



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

August 12, 2019

IA-19-028

Mr. Alex Block
[NOTE: HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

SUBJECT: NOTICE OF VIOLATION, NRC INVESTIGATION REPORT 4-2019-004

Dear Mr. Block:

This letter refers to an Event Notification 53668 made by Nebraska Public Power District, on October 16, 2018, to the U.S. Nuclear Regulatory Commission (NRC) that you had tested positive for alcohol during a random fitness-for-duty (FFD) test conducted on October 15, 2018. The NRC received additional information from Nebraska Public Power District, dated November 16, 2018 (Agencywide Documents Access and Management System (ADAMS) Accession ML19210C811, not publicly available) about your confirmed positive FFD test results for alcohol and the subsequent actions that were taken. In addition, this letter refers to the investigation completed on April 18, 2019, by the NRC Office of Investigations at the Cooper Nuclear Station. The investigation was conducted, in part, to determine whether you, a licensed reactor operator assigned to Cooper Nuclear Station, were willfully unfit for duty while on shift. Copies of the aforementioned documents have been placed in your Title 10 of the *Code of Federal Regulations* (10 CFR) Part 55 docket file.

During a telephone conversation on June 18, 2019, between the NRC staff and yourself, we informed you that the NRC was considering escalated enforcement for an apparent violation of 10 CFR Section 55.53(j). This regulation prohibits you, as a holder of an NRC license, from performing activities authorized by a license issued under 10 CFR Part 55 while under the influence of alcohol. We gave you the opportunity to address the apparent violation by attending a predecisional enforcement conference (PEC) which you accepted. In a letter dated June 19, 2019 (ADAMS Accession ML19171A062) we provided you the details of the apparent violation. On July 25, 2019, a PEC was conducted at the NRC Region IV office with you and the Cooper Nuclear Station assistant operations manager to discuss the apparent violation, its significance, the cause of the violation, and your corrective actions.

Based on the November 16, 2018, Nebraska Public Power District letter and the information you provided during the PEC, the NRC determined that a violation of 10 CFR 55.53(j) occurred due to you being under the influence of alcohol while you were performing licensed activities, as demonstrated by a confirmed positive test result for alcohol. This violation is cited in the enclosed Notice of Violation (Notice). However, based on the information developed during the investigation, the NRC has determined that you did not willfully work on shift while unfit for duty under the influence of alcohol.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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 of drugs and alcohol and the effects of the use of these substances. The use of alcohol such that an operator exceeds the cutoff limits specified in 10 CFR Part 26, or in the facility licensee's FFD program, is a serious matter which undermines the special trust and confidence placed in you as a licensed operator.

The NRC Enforcement Policy violation example 6.4.b.1 indicates that if a licensed operator actively performing the functions covered by that position is involved in procedure errors and, at the time the procedure error occurred, was determined to be unfit for duty as a result of a confirmed positive test for alcohol at cutoff levels established by the facility licensee, the violation is categorized as a Severity Level II. On October 15, 2018, you, while unfit for duty, were involved in a procedure error while taking control room logs. You recorded the seismic monitor as secured when it was in operation with no alarms present. Although this was a procedure error, the NRC determined that it was an inconsequential error and more appropriately dispositioned as a Severity Level III violation in accordance with the NRC Enforcement Policy violation example 6.4.c.1. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

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. 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. In addition, 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 test for alcohol in violation of the conditions and cutoff levels established by 10 CFR 55.53(j), and any repetition of this conduct in the future may result in revocation of your license.

The NRC has concluded that you are not required to respond to this letter since: (1) you accepted full responsibility for your actions and the resultant violation of NRC requirements, (2) you continue to discuss this event with licensee and nonlicensee individuals, and (3) you have changed your lifestyle to remove the conditions that could cause a repetitive unfit for duty situation. Should you choose to respond to this letter, please follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter, its enclosure, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's ADAMS, accessible from the Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy information so that it can be made available to the public without redaction. The NRC will also make the letter describing the apparent violation dated June 19, 2019, publicly available.

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>. Finally, a copy of this letter will be placed in your 10 CFR Part 55 docket file.

If you have any questions regarding this matter, you may contact Mr. John Kramer, Senior Enforcement Specialist, at 817-200-1121.

Sincerely,

/RA/

Ryan Lantz, Director
Division of Reactor Safety

Enclosure:
Notice of Violation

NOTICE OF VIOLATION, NRC INVESTIGATION REPORT 4-2017-030 – DATED AUGUST 12, 2019

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ADAMS ACCESSION NUMBER: ML19224B509

SUNSI Review: ADAMS: Non-Publicly Available Non-Sensitive Keyword:
 By: JGK Yes No Publicly Available Sensitive

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OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Mr. Alex Block
[NOTE: HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

Docket No. 55-42920
License No. OP-5000984
IA-19-028

As a result of a notification from Nebraska Public Power District dated October 16, 2018, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 55.53(j), requires, in part, that the licensee shall not perform activities authorized by a license issued under 10 CFR Part 55 while under the influence of alcohol that could adversely affect his or her ability to safely and competently perform his or her duties. The term "under the influence" means the licensee exceeded, as evidenced by a confirmed positive test, the lower of the cutoff levels for alcohol as established in 10 CFR Part 26 or by the facility licensee.

Cooper Nuclear Station Administrative Procedure 0-FFD-01, "NPG Fitness for Duty Program and Behavioral Observation Program," Revision 38, Step 14.5.11.2.d states, in part, that a confirmatory test for alcohol of 0.02 percent blood alcohol concentration (BAC) or higher and the donor has been in a work status for at least 2 hours is considered positive.

Contrary to the above, on October 15, 2018, you performed activities authorized by a license issued under 10 CFR Part 55 while under the influence of alcohol that could have adversely affected your ability to safely and competently perform your duties. Specifically, you reported for duty at the Cooper Nuclear Station where you performed licensed duties as a reactor operator. After 2 hours into your shift, you exited the control room for a random fitness-for-duty test. During the breathalyzer portion of the test, you tested positive for alcohol (0.061 percent BAC). Three minutes later, a confirmatory test was conducted in which you again tested positive (0.066 percent BAC). Based on these test results, you exceeded the maximum allowable levels for alcohol established by the facility licensee.

This is a Severity Level III violation (NRC Enforcement Policy, Section 6.4.c.1).

The NRC has concluded that you are not required to respond to this violation since: (1) you accepted full responsibility for your actions and the resultant violation of NRC requirements, (2) you continue to discuss this event with licensee and nonlicensee individuals, and (3) you have changed your lifestyle to remove the conditions that could cause a repetitive unfit for duty situation. However, should you choose to respond, clearly mark your response as a "Reply to a Notice of Violation; IA-19-028" and send it to the Director, Division of Reactor Safety, U.S. Nuclear Regulatory Commission, Region IV, 1600 E. Lamar Blvd., Arlington, TX 76011-4511, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

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 information so that it

can be made available to the public without redaction. If personal privacy 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).

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 12th day of August 2019