

July 14, 2005

IA-05-014

Mr. William J. Joyce  
**HOME ADDRESS DELETED  
UNDER 10 CFR 2.390**

SUBJECT: NOTICE OF VIOLATION  
NRC Office of Investigations Report No. 1-2004-040

Dear Mr. Joyce:

In a letter dated March 23, 2005, the NRC provided you with the results of an investigation initiated by the NRC Office of Investigations (OI), Region I, on August 27, 2004, at Entergy Nuclear Operation's Pilgrim Nuclear Power Station (Pilgrim). This investigation was initiated, in part, to determine if you observed the control room supervisor (CRS) sleeping in the control room on June 29, 2004, and deliberately failed to take immediate action to awaken the CRS, notify the Shift Manager (SM), and write a Condition Report (CR). Based on the evidence developed during the OI investigation, OI concluded that you observed the CRS sleeping in the control room but deliberately failed to take immediate action to awaken the CRS, to notify the SM and/or write a CR. A letter to Entergy describing the investigation results, including a factual summary of OI Investigation 1-2004-040, was previously provided to you as an enclosure to our March 23, 2005 letter.

In our March 23, 2005, letter, we also informed you that an apparent violation of your Reactor Operator's license and 10 CFR 50.5 was identified, and that escalated enforcement against you was being considered in accordance with the NRC Enforcement Policy. We also provided you the opportunity to address the OI findings and the apparent violation before we made our final enforcement decision by either attending a predecisional enforcement conference or by providing a written response. Subsequently, you were also provided an opportunity to request alternative dispute resolution (ADR) with the NRC in an attempt to resolve any disagreement on whether a violation occurred and the appropriate enforcement action.

In a telephone conversation on April 4, 2005, you informed Mr. Cliff Anderson of my staff that you were declining both a predecisional enforcement conference and ADR, but would be providing a written response to our March 23, 2005, letter. You provided your response in a letter dated April 19, 2005. In your response, although you provided an explanation for your failure to take the actions specified in our March 23, 2005, letter, you did not specifically indicate whether you admitted or denied the apparent violation described therein. You neither admitted nor denied that your failure to awaken the CRS when you first observed him sleeping constituted a violation. Rather, you appeared to provide justification for filming the CRS sleeping rather than awakening him, contending that if you had not filmed the CRS sleeping, management would not have believed you. You also neither admitted nor denied that your

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failure to notify the SM of your observation, as well as your failure to write a CR, also constituted a violation. Rather, you stated that you did not write a CR because you believed the SM would write one, as was done by upper management for a previous sleeping incident by a licensed operator in the break room.

After considering the information developed during the OI investigation and the information you provided in your written response, the NRC has concluded that a violation of NRC requirements occurred. The violation occurred when you did not take immediate action to awaken the CRS, notify the SM, and write a CR as required by Pilgrim procedure ENN-LI-102, "Corrective Action Process." Your Reactor Operator License required you to observe the station's requirements. Your failure to do so constituted a violation of your license. The violation was deliberate because you had knowledge of the procedural requirements, and despite such knowledge, you did not take the required actions. Your deliberate actions placed Entergy in violation of Technical Specification 5.4.1, which requires certain written procedures including ENN-LI-102. As such, you also violated 10 CFR 50.5 "Deliberate Misconduct."

At the time of this incident, you held a license from the United States government that conferred upon you the special trust and confidence of the American people in the safe operation of nuclear facilities and placed you in the position where your performance was expected to be above reproach. This included, as a NRC Reactor Operator license holder, your responsibility to follow all licensee procedures to ensure protection of the public health and safety. Your actions on June 29, 2004, did not meet those standards. Since you were a licensee official as defined in the NRC Enforcement Policy, and since your actions were deliberate, the violation has been classified at Severity Level III. The circumstances surrounding the violation are described in the enclosed Notice of Violation (Notice). Based in part on this violation, the NRC is also issuing a Notice of Violation and Proposed Imposition of Civil Penalty to Entergy on this date. Enclosure 2 includes a copy of the letter forwarding the Notice of Violation and Proposed Imposition of Civil Penalty to Entergy.

Because you no longer hold a reactor operator license, you are not required to respond to the enclosed Notice at this time. However, if you seek an operating license in the future, you will need to respond to the violation as part of the licensing process. If you contest the violation, you may respond by following the instructions in the enclosed Notice, or as an option, you may request ADR with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflict outside of court using a neutral third party. The technique that the NRC has decided to employ during a pilot program which is now in effect is mediation. Additional information concerning the NRC's pilot program is described in the enclosed brochure (NUREG/BR-0317) and can be obtained at <http://www.nrc.gov/what-we-do/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as an intake neutral. 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.

This letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from our Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Mr. William J. Joyce

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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 submit one, with your address removed, will be 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/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at [www.nrc.gov](http://www.nrc.gov); select **What We Do, Enforcement**, then **Significant Enforcement Actions**. A copy of this letter and your response if you choose to submit one, with your address removed, will also be placed in the docket file for your license.

In addition, you should be aware that if you are involved in NRC-licensed activities in the future, any additional deliberate violations could result in more significant enforcement action or civil action. Should you have any questions regarding this letter, please feel free to contact Mr. Richard Conte at (610) 337-5183.

Sincerely,

*/RA/*

Samuel J. Collins  
Region I Administrator

Enclosures: As Stated

Docket No. 55-62227  
License No. RO-11285

Mr. William J. Joyce

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OFFICE	RI/ORA	RI/RA	NRR/DIPM	HQ/OGC	OE/ES
NAME	KFarrar	SCollins RUrban For	BBoger RUrban for	SBrock RUrban for** NLO	DStarkey RUrban for
DATE	06/16/05	06/21/05	06/22/05	6/8/05 **	07/11/05
OFFICE	OE/SC	OE/DD	OE/D		
NAME	CNolan RUrban for	JLuehman RUrban for	MJohnson RUrban for		
DATE	07/11/05 ***	07/11/05 ***	07/12/05 ***		

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\*\*per D. Starkey e-mail 07/11/05  
\*\*\* " " " " " " 07/12/05

## NOTICE OF VIOLATION

Mr. William J. Joyce  
[HOME ADDRESS DELETED  
UNDER 10 CFR 2.390(a)]

IA-05-014  
Docket No. 55-62227  
License No. OP-11285

Based on an NRC investigation conducted by the Office of Investigations, Region I Field Office, the report of which was issued on February 4, 2005, a violation of NRC requirements was identified. In accordance with the "NRC Enforcement Policy," the violation is listed below:

10 CFR 50.5(a)(1), in part, prohibits any licensee or licensee employee from engaging in deliberate misconduct that causes or would have caused, if not detected, a licensee to be in violation of any rule or regulation issued by the Commission.

Reactor Operator License No. OP-11285 required, in part, that while performing licensed duties, you shall observe the operating procedures and other conditions specified in the facility license authorizing operation of the facility.

Technical Specification 5.4.1 of Facility Operating License No. DPR-35 for Pilgrim requires the establishment and implementation of certain written procedures and administrative policies.

Pilgrim Procedure ENN-LI-102, "Corrective Action Process", Section 4.1, which is required by Technical Specification 5.4.1, requires, in part, that all personnel working at Entergy Nuclear Northeast (ENN) facilities are responsible for identifying and reporting problems. Section 5.1.1.4, requires, in part, that any individual who discovers an adverse condition is expected to ensure that: immediate actions are taken as necessary to minimize the consequence of the condition; appropriate site personnel are notified of the identified condition; and the condition is promptly documented in a Condition Report (CR).

Contrary to the above, on June 29, 2004, while employed as a NRC licensed Reactor Operator at Pilgrim responsible for manipulation of the controls of the reactor, you violated your license by violating Procedure ENN-LI-102. In addition, you violated 10 CFR 50.5(a) by engaging in deliberate misconduct that caused Entergy to be in violation of facility operating procedures, as evidenced by the following. Specifically, on June 29, 2004, when you became aware of an adverse condition (that the CRS was asleep), you did not take immediate actions to awaken the CRS and minimize the consequence of the condition, did not inform appropriate site personnel that you had observed the CRS to be asleep, and did not document the condition in a CR.

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

Because you no longer hold a reactor operator license, you are not required to respond to this Notice of Violation at this time, unless you contest the violation. Should you contest the Notice of Violation, a response is required within 30 days of the date of this letter addressing the specific basis for disputing the violation. This response should be sent to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406, and marked "Open by Addressee Only - Response to a Notice of Violation; IA-05-014." You should also provide a copy of this response to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

Dated this 14<sup>th</sup> day of July 2005.