

ENCLOSURE 1

NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY

Entergy Operations, Inc.
River Bend Station

Docket No. 50-458
License No. NPF-47
EA 98-132

During an NRC investigation which concluded on December 31, 1997, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the Nuclear Regulatory Commission proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violation and associated civil penalty are set forth below:

10 CFR 50.9 requires that information provided to the Commission by a licensee shall be complete and accurate in all material respects.

Contrary to the above, on October 15, 1997, the Superintendent of Radiation Control, a licensee official, provided information to an NRC senior resident inspector that was not complete and accurate in all material respects. Specifically, in discussing a potential violation of RWP 97-0002 that was observed on October 10, 1997, the superintendent provided the NRC inspector with a revised version of RWP 97-0002, which no longer reflected the protective clothing requirements that had been in place, and did not inform the NRC senior resident inspector that the copy of the RWP he presented had been revised and was not in effect on October 10, 1997. Based on this inaccurate and incomplete information, the Superintendent asserted that the NRC's preliminary regulatory position regarding a violation was erroneous. (01013)

This is a Severity Level III violation (Supplement VII).
Civil Penalty - \$55,000.

Pursuant to the provisions of 10 CFR 2.201, Entergy Operations, Inc. (Licensee) is hereby required to submit a written statement or explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice of Violation and Proposed Imposition of Civil Penalty (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each alleged violation: (1) admission or denial of the alleged violation, (2) the reasons for the violation if admitted, and if denied, the reasons why, (3) the corrective steps that have been taken and the results achieved, (4) the corrective steps that will be taken to avoid further violations, and (5) the date when full compliance will be achieved. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as why the license should not be modified, suspended, or revoked or why such other action as may be proper should not be taken. Consideration may be given to extending the response time for good cause shown. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

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Within the same time as provided for the response required above under 10 CFR 2.201, the Licensee may pay the civil penalty by letter addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, with a check, draft, money order, or electronic transfer payable to the Treasurer of the United States in the amount of the civil penalty proposed above, or the cumulative amount of the civil penalties if more than one civil penalty is proposed, or may protest imposition of the civil penalty in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should the Licensee fail to answer within the time specified, an order imposing the civil penalty will be issued. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violation listed in this Notice, in whole or in part, (2) demonstrate extenuating circumstances, (3) show error in this Notice, or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the factors addressed in Section VI.B.2 of the Enforcement Policy should be addressed. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from the statement or explanation in reply pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty due which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The response noted above (Reply to Notice of Violation, letter with payment of civil penalty, and Answer to a Notice of Violation) should be addressed to: James Lieberman, 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 IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice.

Because your response will be placed in the NRC Public Document Room (PDR), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR 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 2.790(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.

Dated this 5th day of January 1999.

ENCLOSURE 2

SUMMARY OF LICENSEE POSITION

Entergy's conclusion was that the Superintendent did not remember or associate the RWP revisions he had requested with the information he provided the NRC senior resident inspector until he was shown both revisions of RWP 97-0002 by the NRC OI investigator on October 29, 1997. Further, Entergy believes that the individual had no motivation to willfully provide inaccurate or incomplete information. The following is a summary of additional information provided by Entergy at the June 26, 1998 predecisional enforcement conference.

1. The Superintendent did not know a violation existed before being informed by a representative of Entergy's regulatory affairs organization on October 15, 1997, the day of the meeting with the senior resident inspector. Although the Superintendent directed that RWPs be revised (on about October 11), at the time he met with the NRC senior resident inspector (on October 15), he did not know which RWPs had been revised and did not know which RWP was involved with the potential violation. Entergy noted that the Superintendent was new to his position, he was very busy during the outage, and the issue was not a high priority. Further, he was not aware of the specific wording of RWP clothing requirements, and Entergy does not expect a manager at his level to be that knowledgeable with the details of the program.
2. Entergy stated that during the October 15 meeting with the senior resident inspector, there was confusion over which RWP was applicable, and the Superintendent did not adequately prepare for the October 15 meeting. Entergy's position was that the information was complete and accurate because the RWPs discussed with the senior resident inspector were the correct revisions for the respective days the technician signed in on them; that RWP 97-9002 was the "operative" RWP on October 10, 1997.
3. Entergy noted that at the conclusion of the meeting with the NRC senior resident inspector, the senior resident inspector informed the Superintendent that the issue would be discussed with the NRC inspector who observed the potential violation and, as a result, the Superintendent expected further (NRC) discussions would occur.

SUMMARY OF NRC POSITION

1. In response to the observation on October 10, 1997, on October 11-12, 1997 the Superintendent discussed with his staff the specific wording of RWP protective clothing requirements, including the requirement for minimum booties and gloves, and held discussions with the technician involved with the incident. The essence of the discussions with his staff during this time were to revise the wording of the RWP minimum protective clothing requirements so they are not so restrictive that they require "minimum booties and gloves." The Superintendent decided the RWPs should be revised to allow flexibility for the radiation protection technicians to set the dress requirements. On about October 12, the Superintendent agreed to the wording, "dress requirements to be set by RP," and instructed that all active RWPs be revised to include this wording.

During the October 15, 1997, meeting with the NRC senior resident inspector, the Superintendent discussed the issue of which RWP was applicable and mentioned RBS'

practice of allowing radiation protection technicians to work under other RWP's without signing on to them on a given day. The Superintendent showed documents which indicated that on October 10, the technician was signed in on RWP 97-9002, which applied to Drywell activities and it was noted that the technician was observed in the fuel building, where, the Superintendent stated, RWP 97-0002 "could" apply. Although the Superintendent claimed he did not know which RWP had been revised by the time the Superintendent met with the senior resident inspector, the Superintendent had recently directed that the wording for minimum protective clothing requirements be changed for all active RWP's. In fact, the revision of RWP 97-0002 that the Superintendent showed the senior resident inspector had the new wording which the Superintendent had recently reviewed. This wording was being adopted for the first time at RBS and the Superintendent signed on to RWP 97-0002 the day before and the day after the RWP was revised, on October 12, 1997.

2. Although the Superintendent stated that the potential violation was not a high priority, the Superintendent asked for the meeting with the senior resident inspector and had sufficient time to prepare for the meeting. Further, the Superintendent could have postponed the meeting if he needed to gather more information.
3. If (as the Superintendent asserts) he explained that not only RWP 97-0002 but other RWP's might be applicable, the Superintendent did not initiate a condition report or take any actions to find out which RWP would be applicable following the meeting. The Superintendent made no attempt, either prior to or after the October 15 meeting, to confirm which RWP was applicable to the inspector's October 10 observation. In fact, the meeting concluded with the Superintendent asserting that no violation existed based on the version of RWP 97-0002 and the other three RWP's the Superintendent presented to the senior resident inspector. Each participant present during the discussion, including two NRC inspectors and a representative of RBS' regulatory affairs organization, understood the Superintendent to assert that no violation existed. This was also reflected in the "NRC Issues Sheet" (a RBS internal document) where it is stated that the RP department does not believe a violation exists.
4. The Superintendent did not inform the senior resident inspector that the Superintendent had recently directed wording changes to all RWP's and that the RWP's the Superintendent presented to the senior resident inspector (on October 15, 1997) were not or may not have been the RWP's in effect on October 10, 1997. As a result, the Superintendent contributed to the confusion over which RWP was applicable by not providing complete information.
5. Both the Superintendent and Entergy asserted that RWP 97-9002 was "operative" or applied to the technician's survey activities at the time of the observation. The NRC disagrees with this contention. RWP 97-9002, which applied to activities in the drywell, did not cover the technician's survey activities in the fuel building where the violation was observed. We note that on October 10, 1997, the inspector who observed the RWP violation asked the technician's supervisor for a copy of the RWP that was applicable, and was provided with a copy of RWP 97-0002. After the June 26 conference, Entergy stated that RWP 97-0002 or RWP 97-0011-09 were the RWP's that were applicable to the specific survey activity in question. Even if the NRC were to agree with the acceptability of Entergy's program that allows a radiation protection

technician to work under an RWP without actually signing on to it (which has not yet been evaluated by the NRC), RWP 97-9002 was not the "operative" RWP for the issue in question.

6. Both the Superintendent and Entergy asserted that the Superintendent presented RWPs on October 15 that were in effect on the days the access log indicated the technician signed in on them, and therefore no violation of 10 CFR 50.9 occurred. However, the NRC had identified a potential failure to follow the minimum protective clothing requirements of RWP 97-0002 on October 10, 1997. During the October 15 meeting, the Superintendent presented the senior resident inspector with the version of RWP 97-0002 that had been revised on October 12, 1997. Therefore, the version of RWP 97-0002 provided to the senior resident inspector was not accurate because it did not reflect the requirements that were in place on the date the RWP violation occurred.
7. The Superintendent held numerous discussions regarding this issue prior to the October 15 meeting with the NRC. This included two separate discussions with the inspector who observed the violation, as well as discussions with his staff and the technician involved in the RWP violation to address the very issue that was the subject of the potential violation. If, as Entergy contended, the Superintendent believed the discussions at the October 15 meeting were initial discussions and/or thought that further discussions with the NRC would occur, the Superintendent did not initiate a condition report, or verify the circumstances of the potential violation, or verify the information provided. The record indicates that the Superintendent conducted no further review because he asserted no violation occurred, based on the incomplete and inaccurate information he provided.

In sum, it is NRC's view, after balancing the evidence, that the Superintendent knew that the version of RWP 97-0002 presented to the NRC senior resident inspector at the October 15, 1997 meeting was not the version in effect at the time of the observed RWP violation on October 10, 1997.