

August 24, 2001

IA-01-041

Mr. Michael G. Keogh
HOME ADDRESS DELETED
UNDER 10 CFR 2.790

SUBJECT: NOTICE OF VIOLATION
(NRC Office of Investigation Report No. 1-2000-002)

Dear Mr. Keogh:

This letter refers to the results of an investigation conducted by the NRC Office of Investigations (OI) at the Pilgrim Nuclear Power Station (PNPS). The OI investigation was initiated after PNPS determined that you, while employed as a licensed reactor operator (RO) at Pilgrim, falsified a record of a tour of the reactor building on December 8, 1999. PNPS had investigated the matter, terminated your employment, and informed the NRC. As part of the NRC investigation, you were interviewed by OI on May 31, 2000. Our letter to you dated July 11, 2001, which also transmitted a factual summary of the OI report, informed you that OI substantiated that you knowingly provided inaccurate and incomplete information on licensee records regarding that reactor building tour on December 8, 1999.

In our July 11, 2001, letter, the NRC indicated that your actions were in apparent violation of 10 CFR 55.53(d) and 10 CFR 50.5(a)(1) which require you to observe all applicable regulations at Pilgrim, and also prohibit you from deliberately violating any such requirements. Our letter also provided you the opportunity to address the apparent violation, before we made our final enforcement decision, by either attending a predecisional enforcement conference or by providing a written response.

In a telephone conversation with Mr. Richard Conte on July 18, 2001, you declined a predecisional enforcement conference. However, in an undated letter to OI received on July 26, 2001, you provided a written response wherein you indicated that you took responsibility for the seriousness of mistakes that you made on December 8, 1999, and you described some personal issues that you stated hindered your judgement at the time. However, you maintained that your actions were not willful. You also indicated that it was never your intention to mislead or attempt to take credit for a complete and thorough tour, and you reiterated that you had informed your supervisor that you had performed a short tour.

Notwithstanding your contentions, after careful consideration of the information obtained during the investigations, as well as the information provided in your response, the NRC has concluded that you deliberately violated 10 CFR 55.53(d) and 10 CFR 50.5(a)(1) when you knowingly provided incomplete and inaccurate information on licensee records documenting your reactor building tour on December 8, 1999. Specifically, you recorded in the record for

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Pilgrim Procedure No. 2.1.16 the exact same value for nitrogen flow to the TIP system purge that was recorded the previous day, which was inconsistent with the operating history of the system. You recorded that the reading was taken at 11:00 a.m., but the security card reader indicated that you were not in the reactor building at that time. This reading was not transferred to Pilgrim Procedure No. 2.1.15, and was later questioned by the control room supervisor, which resulted in you re-entering the reactor building to obtain another reading. In addition, six radioactivity readings that you recorded for the drywell were identical to the readings taken the previous shift, which was unlikely. Last, in order for you to record torus oxygen concentrations, the control room needed to be contacted so that valves could be opened. Although opening the valves would generate an alarm in the control room, an alarm history report did not show receipt of such an alarm at the time, nor could any control room personnel recall receiving a phone call from you requesting that the valves be opened. Therefore, as noted in our factual summary of the OI report, the totality of the evidence suggests that your actions were deliberate and refutes your contention that your actions were simply careless and the result of poor judgement. The safety significance of this violation was low because other tours showed that the status of equipment was acceptable.

As a result of your deliberate actions, the NRC is issuing the attached Notice of Violation (Notice) to you. As a licensed reactor operator at PNPS, you were considered a licensee official within the context of the NRC enforcement policy. Given your position, and the fact that your deliberate actions resulted in PNPS being in violation of 10 CFR 50.9, the violation has been classified at Severity Level III in accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600. The violation of 10 CFR 50.9 issued to PNPS, which is also attached, has been classified at Severity Level IV.

The NRC also considered issuing you an Order prohibiting your involvement in NRC-licensed activities for a certain period. However, after considering the circumstances of this case, and after consultation with the Director, Office of Enforcement, the NRC has decided not to issue an order. In making this decision, the NRC considered that (1) there were no actual safety consequences that resulted from your violation; (2) PNPS took disciplinary action against you as a result of your actions; and (3) while not admitting that your actions were deliberate, you did acknowledge mistakes in this matter. However, any additional deliberate violations during any future involvement in NRC-licensed activities could result in more significant civil and/or criminal enforcement action.

You are not required to respond to the enclosed Notice at this time unless the description therein does not accurately reflect your position or if you choose to provide additional information. In that case, you should follow the instructions specified in the enclosed Notice. However, should you seek to acquire a Part 55 license in the future, you must respond to the enclosed Notice at that time, following the specified instructions, including a statement of your commitment to compliance with regulatory requirements and a basis as to why the NRC should have confidence that you will comply with applicable NRC requirements.

Please feel free to contact Mr. Richard Conte of my staff if you have any questions. Mr. Conte can be contacted at 610-337-5183.

Mr. Michael G. Keogh

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In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room).

Sincerely,

/RA/ James T. Wiggins Acting For

Hubert J. Miller
Regional Administrator

Docket No. 55-61575
License No. OP-10983-1

Enclosures: 1) Notice of Violation
2) Letter and Notice of Violation issued to Entergy

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* via e-mail from J. Dixon-Herrity; included OGC review

NOTICE OF VIOLATION

Mr. Michael G. Keogh
[HOME ADDRESS DELETED
UNDER 10 CFR 2.790(a)]

Docket No. 55-61575
License No. OP-10983-1
IA-01-041

During an investigation conducted by the NRC Office of Investigations, a 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:

10 CFR 55.53(d) states that a reactor operator licensee is subject to, and the licensee shall observe all applicable rules, regulations and orders of the Commission.

10 CFR 50.5 (a)(1), in part, prohibits any facility licensee employee from engaging in deliberate misconduct that causes a licensee to be in violation of any NRC regulation.

10 CFR CFR 50.9 requires in part, that information required by the Commission's regulations, orders or license conditions to be maintained by a licensee (at the time Boston Edison Company) shall be complete and accurate in all material respects.

Pilgrim Nuclear Power Station Technical Specification 5.4.1 requires that written procedures shall be established, implemented, and maintained covering the applicable procedures recommended in Regulatory Guide 1.33, Revision 2, Appendix A, February 1978. Section 1.h of Appendix A requires administrative procedures for log entries and record retention.

Pilgrim Procedure No. 2.1.15, "Daily Surveillance Log (Technical Specifications and Regulatory Agencies)," Revision 120, provides procedures and checks required to perform necessary Technical Specification surveillances that are required to be initialed by the individual recording the data and reviewed by the control room supervisor.

Pilgrim Procedure No. 2.1.16, "Nuclear Power Plant Operator Tour," Revision 95, requires operators to tour the reactor building to record values, initials and check marks for systems and equipment, including those required by Technical Specifications such as: (1) Step R99 - record nitrogen flow to the TIP system purge; (2) Steps R114, R115, R116, R155, R156, R157 - record particulate, iodine and gaseous activity values from the C19 West and East Panels, respectively; and (3) Steps R160, R161 - record torus oxygen concentrations. Upon completion of the tour, operators are required to transfer the tour data to Pilgrim Procedure No. 2.1.15.

Contrary to the above, on December 8, 1999, you engaged in deliberate misconduct which caused the Pilgrim Nuclear Power Station to be in violation of NRC regulations set forth in 10 CFR 50.9, in that you deliberately caused information required to be maintained by a licensee (namely, a record of a tour of the reactor building by an NRC-licensed reactor operator), to not be complete and accurate in all material respects.

Specifically, either after or during the reactor building tour on December 8, 1999, you created (1) an inaccurate record of the nitrogen flow to the TIP system purge, (2) an inaccurate record of the particulate, iodine and gaseous activity values from the C19 West and East Panels, and (3) an inaccurate record of the levels of oxygen in the torus. The records were inaccurate in that purported readings were recorded but actual checks were not done. The inaccuracies of these records were material because the NRC relies on this information to assure that equipment and facilities are being inspected and maintained in accordance with regulatory and license requirements.

This is a Severity Level III violation (Supplement VII).

You are not required to respond to this Notice at this time. However, should you seek to acquire a Part 55 license in the future, you must respond to the Notice at that time, following the instructions specified below, including a statement of your commitment to compliance with regulatory requirements and a basis as to why the NRC should have confidence that you will comply with applicable NRC requirements. Also, you should follow the instructions specified below if the description herein does not accurately reflect your position or if you choose to provide additional information.

If you provide a written response, it should be sent to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region I, 475 Allendale Road, King of Prussia, PA 19406, and marked "Open by Addressee Only" [and a copy to the NRC Resident Inspector at the Pilgrim Nuclear Power Station, with a similar marking] within 30 days of the date of the letter transmitting this Notice. This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for the violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved.

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.

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room). If personal privacy or proprietary 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 or provide the information required by

10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

Dated this 24th day of August, 2001

August 24, 2001

EA-01-158

Mr. Robert M. Bellamy
Site Vice President
Entergy Nuclear Generation Company
Pilgrim Nuclear Power Station
600 Rocky Hill Road
Plymouth, Massachusetts 02360-5599

SUBJECT: NOTICE OF VIOLATION
(NRC Office of Investigations Report 1-2000-002)

Dear Mr. Bellamy:

On July 11, 2001, the NRC sent you the results of an investigation by the NRC's Office of Investigations (OI) at the Pilgrim Nuclear Power Station (PNPS) to determine if a PNPS licensed reactor operator (RO) falsified readings of a tour conducted by the RO of the reactor building on December 8, 1999. The OI investigation was initiated after you notified the NRC that you had identified the misconduct, investigated the matter, and terminated the employment of the RO. Based on the evidence developed during its investigation, OI substantiated that the RO knowingly provided incomplete and inaccurate information on licensee records documenting the reactor building tour.

The NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice). The violation involved the creation of a required record that was not accurate in certain material respects. 10 CFR 50.9(a) states that information required by the Commission's regulations to be maintained by a licensee shall be complete and accurate in all material respects. As noted in the OI Factual Summary previously provided to you in our July 11, 2001, letter, the evidence indicated that the RO deliberately provided incomplete and inaccurate records of the reactor building tour the RO conducted on December 8, 1999. Specifically, the RO recorded in the record for Pilgrim Procedure No. 2.1.16 the exact same value for nitrogen flow to the TIP system purge that was recorded the previous day, which was inconsistent with the operating history of the system. The RO recorded that the reading was taken at 11:00 a.m., but the security card reader indicated that the RO was not in the reactor building at that time. This reading was not transferred to Pilgrim Procedure No. 2.1.15, and was later questioned by the control room supervisor, which resulted in the RO re-entering the reactor building to obtain another reading. In addition, six radioactivity readings that the RO recorded for the drywell were identical to the readings taken the previous shift, which was unlikely. Further, in order for the RO to record torus oxygen concentrations, the control room needed to be contacted so that valves could be opened. Although opening the valves would generate an alarm in the control room, an alarm history report did not show receipt of such an alarm at the time, nor could any control room personnel recall receiving a phone call from the RO requesting the valves to be opened.

Because of the deliberate nature of the violation, the violation was evaluated in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, Section IV.A.4. The safety significance of the violation was low in that other tours showed that the status of equipment was acceptable. Therefore, the violation has been classified at Severity Level IV and is further described in the enclosed Notice of Violation (Notice). The NRC considered issuing a non-cited violation (NCV) in this case since you identified the violation, investigated the matter, and took disciplinary action against the RO. However, the NRC concluded that issuance of an NCV in this case is not appropriate because the violation was caused by the deliberate act of an NRC-licensed operator, who is considered a licensee official within the context of the NRC enforcement policy.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room). To the extent possible, any response you provide should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the Public Document Room without redaction.

Sincerely,

/RA/

Hubert J. Miller
Regional Administrator

Docket No.: 50-293
License No.: DPR-35

Enclosure: Notice of Violation

cc w/encl: M. Krupa, Director, Nuclear Safety & Licensing
J. Alexander, Director, Nuclear Assessment Group
D. Tarantino, Nuclear Information Manager
S. Brennon, Regulatory Affairs Department Manager
J. Fulton, Assistant General Counsel
R. Hallisey, Department of Public Health, Commonwealth of Massachusetts
The Honorable Therese Murray
The Honorable Vincent deMacedo
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J. Miller, Senior Issues Manager
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* via e-mail from J. Dixon-Herrity; included OGC review

NOTICE OF VIOLATION

Entergy Nuclear Generation Company
Pilgrim Nuclear Power Station

Docket No. 50-293
License No. DPR-35
EA-01-158

During an investigation by the NRC Office of Investigations, a 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:

10 CFR 50.9 requires, in part, that information required by the Commission's regulations, orders or license conditions to be maintained by a licensee (at the time Boston Edison Company) shall be complete and accurate in all material respects.

Pilgrim Nuclear Power Station Technical Specification 5.4.1 requires that written procedures shall be established, implemented, and maintained covering the applicable procedures recommended in Regulatory Guide 1.33, Revision 2, Appendix A, February 1978. Section 1.h of Appendix A requires administrative procedures for log entries and record retention.

Pilgrim Procedure No. 2.1.15, "Daily Surveillance Log (Technical Specifications and Regulatory Agencies)," Revision 120, provides procedures and checks required to perform necessary Technical Specification surveillances that are required to be initiated by the individual recording the data and reviewed by the control room supervisor.

Pilgrim Procedure No. 2.1.16, "Nuclear Power Plant Operator Tour," Revision 95, requires operators to tour the reactor building to record values, initials and check marks for systems and equipment, including those required by Technical Specifications such as: (1) Step R99 - record nitrogen flow to the TIP system purge; (2) Steps R114, R115, R116, R155, R156, R157 - record particulate, iodine and gaseous activity values from the C19 West and East Panels, respectively; and (3) Steps R160, R161 - record torus oxygen concentrations. Upon completion of the tour, operators are required to transfer the tour data to Pilgrim Procedure No. 2.1.15.

Contrary to the above, information required to be maintained by the licensee (namely, a record of a tour of the reactor building by an NRC-licensed reactor operator), was not complete and accurate in all material respects. Specifically, either after or during the reactor building tour by the reactor operator on December 8, 1999, the reactor operator created (1) an inaccurate record for the nitrogen flow to the TIP system purge, (2) an inaccurate record for the particulate, iodine and gaseous activity values from the C19 West and East Panels, and (3) an inaccurate record for the levels of oxygen in the torus. The records were inaccurate in that purported readings were recorded but actual checks were not done. The inaccuracies of these records were material because the NRC relies on this information to assure that equipment and facilities are being inspected and maintained in accordance with regulatory and license requirements.

This is a Severity Level IV violation (Supplement VII).

Pursuant to the provisions of 10 CFR 2.201, Entergy Nuclear Generation Company is hereby

required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator, Region I, and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for the violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

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.

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room). If personal privacy or proprietary 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 or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

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

Dated this 24th day of August 2001