



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

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

January 3, 2019

IA-18-044

Mr. John Emore
HOME ADDRESS DELETED
UNDER 10 CFR 2.390

SUBJECT: NRC OFFICE OF INVESTIGATIONS REPORT 1-2018-005 AND NOTICE OF VIOLATION

Dear Mr. Emore:

This letter refers to the investigation initiated on January 8, 2018, by the U.S. Nuclear Regulatory Commission's (NRC's) Office of Investigations (OI) involving your former NRC senior reactor operator (SRO) license that authorized you to direct licensed activities of operators at, and manipulate the controls of, the Peach Bottom Atomic Power Station (Peach Bottom). Namely, the investigation evaluated the circumstances of a fitness-for-duty (FFD) test administered to you on October 28, 2017, that yielded a positive result for an illegal drug. Based on the results of the investigation, the NRC determined that you used an illegal drug in violation of NRC requirements, and that you were under the influence of the drug while performing activities at Peach Bottom authorized by your license. The NRC also determined that your actions were deliberate.

In a telephone conversation on October 4, 2018, Marjorie McLaughlin, of my staff described to you the apparent violation and provided you an opportunity to accept the violation or provide any additional information in writing or through the conduct of a pre-decisional enforcement conference. In a subsequent telephone discussion on October 12, 2018, you informed Ms. McLaughlin that you intended to submit a written response to offer your perspective on this matter. In a letter dated November 2, 2018 (ML18306A505)¹, the NRC transmitted to you a summary of the OI investigation report and provided you thirty days to submit your response before we made our final enforcement decision. As of the date of this letter, you have not responded to the letter or to a follow-up telephone call on December 10, 2018.

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.

Accordingly, based on the information developed during 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). Specifically, the NRC has concluded that you deliberately used an illegal drug and that you were under the influence of the illegal drug while performing activities at Peach Bottom authorized by your license. This constitutes a violation of Title 10 of the Code of Federal Regulations (CFR) Part 55.53(j) and 10 CFR 50.5.

The purpose of the Commission's FFD 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. Although there were no operational impacts or procedural errors that resulted from your actions, performing licensed activities while under the influence of an illegal drug is a serious matter that undermines the special trust and confidence placed in you as a licensed SRO. Therefore, the violation is categorized at Severity Level III 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.

Since you no longer have an NRC license, as Exelon requested it to be terminated as of November 29, 2017, you are not required to respond to this letter 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. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice. Please note that, in accordance with 10 CFR 26.75(e), future similar violations 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.

The NRC intends to place a copy of this letter and the enclosed Notice as well as a copy of the NRC letter dated November 2, 2018, and its enclosures in your 10 CFR Part 55 docket file. Additionally, in accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," these letters (and any enclosures) as well as any further response from you, 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>.

If you have any further questions about this matter, you may contact Marjorie McLaughlin at 610-337-5240.

Sincerely,

/RA by Raymond K. Lorson for/

David C. Lew
Regional Administrator

Enclosure: Notice of Violation

SUBJECT: NRC OFFICE OF INVESTIGATIONS REPORT 1-2018-005 AND NOTICE OF VIOLATION DATED JANUARY 3, 2019.

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*see previous concurrence

NOTICE OF VIOLATION

John Emore
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

Docket No. 55-64095
License No. SOP-501014
IA-18-044

As a result of information provided by Exelon Generation Company, LLC (Exelon) in a letter dated December 8, 2017, and identified during an NRC investigation conducted between January 8, 2018, and July 11, 2018, the NRC identified a violation of NRC requirements. In accordance with the NRC Enforcement Policy, the violation is 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 test result, the lower of the cutoff levels for drugs contained in subparts E, F, and G of 10 CFR Part 26, or as established by the facility licensee.

Contrary to the above, on occasions between October 2017, and November 3, 2017, you, the holder of an NRC-issued Senior Reactor Operator license (SOP-501014), engaged in deliberate misconduct that caused you to be in violation of an NRC regulation. Specifically, in October 2017, you used an illegal drug. Additionally, from October 2017, through November 3, 2017, you performed activities authorized under your NRC SRO license at the Peach Bottom Atomic Power Station, while under the influence of the illegal substance. Exelon identified that you were under the influence via a random test administered to you on October 28, 2017, as part of its fitness-for-duty (FFD) program. The random FFD test yielded, on November 3, 2017, a confirmed positive result for an illegal drug.

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

Since you no longer have an NRC license, as Exelon requested it to be terminated as of November 29, 2017, 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-18-044" 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, 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.

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 20th day of December, 2018.