



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

REGION IV  
1600 EAST LAMAR BOULEVARD  
ARLINGTON, TEXAS 76011-4511

January 27, 2022

IA-21-051

Mr. Magnus Quitmeyer  
[NOTE: HOME ADDRESS DELETED  
UNDER 10 CFR 2.390]

SUBJECT: NOTICE OF VIOLATION, NRC INVESTIGATION REPORT 4-2020-031

Dear Mr. Quitmeyer:

This letter refers to Event Notification 54832 made by Arizona Public Service Company on August 12, 2020, informing the U.S. Nuclear Regulatory Commission (NRC) that you had tested positive for a controlled substance during a random fitness-for-duty (FFD) test conducted on August 11, 2020. The NRC received additional information from Arizona Public Service Company, dated September 10, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20258A285, not publicly available) about your confirmed positive FFD test results and the subsequent actions that were taken. In addition, this letter refers to the investigation completed on July 14, 2021, by the NRC Office of Investigations at the Palo Verde Nuclear Generating Station. The investigation was conducted, in part, to determine whether you, a licensed reactor operator assigned to the Palo Verde Nuclear Generating 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 September 29, 2021, 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 using an illegal drug and performing activities authorized by a license issued under 10 CFR Part 55 while under the influence of an illegal substance.

In a letter dated November 8, 2021 (ADAMS Accession No. ML21312A045), we provided you the details of the apparent violation and the opportunity to: (1) request a predecisional enforcement conference or (2) request alternative dispute resolution mediation to discuss the apparent violation, its significance, the cause of the violation, and your corrective actions. In a November 16, 2021, email communication, you requested to address the apparent violation by a written response and on November 18, 2021, we indicated that a written response was acceptable (ADAMS Accession No. ML21347A954). On December 16, 2021, you provided a written response to the apparent violation (ADAMS Accession No. ML22006A164).

Based on the September 10, 2020, Arizona Public Service Company letter, the information you provided in your December 16, 2021, written response, and the information obtained in Investigation Report 4-2020-031, the NRC determined that a violation of 10 CFR 55.53(j) occurred when you used an illegal drug and performed activities authorized by a license issued under 10 CFR Part 55 while under the influence of an illegal substance. This violation is cited in

the enclosed Notice of Violation (Notice). In addition, based on the information developed during the investigation, the NRC has determined that you deliberately used an illegal drug (marijuana) multiple times over the course of your vacation from June 19 to July 6, 2020.

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

In addition, 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. 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), and any repetition of this conduct in the future may result in revocation of your license. 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. You should also be aware that additional deliberate violations of NRC requirements could result in more significant enforcement action or referral to the U.S. Department of Justice for potential criminal prosecution.

The NRC has concluded that you are not required to respond to this letter since: (1) you provided a written response to the violation on December 16, 2021, (2) you accepted full responsibility for your actions, (3) you continue to discuss this event with your coworkers, and (4) you have taken action 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 "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 and ADAMS, accessible from the NRC's website 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 November 8, 2021, and your written response dated December 16, 2021, 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 website 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.

M. Quitmeyer

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

Sincerely,



Signed by Lantz, Ryan  
on 01/27/22

Ryan E. Lantz, Director  
Division of Reactor Safety

Enclosure:  
Notice of Violation

cc w/Enclosure:  
Mrs. Maria Lacal, Executive Vice President  
and Chief Nuclear Officer  
Arizona Public Service Company  
P.O. Box 52034, MS 7602  
Phoenix, AZ 85072-2034

NOTICE OF VIOLATION, NRC INVESTIGATION REPORT 4-2020-031 – DATED  
 JANUARY 27, 2022

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ADAMS ACCESSION NUMBER: ML22027A588

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

OFFICE	SES:ACES	C:DRS/OB	AC:DRP/D	TL:ACES	RC	NRR
NAME	JKramer	HGepford	AAgrawal	JGroom	DCylkowski	RFelts
SIGNATURE	/RA/ E	/RA/ E	/RA/ E	/RA/ E	/RA/ E	/RA/ E
DATE	01/11/22	01/13/22	01/11/22	01/11/22	01/12/22	01/13/22
OFFICE	OE	OGC	D:DRS			
NAME	JPeralta	RAugustus	RLantz			
SIGNATURE	/RA/ E	/NLO/ E	/RA/			
DATE	01/18/22	01/21/22	01/27/22			

**OFFICIAL RECORD COPY**

## NOTICE OF VIOLATION

Mr. Magnus Quitmeyer  
[NOTE: HOME ADDRESS DELETED  
UNDER 10 CFR 2.390]

Docket No. 55-42878  
License No. OP-503382  
IA-21-051

As a result of a notification from Arizona Public Service Company dated August 12, 2020, and an NRC investigation conducted from September 29, 2020, through July 14, 2021, 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 use any illegal drugs and shall not perform activities authorized by a license issued under 10 CFR Part 55 while under the influence of an illegal substance that could adversely affect his ability to safely and competently perform his 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 as established by 10 CFR Part 26 or by the facility licensee.

Facility licensee Procedure 01DP-0RH03, "Drug and Alcohol Testing Collection and Evaluation," Revision 39, Step 4.9.1.M states, in part, that the confirmatory test cutoff level for marijuana metabolite is 15 nanograms/milliliter.

Contrary to the above, between June 19 and July 6, 2020, you used an illegal drug, and between July 11 and August 7, 2020, you performed activities authorized by a license issued under 10 CFR Part 55 while under the influence of an illegal substance that could adversely affect your ability to safely and competently perform your licensed duties. Specifically, between June 19 and July 6, 2020, while on vacation, you deliberately violated 10 CFR 55.53(j) and used marijuana, an illegal drug. In addition, between July 11 and August 7, 2020, you performed duties as a reactor operator while under the influence of an illegal substance. On August 7, 2020, a random fitness-for-duty test was administered to you. On August 11, 2020, the test confirmed a positive test result for marijuana metabolite at 38 nanograms/milliliter, exceeding the maximum allowable level of 15 nanograms/milliliter established by the facility licensee.

This is a Severity Level III violation (NRC Enforcement Policy, Sections 6.4.c.3 and 6.4.c.1.a).

The NRC has concluded that you are not required to respond to this letter since: (1) you provided a written response to the violation on December 16, 2021, (2) you accepted full responsibility for your actions, (3) you continue to discuss this event with your coworkers, and (4) you have taken action to remove the conditions that could cause a repetitive unfit for duty situation. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation; IA-21-051" 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, and email it to [R4Enforcement@nrc.gov](mailto:R4Enforcement@nrc.gov) within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

Enclosure

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, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001 within 30 days of the date of the letter transmitting this Notice.

If you choose to respond, 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 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, or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information).

Dated this 27th day of January 2022