



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064

May 27, 1999

EA 99-135

Charles M. Dugger, Vice President
Operations - Waterford 3
Entergy Operations, Inc.
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Killona, Louisiana 70066

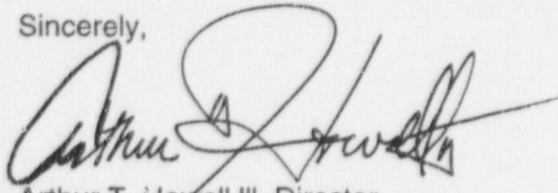
SUBJECT: NRC INSPECTION REPORT 50-382/99-01 AND DENIAL OF VIOLATION

Dear Mr. Dugger:

Thank you for your letters of April 1 and May 4, 1999, in response to our March 3, 1999, letter and Notice of Violation. The issues presented in your denial of the violation will require further review by the NRC. Upon completion, the NRC will provide you with the results of our review.

Should you have any questions regarding this matter, please contact Mr. A. Bruce Earnest at (817) 860-8146 or Ms. Gail M. Good at (817) 860-8215.

Sincerely,



Arthur T. Howell III, Director
Division of Reactor Safety

Docket No.: 50-382
License No.: NPF-38

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Chief Operating Officer
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- WAT-3 Resident Inspector
- DRP Director
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- Project Engineer (DRP/D)
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- G. F. Sanborn, EO
- W. L. Brown, RC
- J. Lieberman, OE (MS 7-H5)
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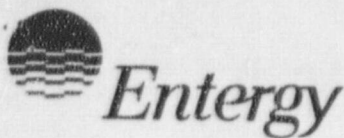
- DMB (IE04)
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ABEarnest	<input checked="" type="checkbox"/>	GMGood	<input checked="" type="checkbox"/>	GFSanborn	<input type="checkbox"/>		AHowell III	<input checked="" type="checkbox"/>	
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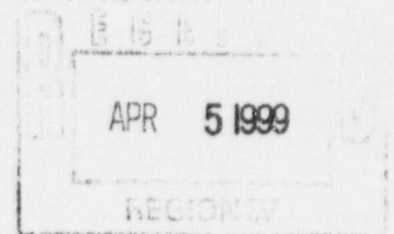
Entergy Operations, Inc.
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Tel 504 739 6242

Early C. Ewing, III
Director
Nuclear Safety & Regulatory Affairs
Waterford 3

W3F1-99-0052
A4.05
PR

April 1, 1999

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, D.C. 20555



Subject: Waterford 3 SES
Docket No. 50-382
License No. NPF-38
NRC Inspection Report 50-382/99-01
Reply to Notice of Violation

Gentlemen:

In accordance with 10CFR2.201, Entergy Operations Inc (EOI) hereby submits in Attachment 1 the response to the violation identified in Enclosure 1 of the subject Inspection Report.

Entergy has performed a review of the inspection report and related NRC regulations, regulatory guides and commitments. Entergy has concluded that the assignment of responsibilities for individuals performing audits and the selection of individuals which participate as audit team members is in compliance with 10CFR26.80(b) and Regulatory Guide 5.66. Therefore, Entergy is denying this violation.

Entergy realizes that organizational changes require Entergy to assure that regulations governing audits and the effectiveness of audits be maintained.

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NRC Inspection Report 50-382/99-01
Reply to Notice of Violation
W3F1-99-0052
Page 2
April 1, 1999

If there are questions concerning this response, please contact myself at
(504) 739-6242 or Arthur E. Wemett at (504) 739-6692.

Very truly yours,

A handwritten signature in black ink, appearing to be 'E.C. Ewing', with a long horizontal line extending to the right.

E.C. Ewing
Director,
Nuclear Safety & Regulatory Affairs

ECE/AEW/ssf
Attachment

cc: E.W. Merschoff (NRC Region IV)\
C.P. Patel (NRC-NRR)
Director, Office Of Enforcement (NRC)
J. Smith
N.S. Reynolds
NRC Resident Inspectors Office

ENTERGY OPERATIONS, INC. RESPONSE TO THE VIOLATION IDENTIFIED IN
ENCLOSURE 1 OF INSPECTION REPORT 50-382/99-01

VIOLATION NO. 9901-01

During an NRC inspection conducted on January 25-29 and February 8-12, 1999, one violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10CFR26.80(b) states that audits must be conducted by "individuals qualified in the subject(s) being audited, and independent of both fitness-for-duty program management and personnel directly responsible for implementation of the fitness-for-duty program."

Paragraph 2.3.1 of the licensee's physical security plan commits to all the requirements of Regulatory Guide 5.66, "Access Authorization Program for Nuclear Power Plants." Paragraph 13.1 of Regulatory Guide 5.66 requires that an independent evaluation of the access authorization program will be conducted at least once every 24 months.

Contrary to the above, the inspector determined that Waterford Audits SA-98-025.1 and SA-98-036.1 dated September 16, 1998, which reviewed the Waterford access authorization and fitness-for-duty programs, were conducted by individuals who were not independent of the program management being audited.

This is a Severity Level IV violation (Supplement III) (382/9901-01).

RESPONSE

Entergy denies the violation as stated.

Waterford 3's Licensing Basis – General Physical Security Plan Audit Requirements

Waterford's Physical Security Plan commits to the requirements of 10CFR73.46(g), 10CFR73.55(g), 10CFR73.56(g) and Regulatory Guide 5.66.

10CFR73.46(g)(6) requires that the security program be reviewed at least every 12 months by individuals independent of both security management and personnel who have direct responsibility for implementation of the security program.

10CFR73.55(g)(4) requires that the security program be reviewed at least every 12 months by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program.

10CFR73.56(g)(1) requires audits of the access authorization program at least every 24 months to ensure that the requirements of 10CFR73.56 are satisfied. In addition 10CFR73.56(g)(2) requires that audits of contractor and vendor programs be performed every 12 months to ensure that these requirements are satisfied. These regulations define the frequency and auditor qualifications of security program audits.

Waterford 3's Licensing Basis – Access Authorization Program Audit Requirements

10CFR25 provides the applicable regulations for implementation and maintenance of an Access Authorization Program for licensee personnel. 10CFR25 does not specifically address auditing requirements of the program. 10CFR73.56(g)(1) and 10CFR73.56(g)(2) require that each licensee conduct audits of the access authorization program, but does not explicitly identify auditor independence. 10CFR73.56(a)(2) and 10CFR73.56(a)(3) require that each licensee incorporate their Access Authorization Program into their Physical Security Plan. Therefore, the Waterford 3 Access Authorization Program auditing requirements are identified in the Waterford 3 Physical Security Plan. The requirement to conduct audits of the Access Authorization Program is through the commitment to perform audits in accordance with Regulatory Guide 5.66.

Regulatory Guide 5.66 provides discussion on the access authorization programs at nuclear power plants. The guide provides an acceptable approach in meeting the requirements of 10CFR73.56 for an access authorization program. It further states that the Nuclear Management Resources Council (NUMARC) guidelines for Nuclear Power Plant Access Authorization Programs (NUMARC 89-01, August 1989) meet the intent and substance of the rule except in some areas in which the rule explicitly differs from the guidelines. NUMARC 89-01 states that an independent evaluation of the unescorted access authorization program and its conformance to the NUMARC guidelines must be made within 12 months of the effective date of implementation of the access authorization program and at least once every 24 months thereafter.

Regulatory Guide 5.66 and NUMARC 89-01 Guidelines do not specifically define independence during auditing. Waterford 3 (W3) is committed to comply with Regulatory Guide 1.33 Rev. 2, February 1978, which endorses ANSI N18.7-1976 for auditing requirements through the Waterford 3 Quality Assurance Program Manual. These Quality Assurance Program Manual requirements are implemented to perform program audits unless additional requirements are specified in other commitments or regulations. ANSI N18.7-1976 defines the requirements in general as to independence during the performance of audits. ANSI N18.7-1976 states that members performing the audits may be members of the audited organization; however, they shall not audit activities for which they have immediate responsibility. While performing the audit, they shall not report to a management representative who has immediate responsibility for the activity being audited. Since additional requirements are not specified in the commitments or regulations for security or access authorization, the guidance of ANSI N18.7-1976 is appropriate.

Waterford 3's Licensing Basis – Fitness-For-Duty Program Audit Requirements

Entergy performs audits of the Fitness-For-Duty Program in accordance with the requirements defined in 10CFR26.80. 10CFR26.80(a) requires that the program be audited nominally every 12 months and that those portions of the program implemented by vendors or contractors be audited nominally every 12 months. In addition, 10CFR26.80(b) specifically addresses independence as it applies to the fitness-for-duty program. 10CFR26.80(b) states the audit must be conducted by individuals qualified in the subject(s) being audited, and independent of both fitness-for-duty program management and personnel directly responsible for implementation of the fitness-for-duty program audits.

Discussion

In the interest of improving the efficiency and the economics of audit inspections, Entergy concurrently performed the Access Authorization Program and the Fitness-For-Duty Program audits at Waterford 3 utilizing a single certified lead auditor. The lead auditor assigned the responsibilities of the individuals, technical specialists and team members, to areas in which their expertise would best enhance the audit. The technical specialists and team members are temporarily assigned to the audit team and report directly to the lead auditor. This is in accordance with the Waterford 3 Quality Assurance Program Manual under Chapter 18, Section 5.5, "Audit Personnel," and is specified by ANSI N18.7-1976. The technical specialists and team members on the audit team were from various Entergy sites and had no direct authority or responsibility to the implementation of either program at Waterford 3 that the audit team evaluated.

To perform the concurrent audits two separate teams were established and assigned to a specific area of responsibility. The Access Authorization Program audit team was comprised of two individuals: a Quality Specialist IV from River Bend Station (RBS) as a team member and a Supervisor of Investigations & Fitness-For-Duty from RBS as a technical specialist. The Fitness-For-Duty Program audit team was comprised of three individuals: a Quality Specialist IV from Waterford 3 (W3) as the lead auditor, a Quality Specialist IV from Grand Gulf Nuclear Station (GGNS) as a team member and a Physician/Medical Review Officer from Arkansas Nuclear One (ANO) as a technical specialist.

The technical specialist auditing the access authorization program was knowledgeable and did not have immediate responsibility for the program at Waterford 3. As a member of the audit team, the technical specialist reported to the lead auditor and not to an individual at the audited site or at the corporate office. This meets the requirement of Waterford 3's license basis. Therefore, the audit of the Access Authorization Program met the requirements of ANSI N18.7-1976.

The technical specialist auditing the fitness-for-duty program was qualified in the subject(s), independent of the fitness-for-duty management associated with the Waterford 3 program and held no authority over the direct implementation of the Waterford 3 program; therefore, met the requirements of 10CFR26.80(b). The Physician/Medical Review Officer from ANO was not in the direct reporting chain of the management or personnel responsible for implementation of the Waterford 3 Fitness-For-Duty Program.

CONCLUSION

Entergy has reviewed Waterford 3's Licensing Basis relative to the regulatory requirements associated with performing audits of the Waterford 3's Fitness-For-Duty and Access Authorization Programs. Based on this review, Entergy has concluded that the Licensing Basis requirements for auditor independence for the above programs are program specific. The requirement for independence of program management is not required by the regulations for access authorization program audits. The requirement to conduct audits of the Fitness-For-Duty Program is not committed through the Waterford 3 Physical Security Plan. Therefore, the requirements, as specified in 10CFR26, are not applicable to audits of the Access Authorization Program.

Based on the above, Entergy concludes that our actions were consistent and within the requirements set forth by 10CFR26.80 for the Fitness-For-Duty Program and those set forth by 10CFR73 and ANSI N18.7-1976 for the Access Authorization Program. Proper auditor independence was maintained in both of the concurrently performed audits and no violation occurred since the technical specialists met the individual requirements for the specific program that each were utilized in auditing.