



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION I  
2100 RENAISSANCE BLVD.  
KING OF PRUSSIA, PA 19406-2713

May 11, 2017

IA-17-004

Mr. Eli Dragomer  
HOME ADDRESS DELETED  
UNDER 10 CFR 2.390

SUBJECT: NOTICE OF VIOLATION

Dear Mr. Dragomer:

On December 21, 2016, the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI) completed an investigation to evaluate whether you deliberately failed to comply with a condition of your Senior Reactor Operator (SRO) license to operate Entergy Nuclear Northeast's (Entergy's) James A. FitzPatrick Nuclear Power Plant (FitzPatrick). Namely, the investigation evaluated whether you had adhered to a condition of your license that required the use of a therapeutic device (a continuous positive airway pressure (CPAP) machine), as prescribed. In medical examinations prerequisite to receive your license, you had reported to Entergy that you had sleep apnea and had a CPAP machine that you used "nightly." Consequently, your license contained a condition requiring that you use the device as prescribed (i.e., nightly).

The investigation was initiated after Entergy informed the NRC that you had admitted to not using the CPAP machine during the time you were licensed at FitzPatrick. Entergy had learned this information after you were involved in an automobile accident on March 4, 2016. Prior to allowing you to resume licensed operator duties, the FitzPatrick Medical Review Officer (MRO) requested that you provide data logs from the CPAP machine for the previous three months. However, you informed the site that you could not provide the information because the CPAP machine had been broken for years. You signed a statement that acknowledged to Entergy that you had lied about using the CPAP machine nightly and that you hadn't used it at all during the time you were licensed at FitzPatrick.

During your interview with OI, you said that you understood using the CPAP machine was a requirement of your license, but that you had not used it since having had surgery in 2002 to address the sleep apnea. You stated that you had intended to have the condition removed from your license, which would have required providing evidence that you were no longer prescribed the CPAP machine, but you had not followed through with this. OI identified several forms, including your SRO license application and quarterly license acknowledgements, on which you had signed statements indicating that the information provided (which included information about your CPAP machine use) was true and that you were in compliance with Entergy

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

procedures, including a requirement for licensed operators to comply with the conditions of their licenses. You said that you had justified those responses because you did not think you needed the CPAP machine any longer; however, you admitted to OI that you knew you had not been truthful.

Based on the evidence gathered during the investigation, the NRC determined that you failed to use the CPAP machine as required by your license, thereby placing you in apparent violation of Title 10 of the Code of Federal Regulations (CFR) 55.53(l), which requires licensees to comply with conditions that the Commission may impose to protect health or to minimize danger to life or property. The NRC also determined that you committed an apparent violation of 10 CFR 50.5(a)(2), by deliberately submitting to Entergy information regarding your use of the CPAP machine that you knew to be incomplete or inaccurate in some respect material to the NRC.

In a letter dated March 30, 2017, you were provided the results of the NRC investigation. You were also provided the opportunity to address the apparent violations by either attending a pre-decisional enforcement conference (PEC) or by providing a written response before the NRC made its final enforcement decision. In a telephone call on April 7, 2017, with Marjorie McLaughlin, NRC Region I Senior Enforcement Specialist, you indicated that you did not intend to submit a written response and that a PEC was not necessary. Accordingly, the NRC has determined that the violations of NRC requirements occurred as stated above.

In determining the significance of the violations, the NRC considered that your failure to use a prescribed medical device, as indicated by the evidence obtained through the investigation, could have resulted in a medically unqualified individual conducting licensed activities. Further, your failure to provide complete and accurate information to Entergy about your use of the device undermines the special trust and confidence placed in you as a licensed SRO. Because of the significance of the underlying issue, the deliberate nature of your actions, and your position as an SRO, the violations are categorized at Severity Level III (SL III), in accordance with the NRC Enforcement Policy. The current NRC Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. In recognition that the violations are closely related (i.e., that the inaccurate information you provided was related to your failure to use the CPAP device), the NRC decided to cite the violations together as a single SL III problem. The problem is cited in the enclosed Notice of Violation (Notice).

Since you are no longer employed by Entergy, you are not required to respond to this letter at this time. However, should you apply for an NRC license in the future, you will be required, pursuant to the provisions of 10 CFR 2.201, to submit a written response before being issued the license. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice. Please note that should you again become involved in NRC-licensed activities in the future, and again engage in deliberate misconduct, additional or more significant enforcement action or criminal action could be taken against you.

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 one is provided, 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>. 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>.

Please note that final NRC investigation documents, such as the OI report described above, may be made available to the public under the Freedom of Information Act (FOIA) subject to redaction of information appropriate under the FOIA. Requests under the FOIA should be made in accordance with 10 CFR 9.23, Requests for Records. Additional information is available on the NRC website at <http://www.nrc.gov/reading-rm/foia/foia-privacy.html>.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel H. Dorman", with a long horizontal flourish extending to the right.

Daniel H. Dorman  
Regional Administrator

Enclosure: As Stated

cc (w/encl):  
Mr. Joseph Pacher, Site Vice President  
James A. FitzPatrick Nuclear Power Plant

## NOTICE OF VIOLATION

Eli Dragomer  
[HOME ADDRESS DELETED  
UNDER 10 CFR 2.390]

IA-17-004

Based on the results of an NRC investigation completed on December 21, 2016, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 55.3 states that a person must be authorized by a license issued by the Commission to perform the function of an operator or a senior operator as defined in this part.

10 CFR 55.53(l) states that the licensee shall comply with any other conditions that the Commission may impose to protect health or to minimize danger to life or property.

NRC License Number SOP-12187, issued to Mr. Eli Dragomer on May 7, 2014, included the condition that Mr. Dragomer shall use therapeutic device(s) as prescribed to maintain medical qualifications.

Contrary to the above, from May 7, 2014 – March 31, 2016, you, while licensed as a Senior Reactor Operator (SRO) at Entergy Nuclear Northeast's (Entergy's) FitzPatrick Nuclear Power Plant (FitzPatrick), did not comply with a condition imposed by the Commission on your license. Specifically, although you were required to use your prescribed therapeutic device, a continuous positive airway pressure (CPAP) machine, you did not use the device, which was broken during this timeframe.

- B. 10 CFR 50.5(a)(2) states that any licensee employee may not deliberately submit to the licensee information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

Contrary to the above, on various occasions between December 17, 2013, and March 31, 2016, you, while licensed as an SRO at FitzPatrick, deliberately submitted to Entergy information that you knew to be incomplete or inaccurate in some respect material to the NRC. Specifically, you were required by a condition of your SRO license to use a therapeutic device as prescribed. During medical examinations required to obtain and maintain your senior reactor license, you informed Entergy that you were using the therapeutic device, a CPAP machine, nightly. However, you were not using the CPAP machine at all, because it was broken. Additionally, on a quarterly basis, you attested to Entergy that you were in compliance with the Licensed Operator responsibilities outlined in Entergy procedure EN-NS-112, "Medical Program," which includes the requirement for licensed operators to comply with the conditions of their licenses. However, you were not complying with the condition of your license requiring use of the CPAP machine. This information is material to the NRC because the NRC included the requirement to use the CPAP machine as a condition of your license to ensure that you maintained medical qualifications to operate the FitzPatrick plant.

This is a Severity Level III problem (Policy Example 6.4)

Since you are no longer employed by Entergy, you are not required to respond to this letter at this time. However, should you apply for an NRC license in the future, you will be required, pursuant to the provisions of 10 CFR 2.201, to submit a written response prior to being issued the license. This response should be clearly marked as a "Reply to a Notice of Violation; IA-17-004" 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, Region I, 2100 Renaissance Boulevard, Suite 100, King of Prussia, PA 19406, and marked "Open by Addressee Only." 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 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.

Dated this 11<sup>th</sup> day of May 2017