

November 28, 2007

IA-07-064

Mr. Jonathan Picard
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390(a)]

SUBJECT: NOTICE OF VIOLATION

Dear Mr. Picard:

The NRC received letters from Entergy dated August 23, 2007, and September 24, 2007, containing information pertaining to your confirmed positive test for marijuana on July 18, 2007, while working as a Control Room Operator at Vermont Yankee. We plan to place these letters in your 10 CFR Part 55 docket file. The positive result, during a random fitness for duty test, confirmed that you were under the influence of marijuana, an illegal substance, while performing activities authorized by your license. This constitutes a violation of 10 CFR 55.53(j).

The purpose of the Commission's fitness for duty requirements is to provide reasonable assurance that nuclear power plant personnel work in an environment that is free of drugs and alcohol and the effects of the use of these substances. Performing licensed activities while under the influence of illegal drugs is a serious matter that undermines the special trust and confidence placed in you as a licensed operator. The violation is categorized as a Severity Level III violation in accordance with the NRC Enforcement Policy because the use of illegal drugs by licensed operators is a significant regulatory concern. The NRC Enforcement Policy can be found on the NRC's web site at www.nrc.gov; select **Public Meetings & Involvement, Enforcement**, then **Policy**. Please note that, in accordance with 10 CFR 26.27(b), future similar violations will substantially affect your authorization for unescorted access to the protected area of a licensed facility.

The purpose of this letter is to make clear to you the consequences of your violation of NRC requirements governing fitness for duty as a licensed operator. You are required to respond to this letter and should follow the instructions specified in the enclosed Notice of Violation (Notice) when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence in order to ensure your ability and willingness to carry out the special trust and confidence placed in you as a licensed operator of a nuclear power facility. In addition, the NRC needs to understand the circumstances surrounding your positive drug test for marijuana. Therefore, when responding to the Notice, please provide information relative to your exposure to illegal drugs, including whether you used, sold, or possessed illegal drugs onsite, as well as the steps you have taken to prevent recurrence. After reviewing your response to this Notice, including your proposed

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. J. Picard

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corrective actions, the NRC will determine whether further NRC enforcement action is necessary to ensure compliance with NRC regulatory requirements.

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>.

In accordance with Section 2.390 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, enforcement actions are made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS). ADAMS is accessible from the NRC web site at <http://www.nrc.gov/reading-rm/adams.html>. Unless you provide a sufficient basis to withdraw this violation within 30 days of the date of this letter, a copy of this letter and enclosure, and your response, if it does not include a basis to withdraw the violation, with personal privacy information removed, will be made available to the Public within 45 days of the date of this letter. The NRC also includes significant enforcement actions on its Web site at www.nrc.gov; select **About NRC, How We Regulate, Oversight, Enforcement**, then **Significant Enforcement Actions**.

Should you have any questions concerning this action, please contact Marvin Sykes, Chief, Operational Safety Branch, at (610) 337-5046.

Sincerely,

/RA/

Marsha Gamberoni, Director
Division of Reactor Safety
Region I

Docket No. 55-63019
License No. OP-11589

Enclosures:
Notice of Violation

cc (w/encl):
T. Sullivan, Site Vice President, Entergy Nuclear Operations, Inc., Vermont Yankee Nuclear
Power Plant

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Sincerely,
/RA/
 Marsha Gamberoni, Director
 Division of Reactor Safety
 Region I

Docket No. 55-63019
 License No. OP-11589

Enclosures:
 Notice of Violation

cc (w/encl):
 T. Sullivan, Site Vice President, Entergy Nuclear Operations, Inc., Vermont Yankee Nuclear Power Plant

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DATE	11/ 20 /07	11/ 20 /07	11/ 21 /07					

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* see prior concurrence

NOTICE OF VIOLATION

Mr. Jonathan Picard
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390(a)]

Docket No. 55-63019
License No. OP-11589
IA-07-064

As a result of a notification from Entergy Nuclear Operations dated August 23, 2007, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 55.53(j), in part, prohibits the (individual) licensee from using illegal substances and prohibits performance of licensed activities while under the influence of illegal substances which could adversely affect the ability of a licensee to safely and competently perform licensed duties.

Contrary to the above, while holding an NRC license (OP-11589), you used an illegal substance, and further, performed licensed activities while you were under the influence of the illegal substance which could have adversely affected your ability to safely and competently perform those licensed duties. Specifically, as part of your employer's (Entergy) fitness for duty testing program, on July 18, 2007, the results of a random test conducted on July 15, 2007, indicated that you were positive for marijuana. As a result of information that your employer provided to the NRC subsequent to this confirmed positive test, it was determined that you had performed licensed duties, including being "at the controls" while under the influence per 10 CFR 55.53 during the period from July 4 through July 18, 2007, when the licensee received the test results and removed you from licensed activities.

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

Pursuant to the provisions of 10 CFR 2.201, Mr. Jonathan Picard (Licensee) is hereby required to submit a written statement or explanation 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 Vermont Yankee, with a similar marking 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; IA-07-064" and should include: (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. Additionally, you are requested to respond to the request for information contained in paragraph 3 of the letter forwarding this Notice relative to the circumstances regarding your positive drug test for marijuana. 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 your 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.

As stated in the letter forwarding this Notice, unless you provide a sufficient basis to withdraw this violation within 30 days of the date of this letter, this Notice, and a copy of the letter transmitting this Notice, and your response, if it does not include a basis to withdraw the violation, with personal privacy information removed, will be made available to the Public. Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the 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/reading-rm/adams.html>. 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 2.390(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. The letter forwarding this Notice 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 the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Dated this 28th day of November 2007