

August 18, 2005
EN-05-031

OFFICE OF ENFORCEMENT
NOTIFICATION OF SIGNIFICANT ENFORCEMENT ACTION

Individual: Mr. Joseph Guariglia (IA-05-007)

Subject: CONFIRMATORY ORDER (EFFECTIVE IMMEDIATELY)

This is to inform the Commission that a Confirmatory Order confirming commitments reached as part of an alternative dispute resolution (ADR) mediation settlement agreement will be issued today, August 18, 2005, to Mr. Joseph Guariglia. The ADR session was held between Mr. Guariglia and the NRC on June 22, 2005, in order to resolve disagreements on whether a violation occurred, the appropriate enforcement action, and the appropriate corrective actions. The ADR settlement agreement also involved issuance of a Notice of Violation (NOV) with no severity level for Mr. Guariglia's engagement in deliberate misconduct that caused Nine Mile Point Nuclear Unit 2 to be in violation of an NRC regulation (10 CFR Part 50, Appendix R, Section III.1.3.b) while he was working as the fire protection supervisor on June 14, 2000. Specifically, prior to commencement of a planned, unannounced, fire drill; Mr. Guariglia made a responding shift fire brigade member (the fire brigade leader) aware of not only the fact that an unannounced fire drill was planned but also the time and location of the planned, unannounced, fire drill. A separate enforcement action involves issuance of a cited Severity Level IV violation (EA-05-025) to Nine Mile Point Nuclear Station, LLC (the licensee).

Neither the individual nor the licensee are required to respond to the Notices of Violation. However, in accordance with the Confirmatory Order, the individual is required to notify the NRC, in writing, within 30 days of completion of the action items imposed by the Order. Additionally, by signing a Consent and Waiver Form on August 16, 2005; Mr. Guariglia (1) agreed with the Notice of Violation and the commitments described therein, (2) agreed to the incorporation of those commitments into a Confirmatory Order that will be immediately effective upon issuance, and (3) waived the right to request a hearing on all or any part of the Confirmatory Order.

It should be noted that the individual and licensee have not been specifically informed of these enforcement actions. The schedule of notification and issuance:

Telephone Notification of Individual and Licensee	August 18, 2005
Mailing of Notice of Violation and Confirmatory Order to Individual	August 18, 2005
Mailing of the Notice of Violation to Licensee	August 18, 2005

The State of New York will be notified.

Contacts: L. Trocine, OE, 301-415-2319 C. Nolan, OE, 301-415-3360

**PRELIMINARY INFORMATION - NOT FOR PUBLIC DISCLOSURE UNTIL
VERIFICATION THAT LICENSEE HAS RECEIVED ACTION**

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