



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

May 21, 2013

EA-11-260

Mr. John Dent, Jr.
Site Vice President
Entergy Nuclear Operations, Inc.
Pilgrim Nuclear Power Station
600 Rocky Hill Road
Plymouth, MA 02360-5508

SUBJECT: PILGRIM NUCLEAR POWER STATION – NRC INVESTIGATION REPORT NO. 1-2012-013 AND NRC INSPECTION REPORT NO. 05000293/2011005

Dear Mr. Dent:

This letter refers to U.S. Nuclear Regulatory Commission (NRC) Inspection Report No. 05000293/2011005, issued to Entergy Nuclear Operations, Inc.'s (ENO's) Pilgrim Nuclear Power Station (PNPS) on February 2, 2012 (ML12033A229)¹. During the inspection, three apparent violations of NRC requirements associated with licensed reactor operator medical examinations and NRC reporting requirements were identified. The apparent violations were discussed with PNPS representatives at an inspection exit meeting on December 20, 2011, and documented in the February 2, 2012, inspection report.

An investigation was also conducted by the NRC Office of Investigations (OI), which was completed on February 1, 2013. The purpose of the investigation was to determine whether any PNPS employee or contractor deliberately failed to comply with NRC regulations and/or ENO procedures governing licensed operator medical program requirements. Based on the results of the investigation, the NRC did not identify any wrongdoing.

Two of the apparent violations are being considered for escalated enforcement in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

The first apparent violation being considered for escalated enforcement involved multiple examples occurring at various times from March 2008 through October 11, 2011, of PNPS licensed operators not meeting certain medical prerequisites for performing NRC-licensed operator activities, and the licensed operators engaging in NRC-licensed activities without ENO obtaining prior NRC approval, as required by Title 10 of the Code of Federal Regulations (CFR), Section 55.33. Specifically, in one example, a licensed reactor operator, during a medical exam

¹ Designation in parentheses refers to an Agency-wide Documents Access and Management System (ADAMS) accession number. Documents referenced in this letter are publicly-available using the accession number in ADAMS.

on December 1, 2010, had a blood pressure reading that exceeded the limit specified in ANSI/ANS 3.4-1983, "Medical Certification and Monitoring of Personnel Requiring Operator Licenses for Nuclear Power Plants," which is the standard to which PNPS certified it conducts its medical exams. The NRC inspectors determined that the Pilgrim Medical Examiner (ME) who conducted the exam was not knowledgeable of the ANSI standard or the minimum acceptable criteria contained therein. As a result, in spite of the RO's high blood pressure reading, the ME determined the operator to be medically qualified to continue to conduct licensed activities based on his own medical opinion, although the ME did not document a basis for this determination. The ME also failed to notify the facility licensee of the RO's medical condition. Therefore, the facility licensee did not obtain from the NRC a conditional license for the RO indicating that, in order to continue to conduct licensed activities, the RO must take medication as prescribed to meet the minimum medical requirements.

The NRC also identified examples involving five licensed operators (3 ROs and 2 senior reactor operators (SROs)) who, at various times from March 2008 through October 11, 2011, were not administered stamina tests as part of their required biennial exams and, therefore, did not receive complete biennial exams. The stamina test should have been conducted to assure the operators met the ANSI/ANS 3.4-1983 respiratory and cardiovascular requirements that licensed operators respectively have the capacity and reserve to perform strenuous physical exertion in emergencies and have a tolerance to postural changes and capacity for exertion during emergencies. However, the NRC inspectors identified that the ME did not administer the stamina tests to these licensed operators at the time of their biennial examinations because of various ailments and disabilities reported to him by the operators at the time of the exams. The ME did not document the basis for these decisions or notify the facility licensee of the operators' conditions.

An independent physician contracted by the NRC reviewed a sample of the operators' medical records and concluded that, although some of these individuals may have possessed aerobic stamina, the reported temporary disabilities and associated pain would have severely impaired their mobility, range of motion, and/or physical stability to carry out operator responsibilities in an emergency situation (such as a safe reactor shutdown outside of the control room) as required by the ANSI/ANS standard. The NRC inspectors concluded that these operators should have been restricted from NRC-licensed duties and their licenses appropriately conditioned. However, these operators continued to perform NRC-licensed activities even though they had not met the minimum requirements for completing a licensed operator medical examination, which was a condition of their license.

Note: In Inspection Report No. 05000293/2011005, the NRC documented that a total of ten operators had not been administered stamina tests. However, the NRC identified that five of those examples involved operators who had not received the tests as part of the annual exam required by PNPS, and not the biennial exam required by 10 CFR 55.21. Accordingly, the NRC did not identify an apparent violation pertaining to these five examples.

The second apparent violation being considered for escalated enforcement involved PNPS's submittal of information to the NRC that was not complete and accurate in all material respects, as required by 10 CFR 50.9. Specifically, on May 17, 2011, Entergy submitted renewal applications for the reactor operator licenses for two of the ROs that did not receive stamina

tests, and the applications certified that the applicants met the medical requirements for license renewal when in fact they did not. For each applicant, Entergy submitted an NRC Form-396, "Certification of Medical Examination by Facility Licensee," signed by a senior licensee official, which certified that the RO applicants met the medical requirements of ANSI/ANS 3.4-1983. However, this was not the case since the ROs had not been administered the stamina test. Based, in part, on the inaccurate information provided to the NRC by the licensee, the NRC issued both ROs their renewed licenses on June 23, 2011.

The circumstances surrounding these apparent violations, the significance of the issues, and the need for lasting and effective corrective action were discussed with members of your staff at the aforementioned inspection exit meeting on December 20, 2011. As a result, the NRC does not require a pre-decisional enforcement conference (PEC) in order to make an enforcement decision. However, before the NRC makes its enforcement decision, we are providing you an opportunity to provide your perspective on these matters, including the significance, causes, 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; (2) responding to the apparent violations in writing; or, (3) accepting the violations as characterized in this letter and the inspection report and notify us of that decision within 10 days.

If you choose to request a PEC, the meeting should be held within 30 days of the date of this letter, and will be open for public observation. The NRC will issue a press release to announce the time and date of the conference. If you choose to provide a written response on these matters, it 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 Inspection Report No. 05000293/2011005; EA-11-260," 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, Region I, and a copy to the NRC Resident Inspector at PNPS.

Please contact Donald Jackson, Chief-Operations Branch, NRC Region I Division of Reactor Safety at 610-337-5306 within 10 days of the date of this letter to let him know whether you are interested in attending a PEC or providing a written response. You may also elect to accept the violations as characterized in this letter and the inspection report, in which case the NRC will proceed with its enforcement decision.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room located at NRC Headquarters in Rockville, MD, and from the NRC's Agency-wide 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.

Sincerely,

/RA/

Christopher G. Miller, Director
Division of Reactor Services

Docket No. 50-293
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J. Dent, Jr.

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Sincerely,

/RA/

Christopher G. Miller, Director
Division of Reactor Services

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