsibility that was entrusted to you by your contract employer and by WEC. Enclosure 2 includes a copy of the Confirmatory Order (Effective Immediately) that was issued to WEC concerning this matter. Given the significance of this issue and the deliberate nature of your actions, these violations have been categorized as a Severity Level III problem, in accordance with the NRC Enforcement Policy.

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 prosecution.

The NRC has concluded that your letter dated June 1, 2009 adequately addresses the reason for the violations, the corrective actions taken, and corrective actions that you plan to take in order to prevent recurrence. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR § 2.390 of the NRC's "Rules of Practice," 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 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. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>. 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." The NRC-3 system notice, which provides detailed

Mr. John W. Wade

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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>.

Please feel free to contact Mr. Daniel Rich, Chief, Fuel Facility Inspection Branch 3, Division of Fuel Facilities Inspection, at 404-562-4721, should you have any questions.

Sincerely,

**/RA/**

Victor M. McCree  
Deputy Regional Administrator

Enclosures:

1. Notice of Violation
2. Confirmatory Order to WEC
3. NUREG/BR-0317

CERTIFIED MAIL 7006 2760 0000 8494 3608  
RETURN RECEIPT REQUESTED

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OFFICE	RII:DFFI	RII:DRS	RII:ORA	RII:ORA		
SIGNATURE	Via email 7/28/09	Via email 7/28/09	SS for 7/31/09	VM 8/6/09		
NAME	DRICH	JSHEA	CEVANS	VMCCREE		
DATE						
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO
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NAME						
DATE						
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OFFICIAL RECORD COPY      DOCUMENT NAME

## NOTICE OF VIOLATION

Mr. John W. Wade  
[HOME ADDRESS DELETED  
UNDER 10 CFR § 2.390]

IA-09-015

During an NRC investigation completed on August 11, 2008, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR § 70.10(a)(1) states, in part, that any employee of a licensee or any contractor, who knowingly provides to any licensee, any goods or services that relate to a licensee's or applicant's activities in this part, may not engage in deliberate misconduct that causes or would have caused, if not detected, a licensee to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license issued by the Commission.

Safety Condition No. S-1 of Special Nuclear Materials License No. SNM-1107 authorizes the use of material in accordance with statements, representations, and conditions in the license application dated June 27, 2008, and supplements thereof.

Section 3.4.1 of the license application states that operations to assure safe, compliant activities involving nuclear material will be conducted in accordance with approved procedures.

Step 3.13 of Columbia Plant Administrative Procedure CA-002, "Columbia Plant Procedure System," Revision 33, April 4, 2007, states in part, that Electronic Training and Procedure Systems (ETAPS) End Users must read and then acknowledge procedures governing their job responsibilities in ETAPS before performing work assignments or manufacturing processes.

Contrary to the above, prior to September 7, 2007, Mr. John Wade, a contract foreman engaged in deliberate misconduct that caused Westinghouse Electric Company (WEC), an NRC licensee, to be in violation of its license and related procedures. Specifically, while employed as a contract foreman at WEC's Columbia, South Carolina facility, Mr. Wade deliberately falsified training records by reading and acknowledging procedures governing job responsibilities in ETAPS for the End Users, such that the End Users did not read and acknowledge procedures governing their job responsibilities.

- B. 10 CFR § 70.10(a)(2) states, in part, that any employee of a licensee or contractor may not deliberately submit to the NRC, a licensee, an applicant, or a licensee's or applicant's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

Contrary to the above, on three separate occasions (May 12-13, 2007, June 10, 2007, and July 7-8, 2007), Mr. John Wade deliberately submitted information to WEC, an NRC licensee, that he knew at the time to be inaccurate. Specifically, acting in his official capacity as a contract foreman, Mr. Wade submitted documentation representing that plant roof ventilation filter differential pressure (dp) readings were performed by entering filter dp readings for the referenced dates when, in fact, no readings had been

performed. The ventilation system data readings are material to the NRC, in that they are an Item Relied On For Safety (IROFS) related to nuclear criticality safety.

This is a Severity Level III problem (Supplement III).

The NRC has concluded that information regarding the circumstances surrounding the violations is adequately discussed in your letter of June 1, 2009. However, if the description therein does not accurately reflect your position, you are required to submit a written statement or explanation pursuant to 10 CFR § 2.201. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, IA-09-015" and send it to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to the Regional Administrator, U.S., Nuclear Regulatory Commission, Region II, 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.

You may still request use of the Alternative Dispute Resolution (ADR) process with the NRC in an attempt to resolve this issue. As described in our May 6, 2009, letter, ADR is a general term encompassing various techniques for resolving conflict outside of court using a neutral third party. Additional information concerning the NRC's ADR program is described in the brochure (NUREG/BR-0317) enclosed with the letter forwarding this Notice. The brochure may also be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as a neutral third party. Please contact ICR at 877-733-9415 within 10 days of the date of this Notice if you are now interested in pursuing resolution of this issue through ADR.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, any response 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 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). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR § 73.21. This letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." 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 6<sup>th</sup> day of August 2009