



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
2100 RENAISSANCE BOULEVARD, SUITE 100
KING OF PRUSSIA, PENNSYLVANIA 19406-2713

September 20, 2012

IA-12-043

Mr. Rodger T. Devlin
HOME ADDRESS DELETED
UNDER 10 CFR 2.390

SUBJECT: NOTICE OF VIOLATION

Dear Mr. Devlin:

The U.S. Nuclear Regulatory Commission (NRC) received notification on July 14, 2012, from Exelon Generation Company (Exelon), indicating that you had tested positive for alcohol during a random fitness-for-duty test on that date, while you were working as a Reactor Operator at Exelon's Limerick Generating Station (Limerick). Exelon also indicated that you were removed from licensed duties immediately following the test.

In a letter dated July 17, 2012 (ML12200A130)¹, the NRC requested additional information from Exelon regarding this occurrence, including: 1) your specific duties on July 14, 2012; 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 August 16, 2012 (non-public due to personal privacy information), a copy of which was provided to you by the licensee. In a separate letter dated August 16, 2012 (non-public due to personal privacy information), Exelon requested termination of your 10 CFR Part 55 license to operate the Limerick power reactors.

Based on the information provided by Exelon in the July 14, 2012, notification and the subsequent letters dated August 16, 2012, the NRC has concluded that you were under the influence of alcohol while performing activities at Limerick authorized by your license. This constitutes a violation of 10 CFR 55.53(j).

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 with Marjorie McLaughlin of my staff on September 7, 2012, the NRC provided you the opportunity to address the apparent violation by either attending a pre-decisional enforcement conference (PEC) or by providing a written response before the NRC made its final enforcement decision. In a follow-up telephone conversation with Ms. McLaughlin on September 10, 2012, you stated that you did not intend to submit a written response and that a PEC was not necessary. Accordingly, based on the information provided by Exelon, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) (Enclosure 1).

The purpose of the Commission's fitness-for-duty 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. Performing licensed activities while under the influence of alcohol is a serious matter that undermines the special trust and confidence placed in you as a licensed operator. Therefore, the violation is categorized as a Severity Level III violation 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 on August 16, 2012, 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 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.

The NRC intends to place a copy of this letter, the enclosed Notice, and Exelon's letters dated August 16, 2012, in your 10 CFR Part 55 docket file. Additionally, in accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, 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/>).

R. Devlin

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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>.

Sincerely,

/RA/

William M. Dean
Regional Administrator

Enclosure: Notice of Violation

cc (w/encl):

Michael J. Pacilio, Senior Vice President (Exelon Generation Company LLC), President and Chief Nuclear Officer (Exelon Nuclear)

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RII, RIII, RIV (C Evans; S Orth; H. Gepford)

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Region I OE Files (with concurrences)

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>.

Sincerely,

/RA/

William M. Dean
Regional Administrator

Enclosure: Notice of Violation

cc (w/encl):

Michael J. Pacilio, Senior Vice President (Exelon Generation Company LLC), President and Chief Nuclear Officer (Exelon Nuclear)

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ADAMS Document Accession No.:ML12264A479

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OFFICE	RI/ORA	RI/DRS	RI/DRP	RI/DRS	RI/DRP	RI/ ORA
NAME	M McLaughlin/ MMM*	D Jackson/ DEJ*	P Krohn/ PGK*	C Miller/ CGM*	D Roberts/ JWC for*	K Farrar/ KLF*
DATE	9/11/12	9/12/12	9/12/12	9/13/12	9/15/12	9/18/12
OFFICE	RI/ORA	OE	RA/			
NAME	D Holody/ DJH*	G Gulla via email	W Dean/DCL for			
DATE	9/18/12 *	9/18/12	9/19/12			

*See previous concurrence page OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Rodger T. Devlin
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

Docket No. 55-61735
License No. OP-11147-3
IA-12-043

As a result of information provided by Exelon Generation Company (Exelon) during a telephone conversation on July 14, 2012, and in a letter dated August 16, 2012, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 55.53(j) states, in part, that an (individual) licensee shall not perform activities authorized by a license while under the influence of alcohol.

Contrary to the above, during the approximate period of 0600 to 1030 on July 14, 2012, you performed activities authorized under your NRC reactor operator license (OP-11147-3) at the Limerick Generating Station, while under the influence of alcohol. These activities included serving as the Plant Reactor Operator and being available to perform plant manipulations. You also performed the daily surveillance log for the common unit, placed a non-safety related make-up water pump into service, and performed a test verification activity. Exelon identified that you were under the influence via a random test administered to you on that date as part of its fitness-for-duty (FFD) program. The random FFD test yielded a confirmed positive result for alcohol.

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 on August 16, 2012, 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 with your application. This reply should be clearly marked as a "Reply to a Notice of Violation; IA-12-043" 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.

If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why such other action as may be proper should not be taken. 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 September, 2012.