

February 23, 2005

IA-05-009

Mr. Thomas Czymek
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390(a)]

SUBJECT: NOTICE OF VIOLATION AND EXPIRATION OF LICENSE

Dear Mr. Czymek:

The NRC received a letter from AmerGen dated January 21, 2005, containing information pertaining to your confirmed positive test for cocaine while working as a Shift Manager at Oyster Creek on December 20, 2004. Subsequently, the NRC received another letter from AmerGen dated January 27, 2005, informing us that your employment was terminated and your senior operator license at Oyster Creek was no longer required. Copies of each letter from AmerGen are enclosed, and we plan to place these letters in your 10 CFR Part 55 docket file. Attachment 1 to the January 21, 2005 letter is also enclosed and will be placed in your docket file as well. That attachment provides details regarding the circumstances of your confirmed positive test.

In accordance with 10 CFR 55.55(a), the determination by your facility licensee that you no longer need to maintain a license has caused your license (License No. SOP-11530) to expire as of January 27, 2005. In addition, the following violation is being issued on your docket:

10 CFR 55.53(j) prohibits the use of illegal drugs, and prohibits the licensee from performing activities authorized by a license issued under 10 CFR Part 55 while under the influence of an illegal substance. "Under the influence" is defined in 10 CFR 55.53(j) to mean that the "licensee exceeded, as evidenced by a confirmed positive test, the lower cutoff levels for drugs or alcohol contained in 10 CFR Part 26, Appendix A, of this chapter, or as established by the facility licensee."

Contrary to the above, while holding an NRC license (SOP-11530), you used an illegal drug and performed activities authorized by your NRC license while under the influence. Specifically, on December 20, 2004, a random fitness-for-duty test was positive for cocaine, which was verified to exceed the cutoff level in 10 CFR Part 26, while you supervised individuals performing licensed activities at Oyster Creek.

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

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 of drugs and alcohol and the effects of the use of these substances. The use of illegal drugs is a serious matter which undermines the special trust and confidence placed in you as a licensed senior reactor operator. This violation is categorized at Severity Level III in accordance with the

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. T. Czymek

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"General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, because the use of illegal drugs by licensed operators is a significant regulatory concern. NUREG-1600 is included on the NRC's web site at www.nrc.gov; select **What We Do, Enforcement**, then **Enforcement Policy**.

Because your license has expired, you are not required to respond to the Notice of Violation at this time **unless you contest the violation**. Should you contest the Notice of Violation, a response is required within 30 days of the date of this letter addressing the specific basis for disputing the violation. This response should be sent to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA, 19406 and marked, "Open by Addressee Only - Response to a Notice of Violation; IA-05-009."

The purpose of this letter is also to make clear to you the consequences of your violation of NRC requirements governing fitness-for-duty as a licensed operator, in accordance with 10 CFR Part 55. If you reapply for an operating license, you will need to satisfy not only the requirements of 10 CFR 55.31, but also those of 10 CFR 2.201, by addressing the reasons for the violation and the actions you have taken to prevent recurrence in order to ensure your ability and willingness to carry out the special trust and confidence placed in you as a licensed operator and to abide by all fitness-for-duty and other license requirements and conditions.

In accordance with Section 2.390 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, enforcement actions are made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS). ADAMS is accessible from the NRC web site at <http://www.nrc.gov/reading-rm/adams.html>. A copy of this letter without its enclosures and with other personal privacy information removed will be made available to the Public unless you provide a sufficient basis to withdraw this violation within the 30 days specified above for a response to this Notice of Violation. The NRC also includes significant enforcement actions on its Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Significant Enforcement Actions**.

Should you have any questions concerning this action, please contact Richard Conte, Chief, Operational Safety Branch, at (610) 337-5183.

Sincerely,

/RA/

Wayne D. Lanning, Director
Division of Reactor Safety
Region I

Docket No. 55-62332
License No. SOP-11530

Enclosures: As Stated

cc: Oyster Creek (w/o encls)

Immediate Distribution (w/o encls):

OE: EA File
 OE: IA File
 FCongel, OE
 KFarrar, RI
 DHolody/RUrban, RI
 SFiguroa, OE

Distribution (w/o encls) (Release After 45 Day Hold):

ADAMS (PARS)
 SECY
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 LReyes, EDO
 EMerschhoff, DEDR
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 FCameron, OGC
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 KReimsberg, OGC
 PLohaus, STP
 JDyer, NRR
 RBorchardt, NRR
 SLee, OEDO
 RFranovich, NRR
 RLaufer, NRR
 PTam, PM, NRR
 TColburn (Back up PM), NRR
 Enforcement Coordinators RII, RIII, RIV
 SGagner, OPA
 HBell, OIG
 GCaputo, OI
 LTremper, OC
 SCollins, RA/JWiggins, DRA
 PEselgroth, DRP
 DScrenci, PAO-RI
 Region I OE Files (with concurrences)
 Region I Docket Room (with concurrences)

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SISP Review Complete: RJC (Reviewer's Initials)

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DATE	2/2/05		2/7/05		2/2/05		2/3/05		2/4/05	
OFFICE	RI/RA		HQ/OE		HQ/NRR				HQ/NSIR	
NAME	Scollins (JTW for)		Fcongell (RJU for) *		Dtrimble (RJU for) *				Gwest (RJU for) *	
DATE	2/10/05		2/16/05		2/15/05				2/15/05	

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* Concurrence via phone call with C. Nolan, OE 2/16/05