



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION I  
475 ALLENDALE ROAD  
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

January 26, 2012

EA-10-090  
EA-10-248  
EA-11-106

John T. Herron  
Nuclear Operations – Chief Nuclear Officer  
Entergy Services, Inc.  
P.O. Box 31995  
Jackson, MS 39286-1995

SUBJECT: CONFIRMATORY ORDER (EFFECTIVE IMMEDIATELY) AND NOTICE OF VIOLATION; INVESTIGATION REPORT NOS. 1-2009-041; 1-2010-019; AND 1-2010-031; INSPECTION REPORT NO. 05000333/2011009

Dear Mr. Herron:

The enclosed Confirmatory Order (CO) is being issued to Entergy Nuclear Operations, Inc. (Entergy), to confirm commitments made to the U.S. Nuclear Regulatory Commission (NRC) during a mediation session held on November 9, 2011. The mediation session was conducted upon Entergy's request, in response to the NRC's offer of Alternative Dispute Resolution (ADR), regarding apparent violations identified by the NRC at the James A. FitzPatrick Nuclear Power Plant (FitzPatrick). ADR is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement to resolve any differences regarding an enforcement action.

The apparent violations were identified during three investigations conducted at FitzPatrick by the NRC Office of Investigations (OI). The NRC described these investigations and the apparent violations, some of which were determined to be willful, in a letter to Entergy dated September 8, 2011, which also included the offer for ADR (ML112510187<sup>1</sup>). The apparent willful violations included the failures by FitzPatrick technicians, on occasions between 2006 and 2009, to: (1) test required individuals for respirator fit, in accordance with the requirements specified in Title 10 of the Code of Federal Regulations (CFR) Section 20.1703 and site procedures; (2) maintain accurate documentation of completed respirator fit tests, in accordance with the requirements of 10 CFR 50.9; (3) perform and/or accurately document, in accordance with site procedures required by technical specifications (TS) and 10 CFR 50.9, independent verification of Drywell Continuous Atmospheric Monitoring System (DWCAM) valve positions after the valves were manipulated; (4) document a personal contamination event in accordance with site procedures required by TS; (5) perform a contamination survey prior to removing an item from a radiologically controlled area, in accordance with site procedures required by TS; and (6) perform daily radiological surveys of the reactor building 326 foot elevation airlock, in accordance with 10 CFR 20.1501(a).

---

<sup>1</sup> Designation in parentheses refers to an Agency-wide Documents Access and Management System (ADAMS) accession number. Documents referenced in this letter are publicly-available using the accession number in ADAMS.

On November 9, 2011, an ADR mediation session was held in the NRC Region I office in King of Prussia, PA. During the mediation session, Entergy agreed with the facts as presented in the September 8, 2011, NRC letter, including the articulation of the violations, the willful aspects, as applicable, and the significance of the violations. Entergy also described numerous actions it took on its own volition prior to the ADR mediation session. These actions included: (1) conducting a timely, comprehensive investigation into the issues; (2) retesting affected staff for respirator fit; (3) evaluating any radiological impact to the affected staff of the missed tests (no impact was identified); (4) enhancing training and oversight at FitzPatrick and all Entergy sites to address individual accountability, improvements to radiation protection procedures and processes, and adherence to standards; and (5) working to identify the extent that procedure compliance and safety culture issues may exist in other areas at FitzPatrick.

Based on the discussions during the mediation session, an agreement in principle was reached regarding this matter. The elements of the agreement in principle are contained within the enclosed CO. As documented in the CO, considering that there were multiple individuals involved in the violations identified at FitzPatrick who had an opportunity to react and raise safety concerns, but did not do so, Entergy agreed to take additional corrective actions that extend to all of Entergy's commercial nuclear power plants, and to develop potential enhancements to industry wide guidance for monitoring safety culture. The additional actions are described in Section V of the enclosed CO, and include: (1) committing to maintain the safety culture monitoring processes as described in NEI 09-07 "Fostering a Strong Nuclear Safety Culture," or similar processes, at the nine Entergy nuclear power plants; (2) assessing Entergy's procedure for implementing the safety culture processes described in the NEI guidance to determine if potential enhancements should be provided to NEI that would improve licensees' ability to detect weaknesses in safety culture (if such enhancements could have prevented such violations as were the subject of this action); (3) conducting an assessment of the RP departments at each Entergy nuclear power plant to ensure activities are being conducted in accordance with NRC regulations; (4) preparing a case study about the event and presenting it to the site personnel at all of the Entergy nuclear power plants; and, (5) delivering a presentation to industry representatives in each NRC geographical region which will discuss these events, including lessons learned and corrective actions.

The terms of the enclosed CO, which confirms the commitments made as part of the agreement in principle, are intended to serve the NRC objectives of ensuring the corrective actions are effective and extended to the nuclear power industry such that the deterrence effect is as great as or greater than what would have been achieved under the traditional enforcement process. In light of the actions already taken by Entergy, as well as the additional actions Entergy has committed to take, the NRC has agreed to not assess a civil penalty for the violations. The violations are cited in the enclosed Notice of Violation. As evidenced by the signed "Consent and Hearing Waiver" Form (copy enclosed) dated January 20, 2012, you agreed to the issuance of the enclosed CO, which is effective immediately.

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

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 Office of the Regional Administrator, U.S. NRC, 475 Allendale Rd., King of Prussia, PA 19406. A copy of this letter and its enclosures will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC will also include this letter, and its attached Confirmatory Order on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>). Your response, if you choose to provide one, will also be made available electronically for public inspection in the NRC Public Document Room and from the NRC's document system (ADAMS).

If you have any questions or comments concerning this letter, please contact Mr. Karl Farrar of my staff at 610-337-5301.

Sincerely,



William M. Dean  
Regional Administrator

Docket Nos. 50-333; 50-313; 50-368; 50-416; 50-247; 50-286; 50-255; 50-293; 50-458; 50-271; 50-382  
License Nos. DPR-59; DPR-51; NFP-6; NFP-29; DPR-26; DPR-64; DPR-20; DPR-35; NFP-47; DPR-28; NFP-38

Enclosures:

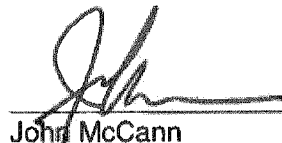
1. Consent and Hearing Waiver Form
2. Notice of Violation
3. Confirmatory Order

cc w/encl: Distribution via ListServ

Mr. John McCann, Vice President, Nuclear Safety, Emergency Planning and Licensing  
William Dennis, Entergy Legal Counsel  
Kevin Bronson, Chief Operations Officer, Entergy Nuclear Northeast  
Brian Finn, Director, FitzPatrick Nuclear Assurance  
Ed Weinkam, Director, Licensing, Entergy Nuclear Northeast  
David Mannai, FitzPatrick Licensing  
Charles Thebaud Jr., Morgan, Lewis and Bockius LLP  
State of New York

**CONSENT AND HEARING WAIVER FORM**

Entergy Nuclear Operations, Inc. hereby agrees to comply with the terms and conditions of a Confirmatory Order arising out of an alternative dispute resolution process to be issued relating to enforcement action nos. EA-10-090, 10-248, and 11-106. The Confirmatory Order will be immediately effective upon its issuance. By signing below, Entergy Nuclear Operations, Inc. consents to the issuance of the referenced Confirmatory Order, effective immediately upon its issuance and, by doing so, agrees to waive the right to request a hearing on all or any part of the Confirmatory Order.



1/19/02

John McCann

Vice President, Nuclear Safety, Licensing and Emergency Planning  
Entergy Nuclear Operations, Inc.

Enclosure 1  
NOTICE OF VIOLATION

Entergy Nuclear Northeast  
James A. FitzPatrick Nuclear Power Plant

Docket No. 50-333  
License No. DPR-59  
EA-10-090, EA-10-248,  
EA-11-106

During NRC investigations initiated on July 1, 2009, February 5, 2010, and April 8, 2010, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- I. 10 CFR 20.1703 states, in part, that if the licensee assigns or permits the use of respiratory protection equipment to limit the intake of radioactive material, the licensee shall implement and maintain a respiratory protection program that includes fit testing before the first field use of tight fitting, face-sealing respirators and periodically thereafter at a frequency not to exceed one year. It further states that the licensee shall ensure that no objects, materials or substances, such as facial hair, or any conditions that interfere with the face-faceplate seal or valve function, and that are under the control of the respirator wearer, are present between the skin of the wearer's face and the sealing surface of a tight-fitting respirator face piece.

Fitzpatrick implementing procedure RP-RESP-04.09, "Portacount Respirator Fit Testing," Revision 10, provides the requirements, procedure, and acceptance criteria for respirator fit testing. Section 6.2, "Respirator Quantitative Fit Testing," Step 6.2.6 requires that the individual being tested must don the respirator.

Contrary to the above, on multiple, but an indeterminate number of occasions between 2006 and 2009, several individuals who were required to have been respirator fit tested did not have the respirator fit tests performed within the required annual frequency, in that they did not don the respirator to verify proper fit.

- II. The FitzPatrick Technical Specification Section 5.4.1 states, in part, that written procedures shall be established, implemented, and maintained for the applicable procedures recommended in the Regulatory Guide (RG) 1.33, Appendix A (November 1972 edition). Appendix A, Section G of the RG identifies radiation protection procedures for control of radioactivity for limiting materials released to the environment and limiting personnel exposure. These include access control to radiation areas, contamination control, and personnel monitoring. Section H.2.b of the RG identifies radiation protection and surveillance tests that should be covered by written procedures. These include inspections and calibrations for each surveillance test, inspection, or calibration listed in the technical specifications.

10 CFR 20.1501(a) states, in part, that each licensee shall make or cause to be made, surveys that may be necessary for the licensee to comply with the regulations in this part; and are reasonable under the circumstances to evaluate the magnitude and extent of radiation levels, concentrations or quantities of radiation levels, and the potential radiological hazards.

- A. Entergy procedure RP-OPS-08.01, Revisions 13-16, "Routine Surveys and Inspections," Section 6.2, requires that daily surveys and inspections be documented on Attachment 1.

Contrary to the above, on multiple occasions from 2006 to 2009, RPTs failed to perform daily surveys of the Reactor Building 326 foot elevation airlock.

- B. FitzPatrick Procedure RP-RESP-O3.01, "Drywell Continuous Atmospheric Monitoring System," Revisions 18-27, provides instructions for operation and calibration of the General Atomics Electronic Systems Drywell Continuous Atmosphere Monitoring System(s) (DWCAM). It specifies that after valve manipulations, a second individual must verify correct valve position. Attachment 1 documents weekly data and requires initials and signatures for independent verification of valve manipulations performed during these checks.

Contrary to the above, on eleven occasions between September 2007 and December 2009, DWCAM valves were manipulated, and an independent verification of the DWCAM valve position was not performed by a second Radiation Protection Technician (RPT). On these occasions, the second verification signature was obtained some undetermined length of time after the surveillance test from an RPT determined to have been on duty the day of the test (but who did not actually perform the independent verification) by the RPT who initially performed the test.

- C. Entergy procedure EN-RP-104, "Personnel Contamination Events," Revisions 1-4, provides contamination monitoring requirements, and instructions for response to contamination alarms. Specifically, Section 5.6, "Documentation of Events" requires a condition report, Personnel Contamination Event Log, or Personnel Contamination Event Record, be completed depending on the contamination level.

Contrary to the above, on at least one occasion, on an undetermined date prior to June 2009, an RPT did not document a personnel contamination event that exceeded the documentation threshold. Specifically, while the technician took action to address the radiologically controlled area (RCA) exit portal monitor alarm and decontaminate the individuals, the technician did not document a personnel contamination event as required.

- D. Entergy procedure EN-RP-100, "Radworker Expectations," Revisions 0-3, provides basic Radiation Protection (RP) requirements and expectations for radiation workers engaged in radiological work at Entergy nuclear facilities. Section 1.0, Purpose, states that, "Adherence to these requirements and expectations contributes significantly to the minimization of personnel exposure to radiation and radioactive material and the minimization of personnel contaminations." Section 5.6, "Contamination Control," requires that personal items be scanned prior to exiting an RCA.

Contrary to the above, on one occasion on an undetermined date prior to June 2009, an RPT removed contaminated personal items from an RCA without having them scanned through the contamination monitor at an RCA exit.

- III. 10 CFR 50.9 states, in part, that information required by statute or by the Commission's regulations, orders, or license conditions to be maintained by the licensee shall be complete and accurate in all material respects.

The FitzPatrick Technical Specification Section 5.4.1 states, in part, that written procedures shall be established, implemented, and maintained for the applicable procedures recommended in the RG 1.33, Appendix A (November 1972 edition). Appendix A, Section G of the RG identifies radiation protection procedures for control of radioactivity for limiting materials released to the environment and limiting personnel exposure. These include access control to radiation areas, contamination control, and personnel monitoring. Section H.2.b of the RG identifies radiation protection and surveillance tests that should be covered by written procedures. These include inspections and calibrations for each surveillance test, inspection, or calibration listed in the technical specifications.

- A. FitzPatrick procedure RP-RESP-04.09, "Portacount Respirator Fit Testing," Revision 10, provides the requirements, procedure, and acceptance criteria for respirator fit testing. Section 3.2.1 states that the records generated by the performance of the procedure are considered "quality records."

Contrary to the above, on multiple, but an indeterminate number of occasions between 2006 and 2009, respirator fit testing records maintained by the licensee were not complete and accurate in all material respects in that the annual quantitative respirator fit test qualification records for several involved individuals indicated that the tests were performed, when in fact, the fit tests had not been conducted.

- B. FitzPatrick Procedure RP-RESP-O3.01, "Drywell Continuous Atmospheric Monitoring System," Revisions 18-27, provides instructions for operation and calibration of the DWCAM. It specifies that after valve manipulations, a second individual must verify correct valve position. Attachment 1 documents weekly data and requires initials and signatures for independent verification of valve manipulations performed during these checks.

Contrary to the above, on at least 11 occasions between September 2007 and December 2009, DWCAM surveillance records maintained by the licensee were not complete and accurate in all material respects in that procedurally required signatures for independent verification of valve manipulation were either forged (two instances) or entered after work completion by personnel who did not actually perform the verifications (nine instances). These procedure records were material since they are identified by the licensee as "quality records."

These violations are categorized collectively at Severity Level III.

The NRC has concluded that information regarding: (1) the reason for the violations; (2) the actions planned or already taken to correct the violations and prevent recurrence; and, (3) the date when full compliance was achieved, is already adequately addressed on the docket in the letter, and in the Confirmatory Order enclosed with the letter, transmitting this Notice of Violation (Notice). 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," include the EA number, and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, Region I, and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice, within 30 days of the date of the letter transmitting this Notice.

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

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated this 26<sup>th</sup> day of January 2012



UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

[7590-01-P]

In the Matter of  
Entergy Nuclear Operations Inc.

) Docket Nos.: 50-333; 50-313; 50-368;  
) 50-416; 50-247; 50-286; 50-255; 50-293;  
) 50-458; 50-271; 50-382  
)  
) License Nos.: DPR-59; DPR-51; NFP-6;  
) NFP-29; DPR-26; DPR-64; DPR-20;  
) DPR-35, NFP-47, DPR-28, NFP-38  
)  
) EA-10-090, EA-10-248, EA-11-160

CONFIRMATORY ORDER MODIFYING LICENSE  
(EFFECTIVE IMMEDIATELY)

I

Entergy Nuclear Operations, Inc. (Entergy or licensee) is the holder of Operating License Nos. DPR-59, DPR-51, NFP-6, NFP-29, DPR-26, DPR-64, DPR-20, DPR-35, NFP-47, DPR-28, and NFP-38, issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50. The licenses authorize operation of the James A. FitzPatrick Nuclear Power Plant, Arkansas Nuclear One Units 1 & 2, Grand Gulf Nuclear Station Unit 1, Indian Point Nuclear Generating Units 2 & 3, Palisades Nuclear Plant, Pilgrim Nuclear Power Station, River Bend Station, Vermont Yankee Nuclear Power Station and Waterford Steam Electric Station Unit 3 (collectively, the Facilities), in accordance with conditions specified therein. The Facilities are located in the vicinity of the following cities: Oswego, New York; Russellville, Arkansas; Vicksburg, Mississippi; New York City, New York; South Haven, Michigan; Boston, Massachusetts; Baton Rouge, Louisiana; Brattleboro, Vermont; and New Orleans, Louisiana; respectively.

Enclosure 2

This Confirmatory Order is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on November 9, 2011, in the NRC Region I office in King of Prussia, Pennsylvania.

## II

On July 1, 2009, February 5, 2010, and April 8, 2010, the NRC Office of Investigations (OI) initiated separate investigations (OI Case Nos. 1-2009-041, 1-2010-019, and 1-2010-031, respectively) at Entergy's James A. FitzPatrick Nuclear Power Plant facility (FitzPatrick). Based on the evidence developed during these investigations, the NRC concluded that FitzPatrick radiation protection technicians (RPTs), on occasions between 2006 and 2009, failed to: (1) test required individuals for respirator fit in accordance with the requirements specified in Title 10 of the Code of Federal Regulations (CFR) Section 20.1703 and site procedures; (2) maintain accurate documentation of completed respirator fit tests in accordance with the requirements of 10 CFR 50.9; (3) perform and/or accurately document in accordance with site procedures required by Technical Specifications (TS) and 10 CFR 50.9, independent verification of Drywell Continuous Atmospheric Monitoring System (DWCAM) valve positions after the valves were manipulated; (4) document a personal contamination event in accordance with site procedures required by TS; (5) perform a contamination survey in accordance with site procedures required by TS, prior to removing an item from the radiologically controlled area; and, (6) perform daily radiological surveys in accordance with 10 CFR 20.1501(a).

In a letter dated September 8, 2011, the NRC provided Entergy the results of the investigations, informed Entergy that escalated enforcement action was being considered for apparent violations identified during the investigations, and offered Entergy the opportunity to attend a predecisional enforcement conference or to participate in Alternative Dispute Resolution (ADR).

### III

In response to the September 8, 2011 NRC letter, Entergy requested ADR. Consequently, on November 9, 2011, the NRC and Entergy met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. ADR is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement on resolving any differences regarding the dispute. During that ADR mediation session, an agreement in principle was reached. This Confirmatory Order is the result of that agreement, the elements of which consisted of the following:

1. The NRC and Entergy agree on the facts as set forth in the NRC's September 8, 2011, letter to Entergy, the violations described therein, and willfulness of some of the violations, including deliberate actions by one of the RPTs.
2. The NRC agrees that Entergy, upon receiving the information from the NRC regarding these issues, immediately conducted a comprehensive investigation into the issues. Entergy also ensured affected staff were properly re-tested for respirator fit and determined there were no previous radiological uptakes for the time period in question.
3. In addition, the NRC acknowledges that, prior to the ADR session, Entergy took a number of corrective actions in response to the violations identified at the FitzPatrick site, so as to preclude the occurrence of similar violations in the future. These actions included:
  - A. Completed Corrective Actions affecting the FitzPatrick site:
    - a. Actions to address Individual Accountability:

- i. Reviewed and adjudicated the unescorted access authorization with individuals involved in the respirator fit test issue and subsequent radiation protection (RP) performance issues.
  - ii. Completed disciplinary reviews/actions against the individuals involved with the conduct of or the receipt of a respirator qualification without performance of a quantitative fit test and subsequent RP performance issues.
  - iii. Conducted a series of station and small group meetings between Entergy senior management and staff to reinforce station expectations with regard to raising issues via available station processes and procedure compliance.
- b. Actions to improve RP Procedures/Processes, and adherence to standards:
- i. Completed actions to address identified RP respirator test deficiencies as documented in condition report CR-JAF-2009-02298. An apparent cause evaluation was performed to identify the causes and corrective actions.
  - ii. Increased management oversight of RP activities, as a corrective action implemented as a result of CR-JAF-2010-1419, which identified an adverse trend in RP Department performance. Management provided coaching and other training to other RP supervision and personnel to enhance effectiveness.
  - iii. Modified the mask fit test procedure to require individuals being tested to sign a statement affirming that the mask fit test was performed. Management also reviewed and modified the operation of the portable fit test machine.

- iv. Required RP technicians to complete focused training to remediate the work practices identified during the extent of condition review and fact finding and to bring them into alignment with station procedures and expectations.
- c. Actions to identify the extent that procedure compliance/safety culture issues may exist in other areas:
  - i. Conducted a review of other processes that could be affected by single act vulnerabilities.
  - ii. Completed focused crew assessments regarding departments outside of RP.
  - iii. Performed an extent of condition review by an independent reviewer regarding activities outside of RP.
  - iv. Completed an independent safety culture assessment, and developed and completed actions to enhance the safety culture at FitzPatrick.
  - v. Implemented cross-functional observations by managers of other departments with a focus on procedure adherence and enforcement of standards in the conduct of work.
- d. Performed an effectiveness review of corrective actions taken to enhance procedural compliance and related work practices in the FitzPatrick RP Department. Additionally, Entergy Quality Assurance personnel performed a minimum of two observations of each shift RPT to confirm that the technicians performed assigned tasks in accordance with applicable procedures.

B. Completed Corrective Actions affecting the Entergy Nuclear Fleet:

- a. Completed safety culture assessments at each of Entergy's nine commercial nuclear power plants in 2009.

- b. Conducted training for Entergy nuclear fleet personnel, including personnel at FitzPatrick, on the requirements of 10 CFR 50.5 and 50.9. Supervisors and above, as well as those non-supervisors who have responsibility for communicating with the NRC, received instructor-based training. Others received computer-based training.
  - c. Provided training to detect and prevent retaliation (based on the requirements of 10 CFR 50.7) to supervisors and above at FitzPatrick and other fleet sites.
  - d. Entergy's Chief Nuclear Officer sent a message to the entire Entergy nuclear workforce, via electronic mail, informing them of the underlying misconduct related to the violations and stressing the importance of integrity.
4. As part of the settlement agreement in principle, Entergy also agreed to take additional actions to ensure that the effectiveness of corrective actions previously taken, and to ensure that lessons learned from these events, is extended to the Entergy fleet and to the industry:
- A. Entergy will review its existing fleet-wide general employee training to ensure adequate coverage of the lessons learned from the event that formed the basis for the Confirmatory Order (CO), regarding both procedural compliance and the requirement to maintain complete and accurate records in accordance with 10 CFR 50.9. Entergy will document the results of this review of the general employee training within 60 days after the issuance of the CO. If this review reveals a need to revise the general employee training, Entergy will make the appropriate revisions within 180 days of the date of the CO.

- B. Entergy will prepare a case study about the event that formed the basis of the CO, highlighting the role of those who had the opportunity to detect, report, and prevent the misconduct, as well as on the actions of the individuals who engaged in the misconduct. The Site Vice President or General Manager for Plant Operations at each of Entergy's nine commercial nuclear power plants will present the case study during two station-wide meetings to ensure that both day and night shift personnel will have the opportunity to attend. Entergy will complete these presentations within 180 days of the date of the CO. Entergy will make this case study available for NRC review before conducting these station-wide meetings.
- C. Within 90 days of the date of the CO, Entergy will add a commitment to the commitment tracking system to maintain the safety culture monitoring processes as described in NEI 09-07 "Fostering a Strong Nuclear Safety Culture," or similar processes, at Entergy's nine commercial nuclear power plants.
- D. Within 90 days of the date of the CO, Entergy will review its procedure EN-QV-136, Nuclear Safety Culture Monitoring, which implements the safety culture monitoring processes in NEI 09-07 "Fostering a Strong Nuclear Safety Culture," to determine whether the procedure (if that procedure had been in effect at the time of the violations) would have detected the safety culture weaknesses that led to the misconduct that formed the basis for the CO. If the review indicates that the implementation of that procedure may not have detected the weaknesses, Entergy will develop enhancements to the NEI process that would improve the ability to detect those weaknesses and revise the Entergy procedure accordingly. Entergy will complete this procedure revision, if needed, within 120 days of the completion of that review. Additionally, within 30 days after revising its procedure, Entergy will provide

the results of its review to NEI for its consideration in revising NEI document 09-07 "Fostering a Strong Nuclear Safety Culture." Entergy will make the results of this review available for NRC review.

- E. Within 360 days of the date of the CO, Entergy will deliver a presentation to Regional Utility Groups (RUG) or Plant Managers Meetings at Regions I, II, III, and IV, which will discuss the events that led to this CO, the lessons learned, and actions taken. If any of the RUGS or Plant Managers Meetings schedules will not support completion of this action, Entergy will contact the Regional Administrator, Region I, to provide notice and to resolve the scheduling issue.
  - F. Within 360 days of the date of the CO, Entergy will develop an assessment plan and conduct an assessment consistent with that plan of the RP Departments at the nine Entergy commercial nuclear power plants. That assessment will review the rigor with which members of the RP Departments perform and document routine department activities. If those assessments identify performance or documentation issues, Entergy will enter those issues into its corrective action programs. Prior to the conduct of the first assessment, Entergy will make the assessment plan available to the NRC for review.
  - G. Within 30 days of completion of all of the actions described in items 4A-F, Entergy will send the NRC a letter informing the Commission that all actions are complete, to facilitate NRC confirmatory reviews.
5. Entergy also agreed to notify the senior resident inspectors at each of the Entergy sites, regarding the dates and times of the site-wide case study presentation meetings,



described above in Item 4.B, which will be conducted at their respective sites.

In light of the actions that Entergy took as noted in Item 3, as well as the additional actions Entergy committed to as described in Items 4 and 5, the NRC agreed to not issue a civil penalty for the violations that are the subject of this ADR.

On January 20, 2012, the Licensee consented to issuing this Order with the commitments, as described in Section V below. Entergy further agreed that this Order is to be effective upon issuance and that it 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 Order. Based on the above and Entergy's consent, this Confirmatory Order is immediately effective upon 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, EFFECTIVE IMMEDIATELY, THAT:

- A. Entergy will review its existing fleet-wide general employee training to ensure adequate coverage of the lessons learned from the event that formed the basis for the Confirmatory Order (CO), regarding both procedural compliance and the requirement to maintain complete and accurate records in accordance with 10 CFR 50.9. Entergy will document the results of this review of the general employee training within 60 days after the issuance of the CO. If this review reveals a need to revise the general employee training, Entergy will make the appropriate revisions within 180 days of the date of the CO.
- B. Entergy will prepare a case study about the event that formed the basis of the CO, highlighting the role of those who had the opportunity to detect, report, and prevent the misconduct, as well as on the actions of the individuals who engaged in the misconduct. The Site Vice President or General Manager for Plant Operations at each of Entergy's nine commercial nuclear power plants will present the case study during two station-wide meetings to ensure that both day and night shift personnel will have the opportunity to attend. Entergy will complete these presentations within 180 days of the date of the CO. Entergy will make this case study available for NRC review before conducting these station-wide meetings, and will notify the senior resident inspectors at each of the Entergy sites regarding the dates and times of these meetings at their respective sites.
- C. Within 90 days of the date of the CO, Entergy will add a commitment to the commitment tracking system to maintain the safety culture monitoring processes as described in NEI 09-07 "Fostering a Strong Nuclear Safety Culture," or similar processes, at Entergy's nine commercial nuclear power plants.

- D. Within 90 days of the date of the CO, Entergy will review its procedure EN-QV-136, Nuclear Safety Culture Monitoring, which implements the safety culture monitoring processes in NEI 09-07 "Fostering a Strong Nuclear Safety Culture," to determine whether the procedure (if that procedure had been in effect at the time of the violations) would have detected the safety culture weaknesses that led to the misconduct that formed the basis for the CO. If the review indicates that the implementation of that procedure may not have detected the weaknesses, Entergy will develop enhancements to the NEI process that would improve the ability to detect those weaknesses and revise the Entergy procedure accordingly. Entergy will complete this procedure revision, if needed, within 120 days of the completion of that review. Additionally, within 30 days after revising its procedure, Entergy will provide the results of its review to NEI for its consideration in revising NEI document 09-07 "Fostering a Strong Nuclear Safety Culture." Entergy will make the results of this review available for NRC review.
- E. Within 360 days of the date of the CO, Entergy will deliver a presentation to Regional Utility Groups (RUG) or Plant Managers Meetings at Regions I, II, III, and IV, which will discuss the events that led to this CO, the lessons learned, and actions taken. If any of the RUGS or Plant Managers Meetings schedules will not support completion of this action, Entergy will contact the Regional Administrator, Region I, to provide notice and to resolve the scheduling issue.
- F. Within 360 days of the date of the CO, Entergy will develop an assessment plan and conduct an assessment consistent with that plan of the RP Departments at the nine Entergy commercial nuclear power plants. That assessment will review the rigor with

which members of the RP Departments perform and document routine department activities. If those assessments identify performance or documentation issues, Entergy will enter those issues into its corrective action programs. Prior to the conduct of the first assessment, Entergy will make the assessment plan available to the NRC for review.

- G. Within 30 days of completion of all of the actions described in items A-F, Entergy will send the NRC a letter informing the Commission that all actions are complete, to facilitate NRC confirmatory reviews.

The NRC Region I Regional Administrator, 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 20 days of its publication in the *Federal Register*. 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 made in writing 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 RC E-Filing rule (72 FR 49139, August 28, 2007). 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 request (1) 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/apply-certificates.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 Meta System 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. In order to serve documents through the Electronic Information Exchange (EIE), users will

be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, 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 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 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 agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC 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 at (866) 672-7640. The NRC Meta System 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://adams.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, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

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 C.F.R. 2.309(d) and (f).

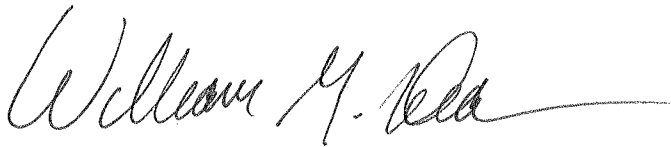
If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

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 final 20 days from the date this Confirmatory Order is published in the *Federal Register* 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.



A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF  
THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in black ink, appearing to read "William M. Dean", with a long horizontal flourish extending to the right.

William M. Dean

Regional Administrator

NRC Region I

Dated this 26<sup>th</sup> day of January 2012

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 Office of the Regional Administrator, U.S. NRC, 475 Allendale Rd., King of Prussia, PA 19406. A copy of this letter and its enclosures will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.htm>. The NRC will also include this letter, and its attached Confirmatory Order on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>). Your response, if you choose to provide one, will also be made available electronically for public inspection in the NRC Public Document Room and from the NRC's document system (ADAMS).

If you have any questions or comments concerning this letter, please contact Mr. Karl Farrar of my staff at 610-337-5301.

Sincerely,  
*/RA/*  
William M. Dean  
Regional Administrator

Docket Nos. 50-333; 50-313; 50-368; 50-416; 50-247; 50-286; 50-255; 50-293; 50-458; 50-271; 50-382

License Nos. DPR-59; DPR-51; NFP-6; NFP-29; DPR-26; DPR-64; DPR-20; DPR-35; NFP-47; DPR-28; NFP-38

Enclosures:

1. Consent and Hearing Waiver Form
2. Notice of Violation
3. Confirmatory Order

cc w/encl: Distribution via ListServ  
William Dennis, Entergy Legal Counsel  
Kevin Bronson, Chief Operations Officer, Entergy Nuclear Northeast  
Brian Finn, Director, FitzPatrick Nuclear Assurance  
Ed Weinkam, Director, Licensing, Entergy Nuclear Northeast  
David Mannai, FitzPatrick Licensing  
Charles Thebaud Jr., Morgan, Lewis and Bockius LLP  
State of New York

Distribution: See next page

**SUNSI Review Complete: MKG (Reviewer's Initials)**

DOC NAME: S:\Enf-all\Enforcement\Proposed-Actions\Region1\FitzPatrick ADR CO and Individual Closeouts\Fitz ADR CO Pkg Rev 1.docx  
After declaring this document "An Official Agency Record" it **will** be released to the Public. ADAMS Accession No.: ML120260627  
To receive a copy of this document, indicate in the box: "C" = Copy without attachment/enclosure "E" = Copy with attachment/enclosure "N" = No copy

|        |                   |  |            |  |                |  |                        |  |               |  |               |  |
|--------|-------------------|--|------------|--|----------------|--|------------------------|--|---------------|--|---------------|--|
| OFFICE | RI/ORA            |  | RI/DRP     |  | RI/DRP         |  | RI/DRS                 |  | OI/RI         |  | RI/ORA        |  |
| NAME   | ADeFrancisco/AED* |  | MGray/MKG* |  | DRoberts/ DJR* |  | CMiller/ P Wilson for* |  | JTeator/ JAT* |  | KFarrar/ KLF* |  |
| DATE   | 11/30/11          |  | 12/01/11   |  | 12/08/11       |  | 12/8/11                |  | 12/15/11      |  | 12/14/11      |  |
| OFFICE | RI/ORA            |  | NRR        |  | OGC            |  | OE                     |  | RI/RA         |  |               |  |
| NAME   | DHolody/MMM for*  |  | JLubinski  |  | EMonteith      |  | NColeman               |  | W Dean        |  |               |  |
| DATE   | 12/16/11          |  | 12/20/11   |  | 12/22/11       |  | 1/4/12                 |  | 01/26/2012    |  |               |  |