NUCLEAR REGULATORY COMMISSION

[Dockets No. 03038199; EA–15–230; NRC–2016–0212]

In the Matter of Tetra Tech EC, Inc.

AGENCY: Nuclear Regulatory Commission.

ACTION: Confirmatory order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a Confirmatory Order (CO) to Tetra Tech EC, Inc. (TtEC) to memorialize the agreements reached during an alternative dispute resolution mediation session held on September 7, 2016. This Order will resolve the issue that was identified during an NRC Investigation of TtEC employees at Hunters Point Naval Shipyard site in San Francisco, California. The Confirmatory Order is effective upon issuance.

DATES: This Confirmatory Order was issued on Tuesday, October 11, 2016.

ADDRESSES: Please refer to Docket ID NRC–2016–0212 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

• Federal Rulemaking Web Site: Go to http://www.regulations.gov and search for Docket ID NRC–2016–0212. Address questions about NRC docket to Carol Gallagher; telephone: 301–415–3463; e-mail: Carol.Gallagher@nrc.gov. For questions about this Confirmatory Order, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

• NRC’s Agencywide Documents Access and Management System (ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at http://www.nrc.gov/reading-rm/adams.html. To begin the search, select “ADAMS Public Documents” and then select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if available in ADAMS) is provided the first time that a document is referenced.

• NRC’s PDR: You may examine and purchase copies of public documents at the NRC’s PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: The text of the Confirmatory Order is attached.

Dated at King of Prussia, Pennsylvania, this 11th day of October 2016.

For the Nuclear Regulatory Commission.

Daniel H. Dorman,
Regional Administrator.

United States of America

Nuclear Regulatory Commission

[Dockets No. 03038199; EA–15–230; License No. 29–31396–01; NRC–2016–0212]

In the Matter of Tetra Tech EC, Inc.

Confirmatory Order

(Effective Immediately)

I

Tetra Tech EC, Inc. (TtEC) is the holder of service provider License No. 29–31396–01 issued by the U.S. Nuclear Regulatory Commission (NRC) pursuant to Parts 30, 40, and 70 of Title 10 of the Code of Federal Regulations (10 CFR) on March 2, 2010, and amended on January 28, 2015. The license authorizes the operation of TtEC, in accordance with conditions specified therein. TtEC is headquartered in Morris Plains, New Jersey.

This Confirmatory Order is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on September 7, 2016. The violation as documented in the NRC letter dated July 28, 2016 (ML16210A228), to TtEC occurred sometime between November 11, 2011, and June 4, 2012. As of the date of the issuance of this Confirmatory Order, the NRC is not aware of any subsequent willful violations of NRC regulations by TtEC employees since June 4, 2012. TtEC remains in good standing with respect to the terms and conditions of its NRC license.

II

On April 29, 2014, the NRC Office of Investigations (OI) began an investigation (OI Case No. 1–2014–018) of TtEC activities at the U.S. Navy’s Hunters Point Naval Shipyard (HPNS). The investigation was conducted to determine whether employees of TtEC deliberately falsified soil sample surveys from the area referred to as ‘Parcel C’ at HPNS in San Francisco, California. Based on the evidence developed during its investigation, OI substantiated that a Radiation Control Technician (RCT) and a Radiation Task Supervisor (RTS) deliberately falsified soil sample records by taking soil samples from areas not designated as part of the target sample area and by completing chain-of-custody forms with inaccurate information. The NRC completed its investigation on September 15, 2015.

In a letter to TtEC dated February 11, 2016, (ML16042A074) the NRC concluded that based on the evidence developed during the investigation, one apparent violation was identified and was being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The apparent violation involved TtEC’s failure to make or cause to be made, surveys of areas that were reasonable to evaluate concentrations and potential radiological hazards of residual radioactivity in accordance with 10 CFR 20.1501(a). In response to the NRC’s letter, TtEC provided two written responses in letters dated March 15, 2016 (ML16090A220) and March 22, 2016, (ADAMS Accession No. ML16090A318).

In the July 28, 2016, letter, the NRC issued a Severity Level III Notice of Violation (NOV) and a $7,000 Proposed Civil Penalty to TtEC. In response to the NRC’s letter, TtEC requested the use of the NRC’s ADR process to resolve the issue.

On September 7, 2016, the NRC and TtEC met in an ADR session mediated by a professional mediator, arranged through Cornell University’s Institute on Conflict Resolution. ADR is a process in noted, documents referenced in this letter are publicly-available using the accession number in ADAMS.
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

During the ADR mediation session, TtEC and the NRC reached a preliminary settlement agreement. The elements of the agreement, as signed by both parties, consisted of the following:

1. In consideration of the following actions, the NRC does not agree to issue the proposed civil penalty ($7,000) relating to the NOV (Case No. EA–15–230, Office of Investigations Report No. 1–2014–018), dated July 28, 2016.

2. Within 180 days of the effective date of the Confirmatory Order, TtEC will discuss during one of its quarterly calls with its employees the facts and lessons-learned from the event that gave rise to the Confirmatory Order.

   a. This discussion will emphasize the importance of TtEC employees not engaging in willful activities in violation of NRC rules and regulations.

   b. As part of this discussion, TtEC employees will be allowed to ask follow-up questions and to provide feedback.

   c. Within 210 days of the effective date of the Confirmatory Order, TtEC will affirm in writing to the NRC Region I Director, Division of Nuclear Materials Safety that said discussion occurred. TtEC will make available for one year after the date of this affirmation any materials distributed to employees as part of said discussion.

3. Within 270 days of the effective date of the Confirmatory Order, TtEC will conduct refresher training regarding NRC requirements for all TtEC employees engaged in licensed activities. Thereafter, TtEC will conduct initial training of any new TtEC employees prior to engagement in licensed activities.

   a. Within 300 days of the effective date of the Confirmatory Order, TtEC shall provide a copy of the refresher training documentation to the NRC Region I Director, Division of Nuclear Materials Safety.

   b. The training must, at a minimum, include the following:

      i. Awareness and understanding of NRC regulatory requirements, including the deliberate misconduct rule;

      ii. Compliance with licensee procedures as they relate to NRC-licensed activities; and

      iii. Understanding of signature authority.

   c. Within 30 days following the completion of the refresher training, TtEC will affirm in writing to the NRC Region I Director, Division of Nuclear Materials Safety, that all TtEC employees then engaged in licensed activities have been trained.

   d. For a period of five years following the effective date of the Confirmatory Order, TtEC will conduct on an annual basis the refresher training for all individuals engaged in licensed activities.

   e. TtEC will maintain documentation for each refresher training session conducted. The training documentation will include a summary of the contents of the training and the employees in attendance. The training documentation will be maintained for one year after each refresher training session and will be made available for NRC inspection upon request.

4. Within 360 days of the effective date of the Confirmatory Order, TtEC will conduct an independent, third-party assessment of all areas involving NRC-licensed activities to assess TtEC's safety culture.

   a. Within 180 days of the effective date of the Confirmatory Order, the independent assessor and his or her qualifications will be submitted by TtEC to the NRC Region I Director, Division of Nuclear Materials Safety.

   b. The assessment shall include a large enough sample size of TtEC employees potentially involved in NRC-licensed activities so as to yield statistically-significant results.

   c. Within 120 days following the completion of the independent assessment, TtEC will:

      i. Communicate to the NRC Region I Director, Division of Nuclear Materials Safety, the availability of the assessment for NRC inspection.

      ii. Communicate to all TtEC employees the results of the assessment.

   d. All documentation related to the independent assessment, including any documentation related to TtEC's evaluation of the assessment, will be kept for a period of three years following the completion of the independent assessment and will, for that duration, be made available to the NRC for inspection upon request.

5. Within 180 days of the effective date of the Confirmatory Order, TtEC will discuss during one of its quarterly calls with its employees engaged in licensed activities the facts and lessons learned from the event that gave rise to this Confirmatory Order.

   a. TtEC will emphasize the importance of TtEC employees not engaging in willful activities in violation of NRC rules and regulations and will allow TtEC employees to ask
follow-up questions and to provide feedback.

2. Within 210 days of the effective date of the Confirmatory Order, TtEC will affirm in writing to the NRC Region I Director, Division of Nuclear Materials Safety, that the quarterly call and discussion occurred.

3. TtEC will make available, for one year after the date of the affirmation that the quarterly call was completed, for NRC inspection any materials distributed to employees as part of the quarterly call and discussion.

4. Within 270 days of the effective date of the Confirmatory Order, TtEC will conduct refresher training regarding NRC requirements for all TtEC employees engaged in licensed activities.
   a. TtEC will conduct initial training for any new TtEC employees prior to engagement in licensed activities.
   b. Within 300 days of the effective date of the Confirmatory Order, TtEC will provide a copy of the refresher training documentation to the NRC Region I Director, Division of Nuclear Materials Safety.
   c. TtEC will, at a minimum, include the following:
      i. Awareness and understanding of NRC regulatory requirements, including the deliberate misconduct rule;
      ii. Compliance with licensee procedures as they relate to NRC-licensed activities; and
      iii. Understanding of signature authority.
   d. Within 30 days following the completion of the refresher training, TtEC will affirm in writing to the NRC Region I Director, Division of Materials Safety, that all TtEC employees engaged in licensed activities have been trained.
   e. For a period of five years following the effective date of the Confirmatory Order, TtEC will conduct annual refresher training for all individuals engaged in licensed activities.
   f. TtEC will maintain documentation for each refresher training session conducted. The training documentation will include a summary of the contents of the training and the employees in attendance. The training documentation will be maintained for one year after each refresher training session and will be made available for NRC inspection upon request.

5. Within 360 days of the effective date of the Confirmatory Order, TtEC will conduct an independent, third-party assessment of all areas involving NRC-licensed activities to assess TtEC’s safety culture.
   a. Within 180 days of the effective date of the Confirmatory Order, the name of the independent assessor and his or her qualifications will be submitted by TtEC to the NRC Region I Director, Division of Nuclear Materials Safety.
   b. TtEC will ensure that the assessment includes a large enough sample size of TtEC employees potentially involved in NRC-licensed activities so as to yield statistically-significant results.
   c. Within 120 days following the completion of the independent assessment, TtEC will: (1) communicate to the NRC Region I Director, Division of Nuclear Materials Safety, the availability of the assessment for NRC inspection; (2) communicate to all TtEC employees the results of the assessment; and (3) evaluate the results of the assessment and initiate corrective actions as appropriate.
   d. All documentation (excluding privileged attorney-client communications and attorney work product) related to the independent assessment, including any documentation related to TtEC’s evaluation of the assessment, will be kept for a period of three years following the completion of the independent assessment and will, for that duration, be made available to the NRC for inspection upon request.

6. Within 180 days of the effective date of the Confirmatory Order, TtEC will send a letter to the Navy that contains a copy of the NOV and a copy of the Confirmatory Order so that the Navy is fully informed of the NRC actions.

7. For a period of three years following the effective date of the Confirmatory Order, TtEC will commit to using a third party to perform quality control on any future projects at HPNS.
   a. In those circumstances when TtEC performs work at HPNS, TtEC will notify the NRC of the identity of the third party that will perform quality control.

8. In the event of the transfer of NRC License No. 29–31396–01 by TtEC to another entity, the commitments hereunder will survive any transfer of ownership and will be binding on the new licensee.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by TtEC of good cause.

VI In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by this Confirmatory Order, other than Tetra Tech EC, Inc., may request a hearing within 30 days of the issuance date of this Confirmatory Order. 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 directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

All documents filed in NRC 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), as amended by 77 FR 46562; August 3, 2012 (codified in pertinent part at 10 CFR part 2, subpart C). 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 (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at (301) 415–1677, to (1) request a digital identification (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.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 (EIE), 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 through the EIE. 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 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://ehd.nrc.gov/EHD_Proceeding/home.asp, 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, participants are requested not to include copyrighted materials in their submission, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application. If a person 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 C.F.R. 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue a separate Confirmatory Order designating the time and place of any hearing, as appropriate. 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 30 days after issuance of this Confirmatory Order 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.

Dated at King of Prussia, Pennsylvania, this 11th day of October 2016.

For the Nuclear Regulatory Commission.

Daniel H. Dorman
Regional Administrator
[FR Doc. 2016–25661 Filed 10–21–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0001]

Sunshine Act Meeting

DATE: Week of October 17, 2016.
PLACE: OWPN SCIF, 11555 Rockville Pike, Rockville, Maryland.
STATUS: Closed.

Week of October 17, 2016
Thursday, October 20, 2016
3:00 p.m. Briefing on Security Issues
(Closed Ex. 1)

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The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at Denise.McGovern@nrc.gov.

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Additional Information

By a vote of 3–0 on October 20, 2016, the Commission determined pursuant to U.S.C. 552b(e) and 9.107(a) of the Commission’s rules that the above referenced Affirmation Session be held with less than one week notice to the