

July 17, 2002

IA 02-021

Mr. Jay Trombley
[HOME ADDRESS REMOVED
PER 10 CFR 2.790]

SUBJECT: NOTICE OF VIOLATION
(NRC Office of Investigations Report 1-2002-010)

Dear Mr. Trombley:

This letter refers to an investigation completed by the NRC Office of Investigations (OI) on May 17, 2002. This investigation was conducted to determine whether you deliberately submitted an adulterated urine sample during a random fitness for duty (FFD) drug screening examination while employed by PSEG Nuclear LLC (PSEG) at the Hope Creek Nuclear Generating Station. The OI investigation substantiated that you knowingly adulterated a urine sample for a random FFD drug test on February 13, 2002, by adding bleach to that sample. PSEG identified your misconduct, investigated the matter, and subsequently terminated your employment.

You were interviewed by OI on April 26, 2002, as part of this investigation. During your interview, you admitted that you had used marijuana the weekend prior to your FFD test. Based on the results of the OI investigation, the NRC concluded that you were in violation of the NRC's rule prohibiting deliberate misconduct, 10 CFR50.5(a)(2). This rule, in part, prohibits any employee of a licensee from deliberately submitting to the licensee, information that the person knows to be inaccurate in some respect material to the NRC. Specifically, you deliberately submitted information (i.e., an adulterated urine sample) to the licensee that you knew to be inaccurate. Your submittal of an adulterated urine sample was material to the NRC because random FFD drug testing is required by NRC regulations in 10 CFR 26, "Fitness For Duty Programs." This program 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. A copy of the letter to the licensee concerning this matter, with an attached synopsis of the OI Investigation, is enclosed.

The NRC and its licensees must be able to rely on the integrity and trustworthiness of employees. Your attempt to subvert the licensee's FFD program is unacceptable behavior in the nuclear industry. As a first line supervisor, you were in a position to direct or influence the conduct of other licensee employees. As such, your actions, which demonstrated a deliberate disregard for NRC requirements, were particularly egregious. Therefore, after consultation with the Director, Office of Enforcement, the NRC has decided to issue the enclosed Notice of Violation (Notice) to you based on your violation of NRC regulations regarding deliberate misconduct. In accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions," (NUREG-1600), this violation has been classified at Severity Level III. 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

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Mr. Jay Trombley

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involvement in NRC licensed activities for a specific period of time. A violation of 10 CFR 50.5 may also lead to criminal prosecution. The NRC considered issuance of an Order in this case, but decided to issue the attached Notice of Violation, in part, because (1) you admitted that you used marijuana and adulterated your urine sample, and (2) PSEG took disciplinary action against you.

You are required to respond in writing within 30 days of the date of 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 February 2002, 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 PSEG Nuclear LLC at that time. Questions concerning this matter may be addressed to Mr. John White, Chief, Radiation Safety and Safeguards Branch, Division of Reactor Safety, at 610-337-5114.

Sincerely,

/RA/ James T. Wiggins Acting for

Hubert J. Miller
Regional Administrator

Enclosures: 1) Notice of Violation
2) Letter to Licensee (with OI synopsis attached)

cc w/encl 1 only (HOLD FOR 45 DAYS):

Mr. Harold W. Keiser
Chief Nuclear Officer and President
PSEG Nuclear LLC - N09
P. O. Box 236
Hancocks Bridge, NJ 08038

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* Per phone call with Dave nNson, OE

NOTICE OF VIOLATION

Mr. Jay Trombley
[HOME ADDRESS DELETED
UNDER 10 CFR 2.790(a)]

IA 02-021

During an investigation by the NRC Office of Investigations completed on May 17, 2002, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10 CFR 50.5(a)(2) states, in part, that any employee 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 February 13, 2002, you deliberately submitted information (i.e., a urine sample in response to a random fitness for duty drug screen) which you knew to be inaccurate in some respect material to the NRC. Specifically, you deliberately altered your urine sample by adding bleach during a random drug screen in an effort to subvert the fitness for duty test to avoid detection of illegal drug usage. The submittal of this urine sample was material to the NRC because random drug testing is required by NRC regulations in 10 CFR Part 26, Fitness for Duty Programs.

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

Pursuant to the provisions of 10 CFR 2.201, Jay Trombley is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region I, 475 Allendale Road, King of Prussia, PA, 19406, and 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, (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.

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 or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS), 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. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). 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 17th day of July 2002