



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
2100 RENAISSANCE BOULEVARD, SUITE 100
KING OF PRUSSIA, PA 19406-2713

July 28, 2021

EA-21-041

Ms. Pamela B. Cowan
Senior Vice President
and Chief Operating Officer
Holtec Decommissioning International, LLC
1 Holtec Blvd., Krishna P. Singh Technology Campus
Camden, NJ 08104

SUBJECT: OYSTER CREEK NUCLEAR GENERATING STATION - NRC INVESTIGATION
REPORT I-2020-007; NRC INSPECTION REPORT NOS. 05000219/2021402 &
07200015/2021401

Dear Ms. Cowan:

This letter refers to the investigation initiated on March 13, 2020, by the NRC Office of Investigations (OI) and conducted at Holtec Decommissioning International, LLC's (HDI's) Oyster Creek Nuclear Generating Station (Oyster Creek). The investigation, which was completed on March 11, 2021, evaluated whether a (now-former) training superintendent at Oyster Creek, who was also responsible for performing armorer duties, deliberately failed to perform firearms maintenance activities and falsified records related to those activities. Based on the evidence gathered during the investigation, the NRC preliminarily determined that the superintendent deliberately failed to perform certain required firearms maintenance activities for calendar year 2019, that the superintendent deliberately falsified records related to these activities, and that these falsified records were submitted to the NRC in response to an April 10, 2020, information request. A factual summary of the OI investigation is included as Enclosure 1 to this letter.

Based on the investigation, the NRC identified three apparent violations (AVs), two of which are being considered for escalated enforcement action, including a civil penalty, in accordance with the NRC Enforcement Policy. The current Enforcement Policy is available on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The AVs being considered for escalated enforcement action involved: (1) the deliberate failure of the superintendent to perform required annual material condition inspections of firearms, contrary to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, Appendix B, Criterion VI.G, "Weapons, Personal Equipment, and Maintenance," and procedures required by the Commission-approved Oyster Creek Training and Qualification Plan; and (2) the provision of information to the NRC regarding the annual material inspections of firearms that was not complete and accurate in all material respects, contrary to 10 CFR 50.9(a). The third violation, not being considered for escalated enforcement action, involved the failure to perform the required biennial firearms parts replacement.

Enclosure 2 provides a description of the AVs. Please be advised that the number and characterization of AVs described in Enclosure 2 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.

Before the NRC makes its enforcement decision regarding the AVs, we request that you provide information in writing regarding HDI's corrective actions. The written response should include: (1) the reason for the AVs or, if contested, the basis for disputing the AVs; (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. You should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the AVs. The guidance in the enclosed excerpt from NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful.

The written response should be sent to the NRC within 30 days of the date of this letter. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. You should clearly mark the response as a "Response to Apparent Violations in NRC Investigation No. 1-2020-007; EA-21-041," 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, NRC Region I, 2100 Renaissance Boulevard, Suite 100, King of Prussia, PA 19406. 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 or schedule a pre-decisional enforcement conference (PEC).

In lieu of providing a written response, you may choose to provide your perspective on this matter, including the significance, cause, and corrective actions, as well as any other information that you believe the NRC should take into consideration, by: (1) requesting a PEC to meet with the NRC and provide your views in person; or (2) requesting Alternative Dispute Resolution (ADR) mediation.

If you choose to request a PEC, the meeting should be held within 30 days of the date of this letter. The conference will include an opportunity for you 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 PEC 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 also request ADR with the NRC in an attempt to resolve this issue. ADR 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; a voluntary, informal process in which a trained neutral (the "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 ADR program can be obtained at <http://www.nrc.gov/about->

nrc/regulatory/enforcement/adr.html. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC program as a neutral third party. Please contact ICR 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. The ADR mediation session should be held within 45 days of the date of this letter.

Either the PEC or the ADR would be closed to public observation because the NRC's preliminary findings are based on an NRC OI report that has not been publicly disclosed. However, the time and date of the PEC or ADR will be publicly announced. Please contact Fred Bower, Chief, Security, Emergency Preparedness, and Incident Response Branch, NRC Region I, at 610-337-5200 or Fred.Bower@nrc.gov within 10 days of the date of this letter to notify the NRC which of the above options you choose.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," 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 or from the NRC's Agencywide Documents Access and Management System (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, proprietary, or safeguards information so that it can be made available to the public without redaction.

Please note that final NRC investigation documents, such as the OI report described above, may be made available to the public under the Freedom of Information Act (FOIA), subject to redaction of information appropriate under the FOIA. Requests under the FOIA should be made in accordance with 10 CFR 9.23, "Requests for Records." Additional information is available on the NRC website at <http://www.nrc.gov/reading-rm/foia/foia-privacy.html>.

The AVs will be administratively tracked under Inspection Report Nos. 05000219/2021402 & 07200015/2021401. If you have any questions related to this matter, please contact Mr. Bower at 610-337-5200 or Fred.Bower@nrc.gov.

Sincerely,

Blake D. Welling, Director
Division of Radiological Safety and Security

Docket No. 50-219
License No. DPR-16

Enclosures:

1. Factual Summary of NRC OI Case No. 1-2020-007
2. Apparent Violations Identified Through NRC OI Case No. 1-2020-007
3. NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action"

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 REPORT I-2020-007; NRC INSPECTION REPORT NOS. 05000219/2021402 &
 07200015/2021401 DATED July 28, 2021

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DOCUMENT NAME: [https://usnrc-my.sharepoint.com/personal/mmm3_nrc_gov/Documents/MMM3/Shared
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DATE	6/28/21	6/28/21	6/28/21	7/06/21	7/02/21
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DATE	7/26/21	7/26/21	7/09/21	7/21/21	7/28/21

*Concurrence on previous page

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ENCLOSURE 1

Factual Summary of NRC Office of Investigations (OI) Case No. 1-2020-007

In February 2020, while reviewing the 2019 firearms maintenance and testing logs provided to the NRC by Oyster Creek Nuclear Generating Station (Oyster Creek) for an upcoming security baseline inspection, NRC inspectors identified several inconsistencies suggesting that an armorer potentially falsified the records. During the subsequent investigation by the NRC Office of Investigations (OI), the NRC determined that the armorer most likely completed the required firearms tests but apparently documented inaccurate dates on which tests for certain weapons took place in October 2019. In testimony to OI, the armorer acknowledged that he may have “messed up” and documented incorrect weapons and/or dates when completing the firearms maintenance and testing logs.

However, during the investigation, the NRC also identified that the licensee’s 2019 firearms maintenance and testing logs had apparently been changed to falsely indicate that the armorer performed the required annual material condition inspections on firearms. Therefore, OI considered whether the armorer knowingly failed to perform the inspections and whether he falsified related inspection records submitted to the NRC. Namely, on the 2019 firearms records the licensee submitted for the NRC inspection, the fields for “date” and “performed by” for the annual material condition inspections were left blank, indicating to the NRC that the licensee did not conduct this activity. On March 16, 2020, the armorer told the NRC security inspector that Oyster Creek staff no longer performed this inspection and that the procedure was being changed to remove the requirement. However, the armorer acknowledged that the procedure change had not yet happened and that such a change required NRC approval. In response to an April 10, 2020, information request from OI, the licensee resubmitted its firearms logs to the NRC, and the “date” and “performed by” fields were filled out, which would indicate that the licensee had completed the annual material condition inspections. The armorer informed OI that he filled in these fields after talking to the NRC inspector. He stated that he probably did not perform the inspections but maintained that he did not exactly remember what he did. The NRC determined that the annual material inspections were not performed in 2019 due to the armorer’s deliberate failure to perform them and that the armorer deliberately falsified the records provided to the NRC to indicate that the inspections had been performed.

Separately, on March 16, 2020, the armorer told an NRC security inspector that he did not perform biennial parts replacements on contingency rifles in 2019. The armorer acknowledged to the inspector and to OI that he did not perform the parts replacement because the procedure was being revised to remove the requirement. Unlike with the material inspection, the armorer stated that he had discussed the parts replacement with his supervisor, and the armorer believed that he had permission from his management to not perform this work. The armorer also documented the failure to perform the replacement activity in an Issue Report. Therefore, the NRC determined that the biennial parts replacement was not performed in 2019 as required, but did not find sufficient evidence to conclude that this failure was willful.

ENCLOSURE 2

Apparent Violations Identified Through NRC OI Case No. 1-2020-007

APPARENT VIOLATIONS BEING CONSIDERED FOR ESCALATED ACTION

- A. 10 CFR Part 73, Appendix B, Criterion VI.G, "Weapons, Personal Equipment, and Maintenance," Section 3(a), "Firearms maintenance program," requires that each licensee shall implement a firearms maintenance and accountability program in accordance with the Commission regulations and the Commission-approved training and qualification plan. The program must include, in part: (1) Semiannual test firing for accuracy and functionality; (2) Firearms maintenance procedures that include cleaning schedules and cleaning requirements; (3) Program activity documentation; and (4) Control and accountability (weapons and ammunition).

The Oyster Creek Training and Qualification Plan is Appendix B to the site's Physical Security Plan. Section 20.5 of Revision 18 of the Training and Qualification Plan states, in part, that a testing and maintenance program for all assigned firearms is established to ensure that the firearms and related accessories function as intended. The program is described in facility procedures.

Oyster Creek procedure SY-AA-150-103, Revision 0, "Firearms Maintenance, Testing, and Accountability," constitutes the facility procedure for the testing, cleaning, and inspecting of security weapons. Step 4.2.4.2 states, in part, annually, perform the material condition inspection on all duty firearms. Step 2.3, in terms and definitions, defines "annual" as once per calendar year.

Contrary to the above, from January 1, 2019, through December 31, 2019, the licensee did not implement a firearms maintenance and accountability program in accordance with Commission regulation and the Commission-approved training and qualification plan, in that, the licensee did not implement the firearms testing and maintenance program as described in facility procedures. Specifically, for calendar year 2019, the licensee did not annually perform the material condition inspection on all duty firearms

- B. 10 CFR 50.9(a) requires, in part, that information provided to the Commission by a licensee or information required by the Commission's regulations to be maintained by the licensee shall be complete and accurate in all material respects.

10 CFR 73.70(e) states, in part, that each licensee subject to the provisions of 10 CFR 73.55 shall keep documentation of all tests, inspections, and maintenance performed on security related equipment used pursuant to the requirements of this part for three years from the date of documenting the event. 10 CFR 73.55(a)(1) indicates that the section applies to nuclear power reactor licensees that are licensed under 10 CFR Part 50.

Contrary to the above, as of approximately April 10, 2020, information provided to the Commission by the licensee and that was required by the Commission's regulations to be maintained by the licensee was not complete and accurate in all material respects. Specifically, in response to an April 10, 2020, information request from the NRC, the licensee submitted to the NRC copies of the 2019 firearms maintenance logs that contained inaccurate information. The logs documented that annual material condition inspections had

been performed on each of the licensee's duty firearms; however, the licensee had not performed the inspections. This information is material to the NRC because the NRC requires testing and maintenance of weapons to ensure they are in acceptable working condition. Accurate recordkeeping of such activities ensures that the weapons maintenance program is fulfilling these requirements.

APPARENT VIOLATION BEING CONSIDERED FOR NON-ESCALATED ACTION

10 CFR Part 73, Appendix B, Criterion VI.G, "Weapons, Personal Equipment, and Maintenance," Section 3(a), "Firearms maintenance program," requires that each licensee shall implement a firearms maintenance and accountability program in accordance with the Commission regulations and the Commission-approved training and qualification plan. The program must include, in part: (1) Semiannual test firing for accuracy and functionality; (2) Firearms maintenance procedures that include cleaning schedules and cleaning requirements; (3) Program activity documentation; and (4) Control and accountability (weapons and ammunition).

The Oyster Creek Training and Qualification Plan is Appendix B to the site's Physical Security Plan. Section 20.5 of Revision 18 of the Training and Qualification Plan states, in part, that a testing and maintenance program for all assigned firearms is established to ensure that the firearms and related accessories function as intended. The program is described in facility procedures.

Oyster Creek procedure SY-AA-150-103, Revision 0, "Firearms Maintenance, Testing, and Accountability," constitutes the facility procedure for the testing, cleaning, and inspecting of security weapons. Step 4.2.5, states, replace the following components on duty rifles biennially: hammer spring, trigger spring, disconnect spring, extractor spring, ejector spring, and gas rings. SY-AA-150-103-F-04, Rifle Material Condition Inspection/ Functionality/ Accuracy Tests states, in part, biennially, replace the following components on contingency rifles and note this as being completed in the weapons maintenance log. Step 2.7 defines "biennial" as at least once every two years.

Contrary to the above, as of January 1, 2020, the licensee did not implement a firearms maintenance and accountability program in accordance with Commission regulation and the Commission-approved training and qualification plan, in that, the licensee did not implement the firearms testing and maintenance program as described in facility procedures. Specifically, in calendar year 2019, the licensee did not complete the biennial replacement of components on duty and contingency rifles. The licensee had not replaced the rifle components since 2017.