



UNITED STATES
NUCLEAR REGULATORY COMMISSION

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

September 12, 2019

IA-19-031

Mr. Patrick Ryan
HOME ADDRESS DELETED
UNDER 10 CFR 2.390

SUBJECT: NOTICE OF VIOLATION

Dear Mr. Ryan:

This letter refers to an Event Notification (EN# 54089) made by Exelon Generation Co, LLC (Exelon) on May 25, 2019. This EN informed the NRC that you, a licensed Senior Reactor Operator at Nine Mile Point Nuclear Station (Nine Mile Point) Unit 1, had tested positive for alcohol during a random fitness-for-duty (FFD) test conducted on May 24, 2019. In a letter dated May 31, 2019 (ML19151A813),¹ the NRC requested additional information from Exelon regarding this occurrence, including: (1) your specific duties during the timeframe you were under the influence of alcohol; (2) whether there were any procedural errors or other operational impacts related to this occurrence; and (3) Exelon's intentions with regard to your resumption of licensed duties. Exelon responded to the NRC in a letter dated July 1, 2019 (ML19253D674; nonpublic because it contains personal privacy information), and informed the NRC that, during the relevant timeframe, you had been providing oversight of licensed activities at Nine Mile Point Unit 1. Exelon stated that they identified no procedural errors or other operational impacts related to this occurrence. Additionally, Exelon indicated its intent to retain your license as inactive while you complete a treatment plan. Copies of the aforementioned documents have been placed in your 10 CFR Part 55 docket file.

Based on the information provided to the NRC in the EN and in the July 1 letter from Exelon, the NRC has concluded that you were under the influence of alcohol while performing licensed activities at Nine Mile Point Unit 1. Consequently, the NRC determined that you violated Title 10 of the *Code of Federal Regulations* (CFR) Section 55.53(j), which prohibits licensees from performing activities authorized by a license while under the influence of alcohol. The term "under the influence" means the licensee exceeded, as evidenced by a confirmed test result, the lower of the cutoff levels for alcohol contained in subparts E, F, and G of 10 CFR Part 26, or as established by the facility licensee.

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 on August 8, 2019, 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 (PEC). You indicated that you did not believe that either attending a PEC or submitting a written response was necessary. Accordingly, the NRC determined that the 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. The violation is cited in the enclosed Notice of Violation (Notice).

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. The use of alcohol, such that an operator exceeds the cutoff limits specified in 10 CFR Part 26, or in the licensee's FFD program, is a serious matter, which undermines the special trust and confidence placed in you as a licensed Senior Reactor Operator. Therefore, the violation is categorized at Severity Level III in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

You are not required to respond to the Notice unless you contest the violation. 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. In addition, note that as provided in 10 CFR 55.61, the NRC could have taken action to suspend or revoke your license. After considering specific factors related to this case, including: this was your first confirmed positive test; Exelon is temporarily maintaining your license as inactive while you complete a treatment program; and that you are undergoing the aforementioned treatment to prevent recurrence of a similar problem, the NRC decided not to suspend or revoke your license. However, any future repetition of this conduct could result in revocation of your license.

The NRC intends to place a copy of this letter and the enclosed Notice in your 10 CFR Part 55 docket file. Additionally, in accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," these documents, 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, 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>.

P. Ryan

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

Sincerely,

/RA Raymond K. Lorson for/

David C. Lew
Regional Administrator

Docket No. 55-63850
License No. SOP-502925

Enclosure: Notice of Violation

Cc: w/encl and w/HOME ADDRESS DELETED
Peter M. Orphanos, Site Vice President, Nine Mile Point Nuclear Station

SUBJECT: NOTICE OF VIOLATION DATED SEPTEMBER 12, 2019

DISTRIBUTION

ADAMS (PARS)

SECY

RidsSecyMailCenter

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M Doane, EDO

RidsEdoMailCenter

D Dorman, DEDR

G Wilson, OE

RidsOeMailCenter

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J Peralta, OE

D Furst, OE

H Nieh, NRR

RidsNrrOd Resource

G Bowman, NRR

D Aird, NRR

ROPassessment Resource

Enforcement Coordinators RII, RIII, RIV

(M Kowal, J Cameron, J Groom)

D Lew, RA/RI

R1ORAMail Resource

R Lorson, DRA/RI

D Screnci, PAO-RI / N Sheehan, PAO-RI

C Gordon, SLO-RI

D Collins, DRP

R1DRPMail Resource

P Krohn, DRP

J Yerokun, DRS

R1DRSMail Resource

B Welling, DRS

D Jackson, DRS

E Carfang, DRP

J Steward, DRP, SRI

B SieneI, DRP, RI

J Dolecki, DRP, RI

A Trudell, DRO

J Quichocho, RI OEDO

RidsNrrPM NineMile Resource

RidsNrrDorlLpl1-2 Resource

ROPReports Resource

B Klukan, ORA

D Garvin, ORA

Region I OE Files (with concurrences)

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ADAMS Accession No. ML19260G173

<input checked="" type="checkbox"/> SUNSI Review/MMM*		<input checked="" type="checkbox"/> Non-Sensitive <input type="checkbox"/> Sensitive			<input checked="" type="checkbox"/> Publicly Available <input type="checkbox"/> Non-Publicly Available	
OFFICE	RI/ORA	RI/DRS	RI/DRP	RI/DRP	RI/DRS	RI/ ORA
NAME	M McLaughlin/ MMM*	D Jackson/DJ*	E Carfang/ EC*	D. Collins/ B Welling for*	J Yerokun/ P Krohn for	E Michel/ EM*
DATE	8/15/19	8/22/19	8/26/19	8/27/19	8/27/19	8/28/19
OFFICE	RI/ORA	OE				RA/RKL for
NAME	B Klukan/ BMK*	J Peralta via email				D Lew/
DATE	9/06/19	9/05/19				9/12/19

*see previous concurrence

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Patrick Ryan
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

Docket No. 55-63850
License No. SOP-502925
IA-19-031

As a result of information provided by Exelon Generation Company, LLC (Exelon) in a letter dated July 1, 2019, the NRC identified a violation of NRC requirements. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 55.53(j) requires, in part, that an (individual) licensee shall not perform activities authorized by a license while under the influence of alcohol. The term "under the influence" means the licensee exceeded, as evidenced by a confirmed test result, the lower of the cutoff levels for alcohol contained in subparts E, F, and G of 10 CFR Part 26, or as established by the facility licensee.

Contrary to the above, on May 24, 2019, you, the holder of an NRC-issued Senior Reactor Operator (SRO) license (SOP-502925), performed activities authorized under your NRC SRO license at Nine Mile Point Nuclear Station Unit 1, while under the influence of alcohol. Exelon identified that you were under the influence via a random test administered to you on May 24, 2019, as part of its fitness-for-duty (FFD) program. The random FFD test yielded a confirmed positive result for alcohol that exceeded the cutoff level established by the facility licensee.

This is a Severity Level III violation (NRC Enforcement Policy Example Violation 6.4).

You are not required to respond to the Notice unless you contest the violation. Should you contest the violation, 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 I, 2100 Renaissance Blvd., Suite 100, King of Prussia, PA 19406, and marked Open by Addressee Only – Response to a Notice of Violation; (IA-19-031). 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 Agency-wide 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.

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 September, 2019