

**R4ALLEGATION - Closure of Allegation 2006-A-0033**

**From:** Tony Gody  
**To:** R4ALLEGATION  
**Date:** 2/26/2007 4:23:35 PM  
**Subject:** Closure of Allegation 2006-A-0033

Attached is the OB closure memo for the subject allegation.....

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**February 26, 2007**

**Note to: Allegation File RIV-2006-A-0033**

**From: Anthony T. Gody, Jr.**

**SUBJECT: CLOSURE OF ALLEGATION RIV-2006-A-0033**

**Operations Branch has reviewed the subject reports from the Office of Investigations and based on those reports and our independent inspection we recommend that the subject allegation be closed. The justification for closure is contained in the attached file.**

**RESOLUTION OF CONCERNS**

**RIV-2006-A-0033**

**Concern 1**

An (b)(7)(C) was not attentive to his duties for months.

**NRC Resolution**

1. The Office of Investigation (OI), Region IV initiated an investigation to determine if an (b)(7)(C) was not attentive to his duties for months.
2. The investigator interviewed various people and reviewed procedures and other documentary evidence, including LOCT [Licensed Operator Continuing Training] Evaluation summary Reports and Fitness for Duty records.
3. Based on the evidence developed during the investigation, the investigator concluded that there was insufficient evidence to corroborate the concern that the (b)(7)(C) was not attentive to his duties. Your concern that an (b)(7)(C) employed by AmerenUE, Callaway, was not attentive to his licensed duties was not substantiated.

**Concern 2**

(b)(7)(C) told licensee management about the problem but management took no action to address the issue until they were forced to by an Employee Concerns Program investigation.

**NRC Resolution**

1. The Office of Investigation (OI), Region IV initiated an investigation to determine if Callaway management willfully failed to take appropriate action regarding an (b)(7)(C) who was not attentive to his duties for months.
2. The investigator interviewed various people and reviewed procedures and other documentary evidence, including LOCT Evaluation Summary Reports and Fitness for Duty records.
3. Based on the evidence developed during the investigation, the investigator concluded that Callaway management personnel followed AmerenUE's procedures and conducted the Behavioral Observation Program Evaluations of the (b)(7)(C) after they were notified by (b)(7)(C). Therefore, your concern that Callaway management willfully failed to take appropriate action regarding an (b)(7)(C) being inattentive to his duties was not substantiated.

**Concern 3**

You were subjected to retaliation for reporting this fitness-for-duty problem to the Employee Concerns Program in that you did (b)(7)(C)

**NRC Resolution**

1. The Office of Investigation (OI), Region IV initiated an investigation to determine if you were discriminated against by AmerenUE's Callaway Plant (Callaway) for raising safety

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concerns.

2. The investigator interviewed various people and reviewed documentary evidence which showed that Callaway managers were challenged to raise the performance evaluation standards and that the evaluations of several (b)(7)(C) were affected as a result. Of the (b)(7)(C) (b)(7)(C) The investigator also reviewed documentary evidence concerning the AmerenUE bonus program. This evidence indicated that the program had two elements: the business line performance and the individual performance. The business line performance is weighted at 50% and the remaining 50% is placed in a pool and used to award individual performance on a discretionary basis. The records showed that, of the (b)(7)(C) (b)(7)(C)
3. Based on the evidence developed during the investigation, your concern of discrimination for raising safety concerns was not substantiated.

#### Concern 4

The operations crew may have been "carrying" the inattentive (b)(7)(C) during licensed operator requalification in that the shift crew had to compensate for the (b)(7)(C) inadequacies and the grading standard was relaxed in order for the crew to pass. (b)(7)(C) told you that this was not a regulatory issue since the exam still met the NRC threshold.

#### NRC Resolution

1. The NRC inspected the concern during an inspection conducted on July 13, 2006. The entire set of 2005 annual operating test scenarios was reviewed to verify that the examination was developed and administered in accordance with NUREG 1021, Revision 9, "Operator Licensing Examination Standards for Power Reactors." Specifically, the inspector reviewed 16 operating scenarios used in the 2005 annual operating test against the guidance contained in NUREG 1021, ES-604, "Dynamic Simulator Requalification Examinations," to ascertain if each scenario was adequate for use in the NRC annual operating tests. Other aspects of licensed operator requalification were reviewed such as: (1) the administration, grading, and construction of the entire body of scenarios to determine if the operating test was equitable for all the Callaway Plant operators; (2) operators and instructors were interviewed to ensure that scenarios were graded properly and consistently; (3) various licensee operations management were interviewed to understand the expectations associated with team building. The inspectors also reviewed the remediation of a crew, which had failed their first operating test and the retest of that crew.
2. The inspectors found the 2005 annual operating test to be both equitable and consistent as required by 10 CFR 55.49, "Integrity of Examinations and Tests." The inspectors also found that the licensee implemented effective remedial training for those operators who failed their first annual operating test prior to returning them to shift duties.
3. The inspectors concluded that the 2005 annual operating test was developed,

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administered, and graded in accordance with NUREG-1021. The 2005 annual operating test was equitable and consistent as required by 10 CFR 55.49, "Integrity of Examinations and Tests." Additionally, the inspectors concluded that the licensee implemented effective remedial training for those operators who failed their first annual operating test prior to returning them to shift duties. These conclusions were based on the inspector completing an in-depth evaluation of 100 percent of the operating test against the guidance contained in NUREG 1021 ES-604, and a review of the remediation and testing of the crew that failed their initial test. Your concern was not substantiated.

**Concern 5**

Based upon your concerns, the NRC inspected an additional concern that although the allegedly inattentive (b)(7)(C) was (b)(7)(C) the licensee had not (b)(7)(C) and therefore, the individual may be placed on shift as needed.

**NRC Resolution**

1. The Office of Investigation (OI), Region IV initiated an investigation to determine if a (b)(7)(C) was not attentive to his duties.
2. The investigator interviewed various people and reviewed procedures and other documentary evidence, including LOCT Evaluation summary Reports and Fitness for Duty records. Based on the evidence developed during the investigation, the investigator concluded that concern that the (b)(7)(C) was inattentive to his duties was not substantiated.
3. Based on the investigator not being able to substantiate the concern that the (b)(7)(C) (b)(7)(C) was inattentive during the performance of licensed duties, there is no legal basis for the NRC to require the licensee to (b)(7)(C).
4. NRC management discussed the status of the subject (b)(7)(C) license with licensee management who indicated that the subject (b)(7)(C) was not performing licensed duties at that time.

**Concern 6**

You believe that there was a failure of the licensee's fitness-for-duty program in that 20 to 30 individuals had regular contact with the (b)(7)(C) but did not pursue resolution of his lack-of-attention to duties.

**NRC Resolution**

1. The Office of Investigation (OI), Region IV initiated an investigation to determine if there was a failure of the licensee's Fitness for Duty Program in that 20 to 30 individuals did not pursue resolution of the issue regarding an (b)(7)(C) who was not attentive to his duties for months.
2. The investigator interviewed various people and reviewed procedures and other

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documentary evidence, including LOCT Evaluation summary Reports and Fitness for Duty records.

3. Based on the evidence developed during the investigation, the investigator concluded that Callaway personnel, including management, followed AmerenUE's procedures and policies, including conduct of the Behavioral Observation Program Evaluations regarding the (b)(7)(C). Therefore, your concern that there was a failure of the licensee's Fitness for Duty Program was not substantiated.

#### Concern 7

On more than one occasion, an on-shift (b)(7)(C) left the control room area for four to five hours. During these absences the shift crew could not contact the (b)(7)(C) by any communications method. The (b)(7)(C) may not have designated another individual to assume the (b)(7)(C) during these absences.

#### NRC Resolution

1. The Office of Investigation (OI), Region IV initiated an investigation to determine if an on-shift (b)(7)(C) left the control room area for extended periods of time, was unable to be contacted by the shift crew during these periods of time and did not designate another individual to assume the (b)(7)(C) during these absences.
2. The investigator interviewed various people and reviewed procedures and other documentary evidence, including control room logs and reader transaction records for the control room for May and June 2005. The investigator found only one instance of the on-shift (b)(7)(C) being absent from the control for a period of more than two hours was identified. Records indicate that he was involved in official work for the licensee which kept him out of the control room for this time frame.
3. Based on the results of the investigation, the NRC was unable to substantiate your concern that an on-shift (b)(7)(C) left the control room area for four to five hours and that during these absences the shift crew could not contact (b)(7)(C) by any communications method. However, the NRC will be following up on the one instance where the on-shift (b)(7)(C) was absent from the control room for a period of more than two hours for official work. The NRC plans to inspect this during a future inspection to ensure that compliance with applicable regulations was maintained.