

or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person (other than Mr. Johnson) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date this Confirmatory Order is published in the **Federal Register** without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

A request for hearing shall not stay the immediate effectiveness of this order.

Dated this 25th day of January 2012.

For the U.S. Nuclear Regulatory Commission.

**Cynthia D. Pederson,**

*Acting Regional Administrator, NRC Region III.*

[FR Doc. 2012-2863 Filed 2-7-12; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

**[NRC-2012-0032; Docket No. 50-255, License No. DPR-20; EA-11-214]**

### **In the Matter of Entergy Nuclear Operations, Inc., Palisades Nuclear Plant, 27780 Blue Star Memorial Highway, Covert, MI 49043-9530; Confirmatory Order (Effective Immediately)**

#### **I**

Entergy Nuclear Operations, Inc. (Licensee or Entergy) is the holder of Reactor Operating License No. DPR-20 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Title 10 of the Code of Federal Regulations (10 CFR) part 50 on March 24, 1971. The license authorizes the operation of the Palisades Nuclear Plant in accordance with conditions specified therein.

This Confirmatory Order is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on December 12, 2011.

#### **II**

On December 7, 2010, the NRC Office of Investigations (OI) initiated investigation (OI Case No. 3-2011-003) associated with an at-the-controls reactor operator at the Palisades Nuclear Plant who apparently violated procedure requirements by removing himself from his watch standing responsibilities without proper turnover and approval from the Control Room Supervisor on October 23, 2010.

Based on the results of the OI investigation, the NRC identified one apparent violation. The apparent violation involved the at-the-controls reactor operator leaving the at-the-controls area of the Control Room without providing a turnover to a qualified individual and obtaining permission from the Control Room Supervisor. The individual's actions were contrary to Palisades Technical Specification 5.4.1.a, as implemented through Entergy Nuclear Management Manual EN-OP-115, Revision 9, "Conduct of Operations." Specifically, EN-OP-115, Section 4.13.b, requires that the reactor operator at-the-controls is to remain in the at-the-controls area of the Control Room, except as necessary to transition from one at-the-controls area to another. Section 5.11 requires that in the case where a Control Room operator needs to be relieved during their shift, permission must be granted by the Shift Manager or Control Room Supervisor, as applicable, and a

verbal turnover is conducted to a qualified individual.

On December 12, 2011, the NRC and Entergy met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. Alternative Dispute Resolution is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement on resolving any differences regarding the dispute. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

#### **III**

In response to the NRC's offer, Entergy requested use of the NRC's ADR process to resolve differences it had with the NRC. During an ADR session on December 12, 2011, a preliminary settlement agreement was reached. The elements of the agreement consisted of the following:

1. Entergy stated that it already completed, prior to the ADR session, certain corrective actions that address issues underlying the apparent violation. These actions included:

(a) Operations management conducted a briefing for Palisades Operations personnel to communicate the importance of the at-the-controls turnover process and the timely notification of events;

(b) Management conducted a comprehensive assessment during the week of November 5, 2010, to assess the Palisades Operations Department's adherence to Entergy's Conduct of Operations procedure;

(c) Entergy conducted training sessions for Palisades Shift Managers on the role of the Shift Manager in plant operations and in conflict resolution;

(d) Entergy reaffirmed to Palisades Operations Department personnel the importance of raising issues to senior management;

(e) Entergy developed and presented to all licensed operators at Palisades a case study based on the event. The case study discussed methods for identifying, addressing, and resolving conflicts between Control Room staff;

(f) Entergy conducted training sessions for Shift Managers at Palisades to enhance their knowledge and performance under the Behavioral Observation Program;

(g) The Control Room Supervisor on-shift during the event participated in a conflict management program;

(h) Senior Palisades management developed and presented to each licensed operator requalification class, a case study, which focused on the

responsibilities of licensed operators, compliance with regulations, and the consequences of noncompliance;

(i) Entergy developed simulator scenarios based on this event for use at Palisades. The scenarios portrayed stressful situations that require conflict resolution skills. These scenarios include training on the existing requirements of EN-OP-115 (Conduct of Operations) and the Behavioral Observation Program;

(j) Entergy developed and conducted training for Palisades Operations personnel on stress management and conflict resolution;

(k) Entergy developed and conducted training for Palisades Operations personnel on the requirements of the Behavioral Observation Program; and,

(l) Entergy developed a Remediation Plan for the at-the-controls Operator to complete before becoming eligible for consideration for the resumption of licensed duties. Significant components of this Remediation Plan require that the Operator:

- Research and provide presentations to senior Palisades leadership and Operations personnel on the event and the associated duties and responsibilities of a licensed reactor operator;

- Participate in interviews with senior Entergy management to assess his eligibility and readiness to resume licensed duties;

- Complete at least 40 hours of "Under Instruction" watch on each shift as a licensed reactor operator and receive a favorable recommendation from each Shift Manager; and,
- Participate in a simulator scenario and associated training that include handling stressful situations and conflict management.

2. Within 90 days of the effective date of this Confirmatory Order, Entergy agreed to develop a case study of the events that gave rise to this Confirmatory Order, which highlights the safety responsibilities of licensed reactor operators (this term includes senior reactor operators for purposes of this Confirmatory Order), the importance of managing and maintaining an effective Control Room environment, the importance of effective Control Room watch teamwork, the importance and requirements of the Behavioral Observation Program, and the requirements of the Corrective Action Program. Entergy agreed to present this case study within 365 days after development to its licensed reactor operators in the Entergy fleet as part of Operator Initial or Requalification Training, as appropriate.

3. Within 90 days of the effective date of this Confirmatory Order, Entergy agreed that a senior Entergy nuclear executive will send a letter to each licensed reactor operator in the Entergy nuclear fleet (in Entergy's employ as of the date of the letter) re-emphasizing the responsibilities of their position and their associated safety responsibilities and obligations to the public.

4. Within 365 days of the effective date of this Confirmatory Order, Entergy agreed to develop and make a presentation based on the facts and lessons learned from the events that gave rise to this Confirmatory Order. Entergy agreed to make this presentation at the appropriate industry forum(s) with an Operations focus (such as a Plant Manager forum or a breakout session at an American Nuclear Society Utility Working Group meeting), such that industry personnel in all four NRC regions would have the opportunity to receive the material.

5. Within 180 days of the effective date of this Confirmatory Order, Entergy agreed to review the following three Entergy fleet procedures to determine their adequacy in light of the events that gave rise to this Confirmatory Order: (a) Conduct of Operations, EN-OP-115; (b) Shutdown Safety Management Program, EN-OU-108; and (c) Infrequently Performed Tests or Evolutions, EN-OP-116. Entergy agreed to make the results of this review available for NRC inspection, and Entergy agreed to address any relevant observations, findings, or recommendations in its Corrective Action Program.

6. Entergy agreed to retain experienced persons from outside of Entergy to conduct a safety culture assessment of the Palisades Operations Department. Entergy may also satisfy this obligation by having this assessment conducted as part of a Palisades site-wide safety culture assessment. Entergy agreed to complete this assessment within 180 days of the effective date of this Confirmatory Order. Entergy agreed to make the results of this assessment available for NRC inspection, and Entergy agreed to address any relevant observations, findings, or recommendations in its Corrective Action Program.

7. Entergy agreed to conduct a review of the planning for the next refueling outage at Palisades by a person or persons from outside of the Palisades organization, which shall focus on potentially stressful or complex work evolutions in the Control Room to ensure that they are properly planned. During the performance of a suitable sample of these selected potentially stressful or complex activities, Entergy

agreed to conduct observations by a person or persons from outside of the Palisades organization to evaluate the effectiveness of actions taken to enhance the safe and effective management of the Control Room environment for these activities. Entergy agreed to complete the activities described in this paragraph within 180 days of the effective date of this Confirmatory Order. Entergy agreed to make the results of this review available for NRC inspection, and Entergy agreed to address any relevant observations, findings, or recommendations in its Corrective Action Program.

8. If Entergy determines that it is appropriate to restore the license of the at-the-controls Operator identified in this event to an active status, Entergy agreed to inform the NRC in writing of the basis for its decision and its plan to monitor and manage his performance for one complete operating cycle. Entergy agreed to provide this written notification to the NRC not less than two weeks before the operator resumes licensed duties.

9. Entergy agreed to inform the NRC Regional Administrator, Region III, in writing within 30 days of the completion of all of the actions described in this Confirmatory Order.

10. The NRC agreed to describe the violation in the Confirmatory Order, without a severity level. The NRC agreed to not issue a separate Notice of Violation or Civil Penalty.

11. The NRC agreed not to pursue any further enforcement action in connection with the NRC's letter to Entergy dated October 28, 2011. This does not prohibit the NRC from taking enforcement action in accordance with the NRC Enforcement Policy, if Entergy commits a similar violation in the future or violates the Order.

On January 19, 2012, the licensee consented to issuing this Confirmatory Order with the commitments, as described in Section V below. Entergy further agreed that this Confirmatory Order is to be effective upon issuance and that it has waived its right to a hearing.

#### IV

Since the licensee has agreed to take additional actions to address NRC concerns, as set forth in Section III above, the NRC has concluded that its concerns can be resolved through issuance of this Confirmatory Order.

We find that Entergy's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, we have

determined that public health and safety require that Entergy's commitments be confirmed by this Confirmatory Order. Based on the above and Entergy's consent, this Confirmatory Order is immediately effective upon issuance.

## V

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 50, *it is hereby ordered, effective immediately, that:*

1. Within 90 days of the effective date of this Confirmatory Order, Entergy shall develop a case study of the events that gave rise to this Confirmatory Order, which highlights the safety responsibilities of licensed reactor operators (this term includes senior reactor operators for purposes of this Confirmatory Order), the importance of managing and maintaining an effective Control Room environment, the importance of effective Control Room watch teamwork, the importance and requirements of the Behavioral Observation Program, and the requirements of the Corrective Action Program. Entergy shall present this case study within 365 days after development to its licensed reactor operators in the Entergy fleet as part of Operator Initial or Requalification Training, as appropriate;

2. Within 90 days of the effective date of this Confirmatory Order, a senior Entergy nuclear executive shall send a letter to each licensed reactor operator in the Entergy nuclear fleet (in Entergy's employ as of the date of the letter) re-emphasizing the responsibilities of their position and their associated safety responsibilities and obligations to the public;

3. Within 365 days of the effective date of this Confirmatory Order, Entergy shall develop and make a presentation based on the facts and lessons learned from the events that gave rise to this Confirmatory Order. Entergy shall make this presentation at the appropriate industry forum(s) with an Operations focus (such as a Plant Manager forum or a breakout session at an American Nuclear Society Utility Working Group meeting), such that industry personnel in all four NRC regions would have the opportunity to receive the material;

4. Within 180 days of the effective date of this Confirmatory Order, Entergy shall review the following three Entergy fleet procedures to determine their adequacy in light of the events that gave rise to this Confirmatory Order: (a) Conduct of Operations, EN-OP-115; (b) Shutdown Safety Management Program,

EN-OU-108; and (c) Infrequently Performed Tests or Evolutions, EN-OP-116. Entergy shall make the results of this review available for NRC inspection, and Entergy shall address any relevant observations, findings, or recommendations in its Corrective Action Program;

5. Entergy shall retain experienced persons from outside of Entergy to conduct a safety culture assessment of the Palisades Operations Department. Entergy may also satisfy this obligation by having this assessment conducted as part of a Palisades site-wide safety culture assessment. Entergy shall complete this assessment within 180 days of the effective date of this Confirmatory Order. Entergy shall make the results of this assessment available for NRC inspection, and Entergy shall address any relevant observations, findings, or recommendations in its Corrective Action Program;

6. Entergy shall conduct a review of the planning for the next refueling outage at Palisades by a person or persons from outside of the Palisades organization, which shall focus on potentially stressful or complex work evolutions in the Control Room to ensure that they are properly planned. During the performance of a suitable sample of these selected potentially stressful or complex activities, Entergy shall conduct observations by a person or persons from outside of the Palisades organization to evaluate the effectiveness of actions taken to enhance the safe and effective management of the Control Room environment for these activities. Entergy shall complete the activities described in this paragraph within 180 days of the effective date of this Confirmatory Order. Entergy shall make the results of this review available for NRC inspection, and Entergy shall address any relevant observations, findings, or recommendations in its Corrective Action Program;

7. If Entergy determines that it is appropriate to restore the license of the at-the-controls Operator identified in this event to an active status, Entergy shall inform the NRC in writing of the basis for its decision and its plan to monitor and manage his performance for one complete operating cycle. Entergy shall provide this written notification to the NRC not less than two weeks before the operator resumes licensed duties; and,

8. Entergy shall inform the NRC Regional Administrator, Region III, in writing within 30 days of the completion of all of the actions described in this Confirmatory Order.

The Regional Administrator, Region III, NRC, may, in writing, relax or

rescind any of the above conditions upon demonstration by Entergy of good cause.

## VI

Any person adversely affected by this Confirmatory Order, other than Entergy, may request a hearing within 20 days of its publication in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. All documents filed in the NRC's adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov*, or by telephone at (301) 415-1677, to request: (1) A digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is

available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals>.

*html*, by email at [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at (866) 672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at <http://ehd1.nrc.gov/ehd/>, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person (other than Entergy) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall

address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above, shall be final 20 days from the date this Confirmatory Order is published in the **Federal Register**, without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

A Request for Hearing Shall Not Stay the Immediate Effectiveness of this Order.

For the U.S. Nuclear Regulatory Commission.

Dated this 25th day of January 2012.

**Cynthia D. Pederson,**

*Acting Regional Administrator, NRC Region III.*

[FR Doc. 2012-2864 Filed 2-7-12; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

[Docket No. 50-410; NRC-2012-0021]

### **Facility Operating License Amendment From Nine Mile Point Nuclear Station, LLC.; Nine Mile Point Nuclear Station, Unit 2**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** License amendment; request for comment and hearing; and order.

**DATES:** Comments must be filed by March 9, 2012. A request for a hearing must be filed by April 9, 2012. Any potential party as defined in Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.4, who believes access to Sensitive Unclassified Non-Safeguards Information (SUNSI) and/or Safeguards Information (SGI) is necessary to respond to this notice must request document access by February 21, 2012.

**ADDRESSES:** Please include Docket ID NRC-2012-0021 in the subject line of your comments. For additional instructions on submitting comments and instructions on accessing documents related to this action, see