



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION I
2100 RENAISSANCE BLVD., SUITE 100
KING OF PRUSSIA, PA 19406-2713

February 16, 2016

IA-16-010

Mr. Erik Simpson
HOME ADDRESS DELETED
UNDER 10 CFR 2.390

SUBJECT: NOTICE OF VIOLATION (NRC INVESTIGATION REPORT NO. 1-2015-030)

Dear Mr. Simpson:

The U.S. Nuclear Regulatory Commission (NRC) received notification on July 28, 2015, (EN 51267) from Entergy Nuclear Operations, Inc. (Entergy), indicating that you had tested positive for an illegal drug during a random fitness-for-duty (FFD) test administered on July 21, 2015, while you were working as a Reactor Operator at Entergy's Pilgrim Nuclear Power Station (PNPS). Entergy also indicated that you were removed from licensed duties immediately following the positive results from your FFD test.

In a letter dated July 30, 2015 (ML15211A661)¹, the NRC requested additional information from Entergy regarding this occurrence, including: (1) your specific duties during the timeframe you were under the influence of the illegal drug; (2) whether there were any procedural errors or other operational impacts related to this occurrence; and, (3) Entergy's intentions with regard to your resumption of licensed duties. Entergy responded to the NRC in a letter dated August 28, 2015 (non-public due to personal privacy information). We requested that Entergy send you a copy of this response, and we also mailed a copy to you.

Based on the information provided by Entergy in the July 28, 2015, notification and the subsequent letter dated August 28, 2015, the NRC has concluded that you were under the influence of an illegal drug while performing activities at PNPS authorized by your license. This constitutes a violation of 10 CFR 55.53(j). The NRC Office of Investigations also initiated an investigation into your positive FFD test results. The investigation, which concluded on November 18, 2015, substantiated that you deliberately used illegal drugs in violation of your NRC license.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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

During a telephone conversation with Donald Jackson, Marjorie McLaughlin, and Stephanie Galbreath of my staff on January 21, 2016, the NRC provided you the opportunity to address the apparent violation before the NRC made its final enforcement decision by either providing a written response, attending a pre-decisional enforcement conference (PEC), or requesting alternative dispute resolution (ADR). In that conversation, you indicated that you did not intend to submit a written response, and that neither a PEC nor ADR was necessary. Accordingly, based on the information provided by Entergy, and the results of the NRC investigation, the NRC has determined that the violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) (Enclosure 1).

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. Your actions also placed you in violation of the NRC's deliberate misconduct rule, 10 CFR 50.5. Therefore, the violation is categorized as a Severity Level III violation in accordance with the NRC Enforcement Policy. The NRC Enforcement Policy can be found on the NRC website at www.nrc.gov; select Public Meetings & Involvement, Enforcement, and then Enforcement Policy.

The purpose of this letter is to make clear to you the consequences of your violation of NRC requirements governing FFD as a licensed operator. Please note, that as provided in 10 CFR 55.61, the NRC could have taken action to suspend or revoke your license resulting from a confirmed positive FFD test result in violation of the conditions and cutoff levels established by 10 CFR 55.53(j). You are required to respond to this letter and should follow the instructions specified in the enclosed 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. The NRC will use your response, in part, to evaluate the appropriateness of the enforcement action as well as whether further enforcement action (such as revocation of your license) is necessary to ensure compliance with regulatory requirements. You should also note that, in accordance with 10 CFR 26.75, any additional positive FFD test results will substantially affect your authorization for unescorted access to the protected area of a licensed facility.

If you disagree with this enforcement sanction, you may deny the violation, as described in the Notice, or you may request ADR with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflicts using a neutral third party. The technique that the NRC has decided to employ is mediation. Mediation is a voluntary, informal process in which a trained neutral (the "mediator") works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC's ADR program can be found at <http://www.nrc.gov/about/nrc/regulatory/enforcement/adr.html>.

The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as a neutral third party. If you are interested in pursuing this issue through the ADR program, please contact: (1) the ICR at (877) 733-9415; and (2) Donald Jackson at 610-337-5306 within 10 days of the date of this letter. You may also contact both ICR and Mr. Jackson for additional information.

The NRC intends to place a copy of this letter, the enclosed Notice, and Entergy's August 28, 2015, letters in your 10 CFR Part 55 docket file. Additionally, in accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and 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 System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. You should be aware that all final NRC documents, including the final OI investigation report, are official agency records and may be made available to the public under the Freedom of Information Act (FOIA), subject to redaction of certain information in accordance with the FOIA. The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

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." This system, which is not publicly-accessible, includes all records pertaining to individuals who are being considered for, 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>.

Sincerely,

/RA/

Daniel H. Dorman
Regional Administrator

Enclosure: Notice of Violation

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Sincerely,
/RA/
Daniel H. Dorman
Regional Administrator

Enclosure: Notice of Violation

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OFFICE	RI/ORA	RI/ORA	RI/DRS	RI/DRP	RI/DRP	RI/ DRS
NAME	S Galbreath/SG	N Warnek/NW	D Jackson/DEJ	A Burritt/ ALB	M Scott/ MLS	R Lorson/ RKL
DATE	1/28/16	1/28/16	1/28/16	1/28/16	2/1/16	2/2/16
OFFICE	RI/ORA	RI/ ORA	RA			
NAME	B Klukan/ BK	B Bickett/BB	D Dorman/			
DATE	2/2/16	2/2/16	2/10/16			

**See previous concurrence page

OFFICIAL RECORD COPY

Letter to E. Simpson from D. Dorman dated February 16, 2016

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NOTICE OF VIOLATION

Erik Simpson
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

Docket No. 55-63456
License No. OP-11740
IA-16-010

As a result of information provided by Entergy Nuclear Operations, Inc. (Entergy) in a letter dated August 28, 2015, and identified during an NRC investigation conducted between September 4, 2015 and November 19, 2015, the NRC identified multiple violations of NRC requirements. In accordance with the NRC Enforcement Policy, the violations are listed below:

10 CFR 50.5(a)(1) requires, in part, that any licensee or employee of a licensee may not engage in deliberate misconduct that causes a licensee to be in violation of any regulation.

10 CFR 55.53(j) requires, in part, that an (individual) licensee shall not use any illegal drugs and shall not perform activities authorized by a license while under the influence of any illegal substance that could adversely affect his or her ability to safely and competently perform his or her licensed duties. The term "under the influence" means the licensee exceeded, as evidenced by a confirmed positive test, the lower of the cutoff levels for drugs contained in 10 CFR Part 26, Appendix A, or as established by the facility licensee.

Contrary to the above, on occasions between June 2015 and July 2015, you, the holder of an NRC-issued Reactor Operator (RO) license (OP-11740), engaged in deliberate misconduct that caused you to be in violation of an NRC regulation. Specifically, in June 2015 and July 2015, you used an illegal drug. Additionally, from June 21, 2015, through July 28, 2015, you performed activities authorized under your NRC RO license at the Pilgrim Nuclear Power Station, while under the influence of an illegal substance. Entergy identified that you were under the influence via a random test administered to you on July 21, 2015, as part of its fitness-for-duty (FFD) program. The random FFD test yielded a confirmed positive result for an illegal drug.

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

Pursuant to the provisions of 10 CFR 2.201, Erik Simpson of Entergy Nuclear Operations, Inc. is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region I, 2100 Renaissance Boulevard, King of Prussia, PA 19406, and marked "Open by Addressee Only" and a copy to the NRC Resident Inspector at the Pilgrim Nuclear Power Station, 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-16-010" and should include for each violation: (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; and (4) the date when full compliance will be achieved. If an adequate reply is not received within the time specified in this Notice, an Order or a Demand for Information may be issued for a justification as to why the 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.

Your response will be made available electronically for public inspection in the NRC Public Document Room and in the NRC's Agencywide Document 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. 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. 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. 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 16th day of February, 2016.