



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

September 24, 2020

IA-20-030

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

SUBJECT: NOTICE OF VIOLATION, NRC INVESTIGATION REPORT 4-2019-009

Dear Mr. Lee:

This 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 or about October 10, 2018. A factual summary of the investigation, as it pertains to your actions, was issued as an enclosure to our letter dated July 27, 2020, Agencywide Documents Access and Management System (ADAMS) Accession No. ML20209A413.

In the letter transmitting the factual summary of the investigation report, we provided you the opportunity to address the apparent violation identified in the letter by attending a predecisional enforcement conference, participating in alternative dispute resolution, or by providing a written response before we made our final enforcement decision. In a letter dated July 31, 2020, you provided your written response to the apparent violation, ADAMS Accession No. ML20239B031.

In that written response, you stated that any alleged misconduct on your part was not deliberate but instead was the direct result of a "chilled work environment" at Arkansas Nuclear One. You assert that this environment inhibited "the full expression of safety concerns" and rendered your failure to notify security "involuntary." However, the record does not support your explanation. Even though you recognized the items were prohibited, and multiple avenues to report these security issues (including to the NRC) were available to you, you decided not to report them.

Based on the facts and your testimony, the NRC finds sufficient evidence to conclude that you deliberately failed to notify site security of the discovery of prohibited items, unauthorized ammunition, within the licensee's protected area. In addition, after consulting with other supervisors, you consented to the removal of the ammunition from the protected area without notifying security.

Therefore, the NRC has determined that a deliberate violation of NRC requirements occurred. The violation is cited in Enclosure 1, Notice of Violation (Notice). Your deliberate actions placed you in violation of Title 10 of the *Code of Federal Regulations* (10 CFR) 50.5, "Deliberate misconduct" and the licensee in violation of 10 CFR 73.55, "Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage."

Enclosure 2 includes a copy of the letter and Notice issued to the licensee. Given the significance of the underlying issue and the deliberate nature of your actions, the violation issued to you has been categorized in accordance with the NRC Enforcement Policy as Severity Level III. 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 action.

The NRC has concluded that since: (1) you are no longer working as a contract employee with the licensee, (2) the licensee entered information in the Personnel Access Data System concerning your actions, and (3) you indicated that in the future you would not allow the fear of retaliation to prevent you from reporting a violation, you are not required to respond to this letter. Should you choose to respond, follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter, its enclosure, and your responses, 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 ADAMS, accessible from the website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy information so that it can be made available to the public without redaction. The NRC will also make the letter describing the apparent violation, dated July 27, 2020, publicly available.

The NRC also includes significant enforcement actions on its website 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. 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 the NRC website at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Please contact Mr. John Kramer of my staff at 817-200-1121 if you have any questions.

Sincerely,

John D. Monninger
Deputy Regional Administrator

Enclosures:

1. Notice of Violation
2. Notice of Violation to Entergy Operations, Inc.

NOTICE OF VIOLATION, NRC INVESTIGATION REPORT 4-2019-009 – DATED
 SEPTEMBER 24, 2020

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ADAMS ACCESSION NUMBER: **ML20267A607**

SUNSI Review: ADAMS: Non-Publicly Available Non-Sensitive Keyword:
 By: CAJ Yes No Publicly Available Sensitive

OFFICE	SES/ACES	TL:ACES	C:DRS/PSB1	RC	C:DRP/D	OE
NAME	JKramer	JGroom	RKellar	DCylkowski	JDixon	GWilson
SIGNATURE	/RA/ E	/RA/ E	/RA/ E	/RA/ E	/RA/ E	/RA/ E
DATE	08/21/20	08/21/20	08/24/20	08/27/20	08/21/20	09/17/20
OFFICE	NSIR	OGC	D:DRS	DRA		
NAME	TKeane	NMoron	RLantz	JMonninger		
SIGNATURE	/RA/ E	/NLO/ E	/RA/ E	/RA/ E		
DATE	09/17/20	09/15/20	09/17/20	09/24/20		

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Denver Lee
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

IA-20-030

Based on the results of an NRC investigation completed on February 27, 2020, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the 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 the prohibited items, unauthorized ammunition, inside the protected area and failed to promptly notify security of the prohibited items.

This is a Severity Level III violation (NRC Enforcement Policy, Section 2.2.1.d).

The NRC has concluded that since: (1) you are no longer working as a contract employee with the licensee, (2) the licensee entered information in the Personnel Access Data System concerning your actions, and (3) you indicated that in the future you would not allow the fear of retaliation to prevent you from reporting a violation, you are not required to respond to this violation. However, should you choose to respond, clearly mark your response as a "Reply to a Notice of Violation; IA-20-030" and send it to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 1600 E. Lamar Blvd., Arlington, TX 76011-4511, and email it to R4Enforcement@nrc.gov within 30 days of the date of this 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, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room and in the NRC's Agencywide Document Access and Management System (ADAMS), accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy information so that it can be made available to the public without redaction. If personal privacy 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).

Dated this 24th day of September 2020

**NOTICE OF VIOLATION to
ENTERGY OPERATIONS, INC.**



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

September 23, 2020

EA-20-018

Mr. John Dinelli, Site Vice President
Arkansas Nuclear One
Entergy Operations, Inc.
N-TSB-58
1448 S.R. 333
Russellville, AR 72802-0967

SUBJECT: ARKANSAS NUCLEAR ONE, UNITS 1 AND 2 - NOTICE OF VIOLATION; NRC
INSPECTION REPORT 05000313/2020404 AND 05000368/2020404 AND
NRC INVESTIGATION REPORT 4-2019-009

Dear Mr. Dinelli:

This letter refers to the investigation completed on February 27, 2020, by the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI) at Arkansas Nuclear One. The purpose of the investigation was to determine whether several contractor employee supervisors willfully failed to notify security after discovering prohibited items, unauthorized ammunition, within the protected area.

In a telephonic exit briefing on June 23, 2020, Mr. Ray Kellar of my staff informed Ms. Stephenie Pyle, Fleet Director, Regulatory Compliance, and other members of your staff that the NRC was considering escalated enforcement for an apparent violation involving the deliberate failure of several contractor employee supervisors to notify security upon discovering prohibited items in the protected area. Mr. Kellar also informed you that we had sufficient information regarding the apparent violation and your corrective actions to make an enforcement decision without the need for a predecisional enforcement conference or a written response. On June 25, 2020, Ms. Pyle indicated that Entergy Operations, Inc. (Entergy) did not believe that a predecisional enforcement conference or written response was needed and that Entergy accepted the violation.

Based on the information developed during the investigation, the NRC determined that a violation of NRC requirements occurred. This violation is cited in Enclosure 1, Notice of Violation (Notice), and the circumstances surrounding the violation are described in the factual summary (Enclosure 2) and in the inspection report (Enclosure 3). In total, four contractor employee supervisors deliberately chose not to inform security of the discovery of prohibited items, unauthorized ammunition, in the protected area. This caused Entergy to be in violation of Title 10 of the *Code of Federal Regulations* (10 CFR) 73.55(a)(3). This violation has been categorized in accordance with the NRC Enforcement Policy as a Severity Level III violation. The Enforcement Policy can be found on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$150,000 is considered for a Severity Level III violation.

Because the Severity Level III violation was associated with a willful violation, the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the NRC Enforcement Policy. The NRC determined that *Identification* credit is warranted because your staff identified the violation while interviewing one of the individuals involved in the willful violation about an unrelated matter. The NRC determined that *Corrective Action* credit is warranted based on the prompt and comprehensive corrective actions you implemented. The corrective actions to address the violation are documented in Enclosure 3.

Therefore, to encourage identification and prompt and comprehensive correction of violations, I have been authorized, after consultation with the Director, Office of Enforcement not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty.

In Section V of the Confirmatory Order, EA-17-132/153, issued to Entergy on March 12, 2018, (Agencywide Documents Access and Management System (ADAMS) Accession No. ML18072A191), the NRC indicated it would consider enforcement discretion for violations that meet the criteria for discretion under Section 3.3 of the NRC Enforcement Policy. Although the violation was identified by Entergy, the NRC is not exercising discretion in this instance because it was not identified as part of the corrective action for a previous enforcement action.

The NRC has concluded that information regarding: (1) the reason for the violations; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in Enclosure 3. 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 (Enclosure 1).

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice and Procedure," 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 and in 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 or proprietary 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>.

If you have any questions concerning this matter, please contact Mr. Ray Kellar of my staff at 817-200-1527.

Sincerely,

/RA/

John D. Monninger
Deputy Regional Administrator

Docket Nos. 50-313 and 50-368
License Nos. DPR-51 and NPF-6

Enclosures:

1. Notice of Violation
2. Factual Summary
3. Inspection Report 05000313/2020404
and 05000368/2020404

ARKANSAS NUCLEAR ONE - NOTICE OF VIOLATION; NRC INSPECTION REPORT
 05000313/2020404 AND 05000368/2020404 AND INVESTIGATION REPORT 4-2019-009 -
 DATED SEPTEMBER 23, 2020

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JMonninger, DRA		

Document Name: S:\RAS\ACES\ENFORCEMENT_EA CASES - OPEN\ANO EA-20-018 ammo\Final
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ADAMS ACCESSION NUMBER: **ML20267A403**

SUNSI Review: ADAMS: Non-Publicly Available Non-Sensitive Keyword:
 By: CAJ Yes No Publicly Available Sensitive NRC-002

OFFICE	SES/ACES	TL:ACES	C:DRS/PSB1	RC	C:DRP/D	OE
NAME	JKramer	JGroom	RKellar	DCylkowski	JDixon	GWilson
SIGNATURE	/RA/ E	/RA/ E	/RA/ E	/RA/ E	/RA/ E	/RA/ E
DATE	08/21/20	08/21/20	08/24/20	08/27/20	08/21/20	09/17/20
OFFICE	NSIR	OGC	D:DRS	DRA		
NAME	TKeane	NMoron	RLantz	JMonninger		
SIGNATURE	/RA/ E	/NLO/ E	/RA/ E	/RA/ E		
DATE	09/17/20	09/15/20	09/17/20	09/23/20		

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NOTICE OF VIOLATION

Entergy Operations, Inc.
Arkansas Nuclear One

Docket Nos. 50-313 and 50-368
License Nos. DPR-51 and NPF-6
EA-20-018

During an NRC investigation completed on February 27, 2020, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 73.55(a)(3), states, in part, that the licensee is responsible for maintaining the onsite physical protection program in accordance with Commission regulations through the implementation of 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 prohibited items found in their area of work or suspected on the person of any individual in the protected area.

Contrary to the above, on or about October 10, 2018, the licensee failed to maintain the onsite physical protection program in accordance with Commission regulations through the implementation of written security implementing procedures. Specifically, several licensee contract plant supervisors failed to notify security as soon as possible of prohibited items, unauthorized ammunition, located in the protected area.

This is a Severity Level III violation (NRC Enforcement Policy, Section 2.2.1.d).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in Enclosure 3.

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; EA-20-018," 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 IV, 1600 East Lamar Blvd., Arlington, Texas 76011-4511 and a copy to the NRC Resident Inspector at Arkansas Nuclear One, 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

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

Dated this 23rd day of September 2020

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 supervisors employed by a contractor 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, a swing shift general foreman (Supervisor 1) discovered three rounds of ammunition inside a backpack while within the protected area (PA). Supervisor 1 brought the ammunition to the night shift general foreman (Supervisor 2), and the two of them brought the ammunition to the night shift lead supervisor (Supervisor 3). Supervisors 1, 2, and 3 discussed reporting the prohibited item to security, and they discussed the consequences of reporting the prohibited item.

Supervisor 2 contacted the day shift general foreman (Supervisor 4), who was off-duty and at home, and told Supervisor 4 about the discovery of the ammunition. Supervisor 4 perceived this as a notification, rather than a request for guidance. Supervisor 3 contacted the off-duty day shift lead supervisor, who stated that he was not fit-for-duty and that the on-duty supervisors needed to handle the situation themselves.

A decision was made among Supervisors 1, 2, and 3 to remove the ammunition from the PA without reporting it to security. Supervisor 2 called Supervisor 4 a second time and informed him that Supervisors 1, 2, and 3 had all agreed to take the ammunition out of the PA and dispose of it without reporting it to security. Supervisor 4 was aware of his responsibility to report the incident to security; however, he considered the situation to be resolved and did not notify security.

Supervisor 1

During the investigation, Supervisor 1 confirmed that he had successfully passed a training course on security responsibilities and was familiar with Entergy Fleet procedure EN-NS-232, "General Employee Security Responsibilities." Supervisor 1 acknowledged that he was aware of the requirement to report prohibited items in the PA to security and stated that he did not report the ammunition to security because he, and the other supervisors, feared the consequences of doing so. In particular, Supervisor 1 stated that he feared losing work hours and wages while an investigation was conducted. Ultimately, Supervisor 1 departed the PA with the ammunition, without reporting it to security, and disposed of it at his home.

Supervisor 2

During the investigation, Supervisor 2 confirmed that he had successfully passed a training course on security responsibilities and was familiar with Entergy Fleet procedure EN-NS-232, "General Employee Security Responsibilities." Supervisor 2 also stated that based on the training he had received, he understood at the time that he had a responsibility to report the ammunition to security, and the record indicates he understood the other supervisors were not going to report it. Ultimately, Supervisor 2 allowed Supervisor 1 to depart the PA with the ammunition and did not report the ammunition discovery to security.

Supervisor 3

During the investigation, Supervisor 3 confirmed that he had successfully passed a training course on security responsibilities and was familiar with Entergy Fleet procedure EN-NS-232, "General Employee Security Responsibilities." Supervisor 3 acknowledged that he was aware of the requirement to report prohibited items in the PA to security and stated that he did not report the ammunition to security because he feared the consequences of doing so. In particular, Supervisor 3 stated that he feared that Supervisor 1 would lose work hours during an investigation, or that Supervisor 1 would be fired. Ultimately, Supervisor 3 allowed Supervisor 1 to depart the PA with the ammunition and did not report the ammunition discovery to security.

Supervisor 4

During the investigation, Supervisor 4 confirmed that he had successfully passed a training course on security responsibilities and was familiar with Entergy Fleet procedure EN-NS-232, "General Employee Security Responsibilities." Supervisor 4 acknowledged that he was aware of the requirement to report prohibited items in the PA to security and stated that he did not report the ammunition to security because he feared the consequences of doing so. In particular, Supervisor 4 stated that he was concerned that Supervisor 1 would be fired. Ultimately, Supervisor 4 was aware of the other supervisors' decision to allow Supervisor 1 to depart the PA with the ammunition and did not report the ammunition discovery to security.

Based on the evidence, the four supervisors deliberately failed to report to security the discovery of a prohibited item, unauthorized ammunition, in the protected area. This caused the licensee to be in violation of 10 CFR 73.55(a)(3).

**U.S. NUCLEAR REGULATORY COMMISSION
Inspection Report**

Docket Numbers: 05000313 and 05000368

License Numbers: DPR-51, NPF-6

Report Numbers: 05000313/2020404 and 05000368/2020404

Enterprise Identifier: I-2020-404-0000

Licensee: Entergy Operations, Inc.

Facility: Arkansas Nuclear One, Units 1 and 2

Location: Russellville, Arkansas

Inspection Dates: February 27, 2020, to June 23, 2020

Inspectors: A. Meyen, Physical Security Inspector
D. Hostetter, Physical Security Inspector

Approved By: Ray L. Kellar, P.E., Chief
Plant Support Branch 1
Division of Reactor Safety

SUMMARY

The U.S. Nuclear Regulatory Commission (NRC) continued monitoring the licensee’s performance by conducting an inspection at Arkansas Nuclear One in accordance with the Reactor Oversight Process. The Reactor Oversight Process is the NRC’s program for overseeing the safe operation of commercial nuclear power reactors. Refer to <https://www.nrc.gov/reactors/operating/oversight.html> for more information. NRC-identified and self-revealed findings, violations, and additional items are summarized in the table below.

List of Findings and Violations

Failure to Notify Security of Prohibited Items in the Protected Area			
Cornerstone	Significance	Cross-cutting Aspect	Inspection Procedure
Not Applicable	Severity Level III NOV 05000313/2020404 and 05000368/2020404 Open EA-20-018	Not Applicable	Not Applicable
Based on the information developed in Investigation 4-2019-009, the NRC identified a Severity Level III violation of 10 CFR 73.55(a)(3) involving the failure of four contract supervisors to notify security of the presence of prohibited items (unauthorized ammunition) inside the protected area in accordance with site procedures.			

MISCELLANEOUS – TRADITIONAL ENFORCEMENT

On November 29, 2018, a licensee security manager notified the NRC resident inspector assigned to Arkansas Nuclear One that the swing shift general foreman had discovered prohibited items (unauthorized ammunition) in his belongings while within the protected area, had notified his supervisors, and had disposed of the ammunition without informing security with his supervisors' consent.

Based on the licensee's initial reporting of this issue to the NRC, the NRC Office of Investigations (OI) performed an investigation of actions of the licensee contractor staff involved in this event. The inspectors independently reviewed the licensee's and OI's investigations. The inspectors also reviewed long term corrective actions (CR-HQ-2019-02897) intended to address deliberate misconduct. The inspectors reviewed the licensee's Confirmatory Order EA-17-132/152 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML18072A191).

INSPECTION RESULTS

Failure to Notify Security of Prohibited Items in the Protected Area			
Cornerstone	Significance/Severity	Cross-cutting Aspect	Inspection Procedure
Not Applicable	Severity Level III NOV 05000313/2020404 and 05000368/2020404 Open EA-20-018	Not Applicable	Not Applicable
Based on the information developed in Investigation 4-2019-009, the NRC identified a Severity Level III violation of 10 CFR 73.55(a)(3) involving the failure of four contract supervisors to notify security of the presence of prohibited items (unauthorized ammunition) inside the protected area in accordance with site procedures.			
<p><u>Description:</u> On or about October 10, 2018, a licensee contract supervisor working inside the Arkansas Nuclear One protected area identified, within their personal backpack, unauthorized ammunition rounds, which are considered prohibited items at the site. The licensee contract supervisor then reported or discussed the discovery of the unauthorized ammunition with two other contract supervisors. Rather than report the unauthorized ammunition to security, the three contract supervisors collectively decided to remove the ammunition from the protected area and dispose of it at a private residence. A fourth contract supervisor was contacted at their residence about the issue and was informed of the decision to dispose of the ammunition; this supervisor did not follow up with security to report the issue. On November 29, 2018, the licensee became aware of this event and took immediate corrective action to suspend the site access for all the individuals suspected of failing to report the prohibited items. The licensee also initiated Condition Report CR-HQN-2019-02897 and notified the NRC resident inspector.</p> <p>From February 21, 2019 through February 27, 2020, OI investigated this event and concluded that the failure to report the prohibited items to security is contrary to Entergy Fleet procedure EN-NS-232, "General Employee Security Responsibilities." Following subsequent review of this issue, the NRC concluded that the licensee's corrective actions were prompt and comprehensive. In addition to the access authorization decisions made by a reviewing official, licensee corrective actions included sharing of operating experience related to this</p>			

event with Entergy fleet peers to reinforce expectations and warn of the potential consequences of failing to make proper notifications. This information was issued to the senior project managers responsible for oversight and management of the contract craft employees on February 25, 2020.

The NRC also noted that corrective actions required by Confirmatory Order EA-17-132/153 remain in effect at ANO through the remainder of 2020. This Order was issued as a result of a successful Alternative Dispute Resolution mediation session resulting in a settlement agreement related to apparent violations involving deliberate misconduct that occurred at a different Entergy fleet site. The Order confirmed licensee commitments made by the licensee to deter and detect deliberate misconduct at all power reactor licensees owned and operated by Entergy, which included ANO. The NRC determined that the corrective actions required by Confirmatory Order EA-17-132/153 were in the implementation phase during the October 10, 2018 event involving prohibited items and would provide a high likelihood of deterring a similar event.

Enforcement:

Significance: The Reactor Oversight Process's significance determination process does not specifically consider willfulness in its assessment of licensee performance. Therefore, it is necessary to address this violation which involves willfulness using the traditional enforcement process.

Notice of Violation:

Title 10 CFR 73.55(a)(3), states, in part, that the licensee is responsible for maintaining the onsite physical protection program in accordance with Commission regulations through the implementation of 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 prohibited items found in their area of work or suspected on the person of any individual in the protected area.

Contrary to the above, on or about October 10, 2018, the licensee failed to maintain the onsite physical protection program in accordance with Commission regulations through the implementation of written security implementing procedures. Specifically, several licensee contract plant employees failed to notify security of a prohibited item, namely unauthorized ammunition, located in the licensee protected area.

Enforcement Actions: This violation is categorized in accordance with the NRC Enforcement Policy as a Severity Level III violation.

The staff determined that the licensee should receive credit for identification of the problem. The licensee took prompt action to escort the individuals involved from the protected area and removed their protected area access, notified the NRC, and worked with the contractor to perform an investigation.

The staff determined that the licensee should receive credit for corrective actions for the violation. The staff determined that licensee took substantive corrective action, including initiating a Condition Report (CR-HQN-2019-02897) intended to deter future misconduct, and implemented those actions at each site in the Entergy fleet.

EXIT MEETINGS AND DEBRIEFS

On July 23, 2020, the NRC staff presented the inspection results to Ms. Stephenie Pyle, Fleet Director, Regulatory Compliance, and other members of the licensee staff in a telephonic exit meeting. The NRC staff verified no proprietary information was retained or documented in this report.