



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION IV  
1600 EAST LAMAR BOULEVARD  
ARLINGTON, TEXAS 76011-4511

July 27, 2020

IA-20-030

Mr. Denver Lee  
[NOTE: HOME ADDRESS DELETED  
UNDER 10 CFR 2.390]

SUBJECT: REVISED NRC INVESTIGATION REPORT 4-2019-009

Dear Mr. Lee:

The NRC has identified an administrative error in our letter, dated July 15, 2020, related to NRC Investigation Report 4-2019-009. Specifically, our July 15, 2020, letter included an incorrect Individual Action (IA) tracking number. This letter and its enclosures correct this administrative error and replaces our previous correspondence in its entirety.

Please note that the options provided to respond to the apparent violation presented in our previous correspondence are unaffected by this administrative error. Any written correspondence provided to the NRC should reference the correct IA number included with this letter.

As previously communicated, this letter refers to the investigation completed on February 27, 2020, by the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations at Arkansas Nuclear One. The investigation was conducted, in part, to determine whether you, a contract employee of Entergy Operations, Inc. (licensee) working at Arkansas Nuclear One willfully failed to notify security of prohibited items inside the protected area on October 10, 2018. A factual summary of the investigation, as it pertains to your actions, is provided as Enclosure 1.

Based on the information acquired during the investigation, an apparent violation was identified and is being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The apparent violation, as documented in Enclosure 2, is Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.5(a)(1), which prohibits an employee of a contractor of any licensee from deliberately causing a licensee to be in violation of any regulation issued by the Commission. Your actions also appeared to have caused the licensee to be in violation of a security-related requirement.

In addition, based upon your position within the licensee's organization, the lack of actual safety consequences, and your cooperation during the investigation, an Order banning you, in part or in whole, from NRC licensed activities, or other requirements imposed by an Order, does not appear warranted.

Before the NRC makes its enforcement decision, we are providing you an opportunity to: (1) respond in writing to the apparent violation in Enclosure 2 of this letter within 30 days of the date of this letter; or (2) request a predecisional enforcement conference (PEC); or (3) request alternative dispute resolution (ADR). If a PEC is held, the PEC will be closed to public observation since Security-Related Information and information related to an Office of Investigations report will be discussed and the report has not been made public. If you decide to participate in a PEC or pursue ADR, please contact John Kramer at 817-200-1121 within 10 days of the date of this letter. A PEC should be held within 30 days and an ADR session within 45 days of the date of this letter.

If you choose to provide a written response, it should be clearly marked as a "Response to Apparent Violation, NRC Investigation Report 4-2019-009; IA-20-030" and should include for the apparent violation: (1) the reason for the apparent violation or, if contested, the basis for disputing the apparent violation; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken; and (4) the date when full compliance will be achieved. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. Additionally, your response should be sent to the Director, Division of Reactor Safety, U.S. Nuclear Regulatory Commission, Region IV, 1600 E. Lamar Blvd., Arlington, TX 76011-4511. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision.

If you choose to request a PEC, the conference will afford you the opportunity to provide your perspective on these matters and any other information that you believe the NRC should take into consideration before making an enforcement decision. The decision to hold a PEC does not mean that the NRC has determined that a violation has occurred or that enforcement action will be taken. This conference would be conducted to obtain information to assist the NRC in making an enforcement decision. The topics discussed during the conference may include information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned.

In lieu of a PEC, you may request ADR with the NRC in an attempt to resolve this issue. Alternative dispute resolution is a general term encompassing various techniques for resolving conflicts using a neutral third party. The technique that the NRC has decided to employ is mediation. Mediation is a voluntary, informal process in which a trained neutral mediator works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues.

Additional information concerning the NRC's ADR program can be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>, as well as NRC brochure NUREG/BR-0317, "Enforcement Alternative Dispute Resolution Program" Revision 2 (Agencywide Documents Access and Management System (ADAMS) Accession ML18122A101). The Institute on Conflict Resolution at Cornell University has agreed to facilitate the NRC's program as a neutral third party. Please contact the Institute on Conflict Resolution at 877-733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR.

Because this letter references and encloses information addressing NRC's review of an apparent enforcement action against an individual, this letter and its enclosures will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." This system, which is not publicly accessible, includes all records pertaining to individuals who are being or have been considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from our web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

In addition, please be advised that the number and characterization of apparent violations described in the enclosures to this letter may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

If the NRC concludes that enforcement action should be issued to you, this letter, and your response, if you choose to submit one, will be made publicly available either electronically for public inspection in the NRC Public Document Room or from the NRC's ADAMS, accessible from the NRC's website at <http://www.nrc.gov/reading-rm/adams.html>. However, you should be aware that all final NRC documents, including the final Office of Investigations report, are official agency records and may be made available to the public under the Freedom of Information Act, subject to redaction of certain information in accordance with the Freedom of Information Act. To the extent possible, any response which you provide should not include any personal privacy or proprietary information so that it can be made available to the public without redaction.

If you have any questions regarding this matter, you may contact John Kramer, Senior Enforcement Specialist, at 817-200-1121.

Sincerely,

Ryan E. Lantz, Director  
Division of Reactor Safety

Enclosures:

1. Factual Summary
2. Apparent Violation

## NRC INVESTIGATION REPORT 4-2019-009 – July 27, 2020

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ADAMS ACCESSION NUMBER: ML20209A413

☒ SUNSI Review: ADAMS: ☒ Non-Publicly Available ☐ Non-Sensitive Keyword:  
 By: ACR ☒ Yes ☐ No ☐ Publicly Available ☒ Sensitive

OFFICE	ES:ACES	TL:ACES	D:DRS			
NAME	ARoberts	JGroom	RLantz			
SIGNATURE	/RA/	/RA/				
DATE	07/23/2020	07/23/2020	07/27/2020			

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**FACTUAL SUMMARY**  
**OFFICE OF INVESTIGATIONS REPORT 4-2019-009**

On February 21, 2019, the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI) Region IV initiated an investigation to determine whether you, while employed as a contractor working at Arkansas Nuclear One, willfully did not notify security personnel as soon as possible after becoming aware of a prohibited item in the protected area. The investigation was completed on February 27, 2020.

Based on information obtained during the investigation, OI determined that on or about October 10, 2018, the swing shift general foreman came to you with three rounds of live ammunition that he had found in his backpack while within the protected area (PA). The two of you brought the ammunition to the night shift lead supervisor. A conversation ensued between the three of you about reporting the prohibited item to security, and you discussed the consequences of reporting the prohibited item. You contacted the day general foreman, and the night shift lead supervisor contacted the day superintendent. A decision was made to remove the ammunition from the PA without reporting it to security. You were aware of your responsibility to report the ammunition to security. Ultimately, however, you allowed the swing shift general foreman to depart the PA with the ammunition, and you did not report the ammunition discovery to security.

During the investigation, you confirmed that you had successfully passed a training course on security and prohibited items, and that you were familiar with Entergy procedure EN-NS-232, "General Employee Security Responsibilities". You acknowledged that you were aware of the requirement to report prohibited items in the PA to security, but that you believed that since you did promptly notify your supervisor, you were relieved of any responsibility to also report to security. You also stated that based on the training you had received, you understood that you should have reported the ammunition to security.

Based on the evidence, it appears that you engaged in deliberate misconduct that caused the licensee to be in violation of 10 CFR 73.55(a)(3). This appears to have caused you to be in violation of 10 CFR 50.5(a)(1).

## APPARENT VIOLATION

Based on the results of an NRC investigation completed on February 27, 2020, an apparent violation of NRC requirements was identified. The apparent violation is listed below:

10 CFR 50.5(a)(1) requires, in part, that an employee of a contractor of a licensee may not engage in deliberate misconduct that causes a licensee to be in violation of any regulation issued by the Commission.

10 CFR 73.55(a)(3) states, in part, that the licensee is responsible for maintaining the onsite physical protection program and written security implementing procedures.

Entergy Fleet Procedure EN-NS-232, "General Employee Security Responsibilities," Revision 1, Section 5.0, "Definitions" defines "Prohibited Items" as "Items that the licensee has determined not appropriate for introduction into the Protected Area. Alcohol, illegal drugs, drug paraphernalia and unauthorized ammunition are some examples of prohibited items."

Entergy Fleet Procedure EN-NS-232, Section 6.0.11 requires, in part, that plant employees must continuously be aware and alert for unauthorized activities and/or personnel in the protected area and notify Security as soon as possible.

Entergy Fleet Procedure EN-NS-232, Section 7.21, requires, in part, that all plant personnel report to security contraband or prohibited items found in their area of work or suspected on the person of any individual or vehicle in the protected area.

Contrary to the above, on or about October 10, 2018, you, an employee of a licensee's contractor, engaged in deliberate misconduct that caused a licensee to be in violation of a regulation issued by the Commission. Specifically, you were aware of a prohibited item, unauthorized ammunition, inside the protected area and failed to promptly notify security of the prohibited item.