



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
2443 WARRENVILLE ROAD, SUITE 210
LISLE, ILLINOIS 60532-4352

IA-22-031

April 11, 2023

Eric Tulson
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

SUBJECT: NOTICE OF VIOLATION

Dear Eric Tulson:

This letter refers to Event Notification (EN) 56046 made by the Donald C. Cook Nuclear Plant (DC Cook) on August 16, 2022, to the US Nuclear Regulatory Commission (NRC). This EN informed the NRC that you had tested positive for alcohol during a random fitness-for-duty (FFD) test conducted on August 16, 2022. The NRC received additional information from DC Cook, dated September 19, 2022, about your confirmed positive FFD test for alcohol. Based on the information provided to the NRC in the August 16, 2022, notification and the subsequent letter dated September 19, 2022, the NRC has concluded that you were under the influence of alcohol while performing licensed activities at DC Cook.

During a telephone conversation on February 1, 2022, between NRC staff and yourself, we informed you that the NRC was considering escalated enforcement for an apparent violation of 10 CFR 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 also informed you that we had sufficient information regarding the apparent violation to make an enforcement decision. However, we gave you the opportunity to address the apparent violation by either attending a predecisional enforcement conference (PEC) or providing a written response before the NRC made its final enforcement decision. In a letter received March 7, 2023, you provided a written response to the apparent violation.

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). 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 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 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.

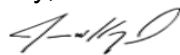
The NRC has concluded that information regarding: (1) the reason for the violation; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in your letter received on March 7, 2023. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," Part 2, Title 10 of the *Code of Federal Regulations*, enforcement actions are made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. A copy of this letter and the enclosed Notice of Violation with your address removed will be made available to the public unless you provide a sufficient basis to withdraw this violation. 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. Detailed information about this system of records, including the NRC-3 system notice 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.

Should you have any questions concerning this action, please contact Diana Betancourt-Roldan, Enforcement Officer. Diana can be reached at 630-810-4373 or diana.betancourt-roldan@nrc.gov.

Sincerely,



Kozal, Jason signing on behalf
of Lara, Julio
on 04/11/23

Julio Lara, Director
Division of Operating Reactor Safety

Docket No. 055-33150
License No. OP-31405-2

Enclosure: Notice of Violation

cc: w/ encl and w/ HOME ADDRESS DELETED
Q. Shane Lies, Senior VP and Chief Nuclear Officer
Indiana Michigan Power Company

Letter to E. Tulson from J. Lara dated April 11, 2023.

SUBJECT: NOTICE OF VIOLATION

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OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Eric B. Tulson
[NOTE: HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

Docket No. 055-33150
License No. OP-31405-2
IA-22-031

As a result of an August 16, 2022, notification from the Donald C. Cook Nuclear Power Station, operated by Indiana Michigan Power, a violation of US Nuclear Regulatory Commission (NRC) requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 of the *Code of Federal Regulations* (10 CFR) 55.53(d) provides that operator and senior operator licenses are subject to, and the licensee shall observe, all applicable rules, regulations, and orders of the Commission.

Title 10 CFR 55.53(j) states, in part, that a licensee shall not perform activities authorized by a license issued under this part while under the influence of alcohol that could adversely affect his or her ability to safely and competently perform his or her licensed duties. Additionally, 10 CFR 55.53(j) states, in part, that for alcoholic beverages being “under the influence” means the licensee exceeded, as evidenced by a confirmed test result, the lower of the cutoff levels for alcohol contained in 10 CFR Part 26, or as established by the facility licensee.

Indiana Michigan Power Procedure PMP-2060-FFD-001, Revision 22, dated 11/29/2021, “Fitness for Duty Program,” implements 10 CFR Part 26. Section 3.6, “Drug and Alcohol FFD Testing” Sub-section 3.6.1.h.3.c) of PMP-2060- FFD-001 states, in part, that a confirmed positive for alcohol must be declared when a confirmatory alcohol test result is 0.02 percent blood alcohol content (% BAC) when the individual has been in a work status at least 2 hours at the time the initial test was concluded.

Contrary to the above, on August 16, 2022, you performed activities authorized by a license issued under Part 55 while under the influence of alcohol that could adversely affect your ability to safely and competently perform your licensed duties. Specifically, you reported for duty at Donald C. Cook Nuclear Power Station where you performed licensed duties as the Unit 1 “At the Controls” Reactor Operator. Approximately 4.0 hours into your shift, you were relieved for a random FFD test. During the breathalyzer portion of this test, you tested positive for alcohol (0.039% BAC). Within 30 minutes, a confirmatory test was conducted in which you again tested positive (0.034% BAC). Based on these test results, you exceeded the 0.02 % BAC cutoff levels for alcohol established by the facility licensee.

This is a Severity Level III violation (Enforcement Policy Section 6.4).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket in your letter received on March 7, 2023. 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 corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a “Reply to a Notice of Violation; IA-22-031,” and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator, Region III, Suite 210, 2443 Warrenville Road, Lisle, Illinois

Enclosure

60532, and a copy to the NRC Resident Inspector at the Donald C. Cook Nuclear Plant 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.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

Dated this 11th day of April 2023.