



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW, SUITE 23T85
ATLANTA, GEORGIA 30303-3415

May 24, 2000

IA-00-029

Mr. Clarence E. Jones
[HOME ADDRESS REMOVED]
PER 10 CFR 2.790]

SUBJECT: NOTICE OF VIOLATION
(NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-2000-002)

Dear Mr. Jones:

This letter refers to an NRC Office of Investigations (OI) investigation completed on April 25, 2000. During this investigation, the NRC examined the facts and circumstances surrounding a random fitness for duty screening you had while employed by Stone and Webster Engineering Corporation at Tennessee Valley Authority's (TVA) Browns Ferry Nuclear Plant in December 1999. You were interviewed by OI on March 9, 2000, 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 NRC concluded that you deliberately falsified a TVA Drug Testing Chain of Custody (COC) form by placing your signature on the COC certification line of the form on December 9, 1999. In doing so, you certified that your fitness for duty sample had not been tampered with in any way. However, the licensee's laboratory analysis of your fitness for duty sample identified the presence of an adulterant. Your falsification of the COC form and submittal of an altered sample was material to the NRC because random drug testing, which is required by NRC regulations in 10 CFR Part 26, Fitness for Duty Programs, is one of the means by which licensees and the NRC assure that nuclear workers are not under the influence of any substance, legal or illegal, which adversely affects their ability to competently and safely perform their duties. After identification of your deliberate actions, the licensee took actions to deny your unescorted access authorization to the facility.

During your OI interview, you denied that you adulterated your fitness for duty sample in December 1999 while employed at the Browns Ferry Nuclear Plant. Nonetheless, based on the facts of this matter, the NRC has concluded that your actions represented a deliberate attempt to subvert the fitness for duty test.

The NRC and its licensees must be able to rely on the integrity and trustworthiness of employees. Your attempt to subvert TVA's fitness for duty program is unacceptable behavior in the nuclear industry. Your actions were particularly egregious because they indicated a deliberate lack of regard for NRC requirements, as you were a first line supervisor (i.e., foreman). 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. In accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions" (65 Federal Register 25368, dated May 1, 2000) (Enforcement Policy), this violation has been classified at Severity Level III. Copies of the applicable regulation and Enforcement Policy are enclosed for your reference.

You should be aware that if there is similar conduct on your part in the future, you may be subject to further enforcement action that could possibly include an Order prohibiting your involvement in NRC licensed activities for a term of years. A violation of 10 CFR 50.5 may also lead to criminal prosecution.

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 December 1999, 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 made publicly available. A copy of this letter, with your address removed, and your response will be made publicly available 45 days after the date of this letter unless you provide sufficient basis to withdraw this letter. A copy of this enforcement action will also be provided to TVA at that time.

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

Sincerely,

/RA/BMALLETT for

Luis A. Reyes
Regional Administrator

Enclosures:

1. Synopsis to OI Report No. 2-2000-002
2. Notice of Violation
3. Enforcement Policy
4. 10 CFR 50.5, Deliberate Misconduct

CERTIFIED MAIL NO. Z 353 112 056
RETURN RECEIPT REQUESTED

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

Tennessee Valley Authority

ATTN: Mr. J. A. Scalice

Chief Nuclear Officer and

Executive Vice President

6A Lookout Place

1101 Market Street

Chattanooga, TN 37402-2801

SYNOPSIS

The U.S. Nuclear Regulatory Commission, Region II, Office of Investigations initiated this investigation on January 11, 2000, to determine if a Tennessee Valley Authority (TVA) contractor supervisor adulterated his drug test specimen to deliberately subvert the Fitness-for-Duty Program.

The evidence developed during this investigation substantiated that a TVA contractor supervisor intentionally and deliberately adulterated his drug test urine specimen in an attempt to evade the detection of substance abuse and to subvert the TVA Fitness-for-Duty Program.

~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION II~~

Approved for
release on
5/11/00

NOTICE OF VIOLATION

Mr. Clarence E. Jones
[HOME ADDRESS REMOVED]
PER 10 CFR 2.790]

IA-00-029

During an NRC Office of Investigations investigation completed on April 25, 2000, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions" (65 Federal Register 25368, dated May 1, 2000) (Enforcement Policy)" 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 December 9, 1999, you deliberately submitted information which you knew to be inaccurate in some respect material to the NRC. Specifically, you deliberately signed a Tennessee Valley Authority (TVA) Chain of Custody form during a random drug screening at the Browns Ferry Nuclear Plant, certifying that your fitness for duty sample had not been tampered with in any way. However, laboratory analysis of your fitness for duty sample identified the presence of an adulterant. The endorsement of the Chain of Custody certification and the submittal of a fitness for duty sample was material to the NRC because random drug testing, which is required by NRC regulations in 10 CFR Part 26, Fitness for Duty Programs, is one of the means by which licensees and the NRC assure that nuclear workers are not under the influence of any substance, legal or illegal, which adversely affects their ability to competently and safely perform their duties. (01013)

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

Pursuant to the provisions of 10 CFR 2.201, Clarence E. Jones 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 made publicly available 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 released 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

ENCLOSURE 2

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 24th day of May 2000