

~~Public~~
Official

Template RGN-002

November 23, 1999

IA 99-055

Mr. Ross H. Stromberg
[HOME ADDRESS REMOVED
PER 10 CFR 2.790]

SUBJECT: NOTICE OF VIOLATION
(NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-99-022)

Dear Mr. Stromberg:

This letter refers to an NRC Office of Investigations (OI) investigation completed on October 14, 1999. During this investigation, the NRC examined the facts and circumstances surrounding a random fitness for duty screening while you were employed by General Electric at the Tennessee Valley Authority's (TVA) Browns Ferry Nuclear Plant in October 1998. You were interviewed on September 7, 1999, by OI as part of the investigation. A copy of the synopsis to the OI report is enclosed.

Based on the information developed during the investigation, the NRC concluded that you engaged in deliberate misconduct in violation of 10 CFR 50.5, Deliberate Misconduct. Specifically, 10 CFR 50.5(a)(2) prohibits any licensee, employee, or contractor of a licensee from deliberately submitting to a licensee information that the person submitting the information knows to be inaccurate in some respect material to the NRC. The OI investigation concluded that you deliberately adulterated your urine sample during a random drug screening on October 15, 1998, to avoid detection for illegal drug usage. Your submittal of an adulterated sample was material to the NRC because random drug testing is required by NRC regulations in 10 CFR Part 26, Fitness for Duty Programs. After identification of your deliberate actions, the licensee took appropriate corrective actions to deny your unescorted access privilege to the facility, and placed your name in the Personnel Automated Data System.

During your OI interview, you denied the use of illegal drugs or that your actions represented an attempt to subvert the fitness for duty testing program while employed at the Browns Ferry Nuclear Plant. In addition, your signature on the Drug Testing Custody and Control Form during the random drug testing of October 15, 1998, certified that you did not adulterate your urine sample in any manner. Nonetheless, based on discussions with the licensee's Medical Review Officer (MRO), it was determined that your urine sample contained the adulterant potassium nitrite, which blocks the ability to detect substances indicating marijuana use through fitness for duty testing. The licensee indicated that the human body does not produce potassium nitrite, but this substance could be found in the body as a result of an outside source such as food or medicine. However, based on the high concentration of potassium nitrite found in your urine sample, the licensee concluded that you attempted to subvert the fitness for duty test.

The NRC and its licensees must be able to rely on the integrity and trustworthiness of employees, especially those in a supervisory capacity. Your attempt to subvert TVA's fitness for duty program is unacceptable behavior in the nuclear industry. Given your responsibilities as a supervisor for General Electric at the Browns Ferry facility, your actions were particularly egregious because they indicated a deliberate lack of regard for NRC requirements. Therefore, after consultation with the Director, Office of Enforcement, the NRC has decided to issue the enclosed Notice to you based on your violation of regulations regarding deliberate misconduct.

1201

In accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy), 64 *Federal Register* 61142, issued on November 9, 1999, the violation has been classified at Severity Level III. Copies of the applicable regulation and Enforcement Policy are enclosed for your reference.

In determining the appropriate sanction to be issued in this case, the NRC considered issuing an Order prohibiting your involvement in licensed activities. However, the NRC has decided to issue the enclosed Notice in this case because of the significant action already taken by the licensee against you. You should be aware that should there be evidence of similar conduct on your part in the future, you may be subject to further enforcement action that could include an order prohibiting your involvement in NRC-licensed activities for a term of years.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. In addition, please include in your response information regarding why, in light of your actions in October 1998, the NRC should have confidence that you will adhere to regulatory requirements should you be employed in the nuclear industry in the future. If you believe any information concerning this matter is inaccurate, if you wish to provide additional information that you believe is important to our full understanding of this matter, or if you contest the violation, please include this in your response.

In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, records or documents compiled for enforcement purposes are placed in the NRC Public Document Room (PDR). A copy of this letter, with your address removed, and your response will be placed in the Public Document Room (PDR) 45 days after the date of this letter unless you provide sufficient basis to withdraw this letter. Upon placement of these documents in the PDR, a copy of this enforcement action will also be provided to TVA.

Questions concerning this letter may be addressed to Mr. Ken Barr, Chief, Plant Support Branch, Division of Reactor Safety, at 404-562-4653, or Mrs. Anne Boland, Enforcement Officer, Enforcement and Investigations Coordination Staff, at 404-562-4421.

Sincerely,

Original signed by L. A. Reyes

Luis A. Reyes
Regional Administrator

Enclosures:

1. Notice of Violation
2. Synopsis to OI Report No. 2-99-022
3. 10 CFR 50.5, Deliberate Misconduct
4. Enforcement Policy

CERTIFIED MAIL NO. Z 353 112 071
RETURN RECEIPT REQUESTED

cc: w/encls 1 and 2 only w/HOME ADDRESS DELETED:
(HOLD FOR 45 DAYS - EICS ACTION)

Tennessee Valley Authority

Mr. J. A. Scalice

Chief Nuclear Officer and

Executive Vice President

6A Lookout Place

1101 Market Street

Chattanooga, TN 37402-2801

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NAME	LPLISCO	CEVANS	ABOLAND	BMALLETT	WMCNULTY	JJOHNSON	
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* See previous concurrence

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NAME	LPLISCO	CEVANS	ABOLAND	BMALLETT	WMCNULTY	JJOHNSON
DATE	11/15/99	11/16/99	1/199	11/16/99	11/16/99	1/199
COPY?	YES NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	YES NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	YES <input checked="" type="checkbox"/> NO	YES NO

NOTICE OF VIOLATION

Mr. Ross H. Stromberg

IA 99-055

During an NRC Office of Investigations investigation completed on October 14, 1999, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions," 64 *Federal Register* 61142, the violation is listed below:

10 CFR 50.5(a)(2) states, in part, that any employee or contractor of a licensee may not deliberately submit to a licensee information that the person submitting the information knows to be inaccurate in some respect material to the NRC.

Contrary to the above, on October 15, 1998, you deliberately submitted information (i.e., a urine sample in response to a random drug screening) which you knew to be inaccurate in some respect material to the NRC. Specifically, you submitted a urine sample that contained potassium nitrite, which blocks the ability to detect substances indicating marijuana use through fitness for duty testing. The human body does not produce potassium nitrite, and the identification of this substance at a concentration found in your urine sample is considered an attempt to subvert the fitness for duty test. The submittal of this sample was material to the NRC because random drug testing is required by NRC regulations in 10 CFR Part 26, Fitness for Duty Programs. (01013)

This is a Severity Level III violation (Supplement VII).

Pursuant to the provisions of 10 CFR 2.201, Ross H. Stromberg is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region II, Atlanta Federal Center, 61 Forsyth St., SW, Suite 23T85, Atlanta, Georgia, 30303, marked "Open by Addressee Only," within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level, (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 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. Where good cause is shown, consideration will be given to extending the response time.

Because your response will be placed in the NRC Public Document Room (PDR) unless you provide sufficient basis to withdraw this letter, to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR 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 2.790(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.

Dated this 23rd day of November 1999

ENCLOSURE 1

SYNOPSIS

The U.S. Nuclear Regulatory Commission, Office of Investigations, Region II, initiated this investigation on August 18, 1999, to determine whether a Stone and Webster contract employee at the Tennessee Valley Authority Watts Bar Nuclear Plant attempted to subvert the fitness for duty testing program by adulterating his urine sample.

Based on the evidence developed during the investigation, it was substantiated that the contractor intentionally and deliberately adulterated his urine sample to avoid detection for illegal drug usage.

~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF~~ Approved on
~~FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION II~~ 11/16/99

Case No. 2-1999-023

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Enclosure 2