



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION II
245 PEACHTREE CENTER AVENUE NE, SUITE 1200
ATLANTA, GEORGIA 30303-1257

March 6, 2015

IA-15-001

Mr. Michael D. Richardson
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390(A)]

SUBJECT: NOTICE OF VIOLATION

Dear Mr. Richardson:

This letter refers to an Event Notification (EN) 50631 made by McGuire Nuclear Station on November 20, 2014, to the U.S. Nuclear Regulatory Commission (NRC). This EN informed the NRC that you tested positive for an illegal drug during a random fitness-for-duty (FFD) test conducted on November 17, 2014. The NRC received additional information from McGuire Nuclear Station, dated December 18, 2014, in regard to your confirmed positive FFD test result. In that same letter, we were informed that McGuire Nuclear Station no longer had a need to maintain your senior operator license, effective December 18, 2014. Based on this notification, your senior operator license is expired. Copies of the aforementioned documents have been placed in your 10 CFR Part 55 docket file.

During a telephone conversation on February 12, 2015, between the NRC staff and yourself, we informed you that the NRC was considering escalated enforcement in accordance with the NRC Enforcement Policy for an apparent violation of 10 CFR 55.53(j). This regulation states, in part:

"The [individual] licensee shall not use, possess, or sell any illegal drugs. The licensee shall not perform activities authorized by a license issued under this part while under the influence of alcohol or any prescription, over-the-counter, or illegal substance that could adversely affect his or her ability to safely and competently perform his or her licensed duties. For the purpose of this paragraph, with respect to alcoholic beverages and drugs, the term "under the influence" means the licensee exceeded, as evidenced by a confirmed test result, the lower of the cutoff levels for drugs or alcohol contained in subparts E, F and G of Part 26 of this chapter, or as established by the facility licensee."

We also informed you that we had sufficient information regarding the apparent violation to make an enforcement decision. You were given the opportunity to address the apparent violation by either attending a predecisional enforcement conference (PEC) or providing a written response before the NRC made its final enforcement decision on this matter. However, you indicated that you did not believe that either attending a PEC or submitting a written response was necessary. Accordingly, based on the information provided in the notification dated November 20, 2014, the information contained in the McGuire Nuclear Station letter dated

Certified Mail Number: 7012 3050 0001 9196 8097
Return Receipt Requested

December 18, 2014, and our in-office review of this matter, the NRC has determined that a violation of 10 CFR 55.53(j) occurred. This violation is cited in the enclosed Notice of Violation (Notice).

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 from drugs and alcohol, and the effects of the use of these substances. Performing licensed activities while under the influence of an illegal substance is a serious matter that undermines the special trust and confidence placed in you as a licensed operator. Therefore, this violation is categorized as a Severity Level III violation in accordance with the NRC Enforcement Policy. The current Enforcement Policy is located on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

Since you no longer have an NRC license, you are not required to respond to the Notice unless you contest the violation. Should you contest the Notice, 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 U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, NRC Region II, 245 Peachtree Center Avenue, NE (Suite 1200), Atlanta, GA 30303-1257; and be marked Open by Addressee Only - Response to a Notice of Violation; IA-15-001.

If you reapply for an operator license at McGuire, or apply for an operator license at any other NRC licensed facility, you will need to not only satisfactorily address the requirements of 10 CFR 55.31 and 10 CFR 55.33, but also the requirements of 10 CFR 2.201. At that time, you will need to submit a written response to this violation to address the reasons for this violation and the actions you have taken to prevent recurrence, as specified in the enclosed Notice. This response should be sent to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, NRC Region II, 245 Peachtree Center Avenue, NE (Suite 1200), Atlanta, GA 30303-1257; and be marked Open by Addressee Only - Response to a Notice of Violation; IA-15-001.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," Part 2, Title 10 of the Code of Federal Regulations, enforcement actions are made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. A copy of this letter and the enclosed Notice of Violation with your address removed will be made available to the public, unless you provide a sufficient basis to withdraw this violation. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/current.html>.

In addition, 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 the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>. Finally, a copy of this letter will be placed in your 10 CFR Part 55 docket file.

Should you have any questions concerning this action, please contact Mr. Gerald J. McCoy of my staff at 404-997-4551, (Internet Email: Gerald.McCoy@nrc.gov).

Sincerely,

/RA/

Victor M. McCree,
Regional Administrator

Docket No. 55-22366
License No. SOP-21988-1

Enclosure: Notice of Violation

cc: w/ encl and w/ HOME ADDRESS DELETED
Steven D. Capps
Duke Energy Carolinas, LLC
McGuire Nuclear Station
12700 Hagers Ferry Road
Huntersville, NC 28078-8985

Pete Schuerger, Training Manager

Should you have any questions concerning this action, please contact Mr. Gerald J. McCoy of my staff at 404-997-4551, (Internet Email: Gerald.McCoy@nrc.gov).

Sincerely,

/RA/

Victor M. McCree,
Regional Administrator

Docket No. 55-22366
License No. SOP-21988-1

Enclosure: Notice of Violation

cc: w/encl and w/HOME ADDRESS DELETED
Steven D. Capps
Duke Energy Carolinas, LLC
McGuire Nuclear Station
12700 Hagers Ferry Road
Huntersville, NC 28078-8985

Pete Schuerger, Training Manager

Distribution: See next page

(*) – SEE PREVIOUS PAGE FOR CONCURRENCE

☒ PUBLICLY AVAILABLE

☐ NON-PUBLICLY AVAILABLE

☐ SENSITIVE

☒ NON-SENSITIVE

ADAMS: ☒ Yes ACCESSION NUMBER: ML15065A233

☒ SUNSI REVIEW COMPLETE ☐ FORM 665 ATTACHED

OFFICE	RII:DRS	RII:DRS	RII:DRS	RII:DRP	RII:EICS	RII:EICS	RII:ORA
SIGNATURE	MKM3 *	GJM1 *	ATG *	JGW1 FOR *	DLG2 *	SAP1 *	LXW1
NAME	MEEKS	McCOY	GODY	EHRHARDT	GAMBERONI	PRICE	WERT
DATE	2/23/2015	2/23/2015	2/23/2015	2/26/2015	3/3/2015	3/3/2015	3/4/2015
E-MAIL COPY?	YES NO	YES NO	YES	YES NO	YES NO	YES NO	YES NO
OFFICE	OE	NRR	RII:ORA				
SIGNATURE	JRW3 VIA EMAIL	LRC1VIA EMAIL	VMM				
NAME	WRAY	CASEY	McCREE				
DATE	3/5/2015	3/5/2015	3/6/2015	3/ /2015	3/ /2015	3/ /2015	3/ /2015
E-MAIL COPY?	YES NO	YES NO	YES	YES NO	YES NO	YES NO	YES NO

OFFICIAL RECORD COPY DOCUMENT NAME: G:\OLEXAMS\MCGUIRE EXAMINATIONS\IA-15-001 MCGUIRE
INDIVIDUAL SLIII NOV ADDRESS DELETED.DOCX

Letter to Michael D. Richardson from Victor M. McCree dated March 6, 2015

SUBJECT: NOTICE OF VIOLATION

Distribution:

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Cheryl L. McCrary, Director, Office of Investigations

OEMAIL

OEWEB

NOTICE OF VIOLATION

Michael D. Richardson
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390(A)]

Docket No. 55-22366
License No. SOP-21988-1
IA-15-001

As a result of a notification from the McGuire Nuclear Station, operated by Duke Energy Carolinas, dated November 20, 2014, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 of the *Code of Federal Regulations* (10 CFR) 55.53(d) provides that operator and senior operator licenses are subject to, and the licensee shall observe, all applicable rules, regulations and orders of the Commission. 10 CFR 55.53(j) states, in part, that a licensee shall not use, possess or sell any illegal drugs and that a licensee shall not perform activities authorized by a license while under the influence of an illegal substance that could adversely affect his or her ability to safely and competently perform his or her licensed duties. Additionally, 10 CFR 55.53(j) states, in part, that for alcoholic beverages and drugs being "under the influence" means the licensee exceeded, as evidenced by a confirmed test result, the lower of the cutoff levels for drugs or alcohol contained in 10 CFR Part 26, or as established by the facility licensee.

Duke Energy procedure AD-SY-ALL-0401, "Fitness for Duty Program," implements 10 CFR Part 26, Section 5.4.5, "Cutoff Levels for Drugs and Drug Metabolites," of AD-SY-ALL-0401 provides, in part, that the initial cutoff level for marijuana metabolites was 50 nanograms per milliliter (ng/ml) and the confirmatory cutoff level for marijuana metabolites was 15 ng/ml, which is equivalent to the cutoff level specified in 10 CFR 26.163.

Contrary to the above, you performed activities authorized by your license while under the influence of an illegal substance that could adversely affect your ability to safely and competently perform your licensed duties. Specifically, on November 17, 2014, you reported for duty at the McGuire Nuclear Station. You were subject to a random fitness-for-duty test and actively performed the licensed senior operator duties of the Operations Shift Manager for that shift. On November 20, 2014, Duke Energy reported to the NRC that the HHS-certified Duke Energy Medical Review Officer had determined that your test result was positive for marijuana metabolites above the cutoff levels specified in section 5.4.5 of AD-SY-ALL-0401.

This is a Severity Level III violation (Example 6.4).

Since you no longer have an NRC license, as Duke Energy Carolinas requested it to be terminated on December 18, 2014, you are not required to respond to this Notice of Violation at this time. However, should you apply for a 10 CFR Part 55 license in the future, you will be required, pursuant to the provisions of 10 CFR 2.201, to submit a written response to the violation with your application. This reply should be clearly marked as a "Reply to a Notice of Violation; IA-15-001" 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 was/will be achieved.

In such case, the reply should be addressed to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, NRC Region II, 245 Peachtree Center Avenue, NE (Suite 1200), Atlanta, GA 30303-1257; and be marked Open by Addressee Only - Response to a Notice of

Enclosure

Violation; IA-15-001. 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 and from the NRC's Agency-wide Documents Access and Management Notice of Violation System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>, 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. 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.

This letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." This system, which is not publicly accessible, includes all records pertaining to individuals who are being or have been considered for enforcement action, whether such action was taken or not. 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 6th day of March, 2015.