



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION II
245 PEACHTREE CENTER AVENUE NE, SUITE 1200
ATLANTA, GEORGIA 30303-1257

December 4, 2015

IA-2015-066

Mr. Anthony Xenakis
**[HOME ADDRESS DELETED
UNDER 10 CFR 2.390]**

SUBJECT: NOTICE OF VIOLATION

Dear Mr. Xenakis:

This letter refers to an Event Notification (EN) 50809 that Surry Power Station made to the U.S. Nuclear Regulatory Commission (NRC) on February 11, 2015. This EN informed the NRC that you had tested positive for an illegal drug during a follow-up fitness-for-duty (FFD) test conducted on February 3, 2015. The NRC received additional information from Surry Power Station, dated March 20, 2015, regarding your confirmed positive FFD test result. In a letter dated February 26, 2015, Surry Power Station informed the NRC that there was no longer a need to maintain your operator license, effective February 26, 2015. Based on this notification, your operator license was terminated. Copies of the aforementioned documents have been placed in your 10 CFR Part 55 docket file. Additionally, the NRC Office of Investigations (OI) conducted an investigation into this matter, and reported their findings in OI report 2-2015-028, dated June 25, 2015. A Factual Summary of the OI investigation is provided as Enclosure 2.

During a telephone conversation on November 4, 2015, between you and Mr. Eugene Guthrie of my staff, you expressed that you believed neither a conference nor a written response from you was necessary prior to the NRC rendering an enforcement decision. Therefore, based on the information available to us, we are proceeding with the enforcement process for an apparent violation of 10 CFR 55.53(d) and 10 CFR 55.53(j). These regulations state, in part:

Title 10 CFR 55.53(d): "The license is subject to, and the [individual] licensee shall observe, all applicable rules, regulations, and orders of the Commission."

Title 10 CFR 55.53(j): "The [individual] licensee shall not use, possess, or sell any illegal drugs. The licensee shall not perform activities authorized by a license issued under this part while under the influence of alcohol or any prescription, over-the-counter, or illegal substance that could adversely affect his or her ability to safely and competently perform his or her licensed duties. For the purpose of this paragraph, with respect to alcoholic beverages and drugs, the term "under the influence" means the licensee exceeded, as evidenced by a confirmed test result, the lower of the cutoff levels for drugs or alcohol contained in subparts E, F and G of Part 26 of this chapter, or as established by the facility licensee."

**Certified Mail Number: 7012 3050 0001 9196 8080
Return Receipt Requested**

Accordingly, based on the information provided to the NRC in the February 11, 2015, notification, the information contained in the Surry Power Station letter of March 20, 2015, and the NRC staff's review of the OI report of June 25, 2015, the NRC has concluded that you deliberately used illegal narcotics in violation of your NRC license. The NRC based this conclusion, in part, on your acknowledgement to the OI investigator of the use of an illegal narcotic several days prior to your FFD test, previous training and knowledge of FFD requirements at Surry, and your prior experiences with the FFD testing program. Your deliberate use of illegal narcotics constitutes a violation of 10 CFR 55.53(d) and 10 CFR 55.53(j). This violation is cited in the enclosed Notice of Violation (Notice).

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 an illegal substance would be a serious matter that would undermine the special trust and confidence placed in you as a licensed operator. Therefore, this violation is categorized as a Severity Level III violation in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

Since you no longer have an NRC license, you are not required to respond to the Notice unless you contest the violation. Should you contest the Notice, 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 U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, NRC Region II, 245 Peachtree Center Avenue, NE (Suite 1200), Atlanta, GA 30303-1257; and be marked Open by Addressee Only - Response to a Notice of Violation; IA-2015-066.

Because this is your second violation of 10 CFR 55.53(j), you meet the criteria specified in 10 CFR 26.75(e)(2) for denial of authorization for five years. If you apply for an operator license at any NRC licensed facility after this period of denial of authorization has elapsed, you will need to not only satisfactorily address the requirements of 10 CFR 55.31 and 10 CFR 55.33, but also the requirements of 10 CFR 2.201. At that time, you will need to submit a written response to this violation to address the reasons for this violation and the actions you have taken to prevent recurrence, as specified in the enclosed Notice.

This response should be sent to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, NRC Region II, 245 Peachtree Center Avenue, NE (Suite 1200), Atlanta, GA 30303-1257; and be marked Open by Addressee Only - Response to a Notice of Violation; IA-2015-066.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," Part 2, Title 10 of the Code of Federal Regulations, enforcement actions are made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Forty-five days after the issuance of this letter, a copy of this letter and the enclosures with your address removed will be made available to the public, unless you provide a sufficient basis to withdraw this violation. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/current.html>.

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. 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>. Finally, a copy of this letter will be placed in your 10 CFR Part 55 docket file.

Should you have any questions concerning this action, please contact Mr. Eugene F. Guthrie of my staff at 404-997-4662, (Internet Email: Eugene.Guthrie@nrc.gov).

Sincerely,

/RA/

Leonard D. Wert, Jr.
Acting Regional Administrator

Docket No.
License No.

Enclosures:

1. Notice of Violation
2. Factual Summary

cc: w/encls and w/HOME ADDRESS DELETED

Mr. N. L. Lane
Site Vice President
Virginia Electric & Power Company
Surry Power Station
5570 Hog Island Road
Surry, VA 23883-0315

Mr. Douglas Lawrence, Director
Nuclear Safety and Licensing
Virginia Electric & Power Company
Surry Power Station
5570 Hog Island Road
Surry, VA 23883-0315

Mr. Joseph Fisher
Training Manager
Virginia Electric and Power Company
Surry Power Station
5570 Hog Island Road
Surry, VA 23883

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Sincerely,
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 Acting Regional Administrator

Docket No.
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 Surry, VA 23883

Distribution: See next page **(*) – SEE PREVIOUS PAGE FOR CONCURRENCES -**

PUBLICLY AVAILABLE NON-PUBLICLY AVAILABLE SENSITIVE NON-SENSITIVE
 ADAMS: Yes ACCESSION NUMBER: _____ SUNSI REVIEW COMPLETE FORM 665 ATTACHED

OFFICE	RII:DRS	RII:DRS	RII:DRS	RII:DRP	RII:EICS	RII:EICS	RII:ORA
SIGNATURE	*AXT6	*EFG	ATG	*ADM2	DLG1	SAP1	LAD
NAME	TOTH	GUTHRIE	GODY	MASTERS	GAMBERONI	PRICE	DUDES
DATE	11/5/2015	11/5/2015	11/17/2015	11/16/2015	11/18/2015	12/3/2015	11/18/2015
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO
OFFICE	OE	NRR	RII:ORA				
SIGNATURE	CEC VIA EMAIL	LRC1 VIA EMAIL	LXW1				
NAME	CARPENTER	CASEY	WERT				
DATE	11/23/2015	11/19/2015	12/4/2015	2/ /2016	2/ /2016	2/ /2016	2/ /2016
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

Letter to Anthony Xenakis from Leonard D. Wert Jr., dated December 4, 2015.

SUBJECT: NOTICE OF VIOLATION

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DISTRIBUTION (45 days after issuance):

PUBLIC

NOTICE OF VIOLATION

Anthony Xenakis
**[HOME ADDRESS DELETED
UNDER 10 CFR 2.390]**

Docket No.
License No.
IA-2015-066

As a result of a notification from the Surry Power Station, operated by Virginia Electric and Power Company (Dominion), dated February 11, 2015, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 of the *Code of Federal Regulations* (10 CFR) 55.53(d) provides that operator and senior operator licenses are subject to, and the licensee shall observe, all applicable rules, regulations and orders of the Commission. 10 CFR 55.53(j) states, in part, that a licensee shall not use, possess or sell any illegal drugs and that a licensee shall not perform activities authorized by a license while under the influence of an illegal substance that could adversely affect his or her ability to safely and competently perform his or her licensed duties. Additionally, 10 CFR 55.53(j) states, in part, that for alcoholic beverages and drugs being "under the influence" means the licensee exceeded, as evidenced by a confirmed test result, the lower of the cutoff levels for drugs or alcohol contained in 10 CFR Part 26, or as established by the facility licensee.

Dominion procedure SY-AA-FFD-101, Revision 9, "Fitness for Duty Program" implements 10 CFR Part 26. Step 3.8.3 of section 3.8, "Drug Cut-off Limits," of SY-AA-FFD-101 provides, in part: 1) that the initial cutoff level for marijuana metabolites was 50 nanograms per milliliter (ng/ml) and the confirmatory cutoff level for marijuana metabolites was 15 ng/ml, which is equivalent to the cutoff level specified in 10 CFR 26.163; and 2) the initial cutoff level for cocaine metabolites was 300 ng/ml and the confirmatory cutoff level for cocaine metabolites was 150 ng/ml, which is equivalent to the cutoff level specified in 10 CFR 26.163.

Contrary to the above, the licensee deliberately violated 10 CFR 55.53(j), as evidenced by the following: On February 3, 2015, you reported for duty at the Surry Power Station. You were subject to a follow-up fitness-for-duty test. Having met the applicable cut-off levels in initial screening, your results were sent to an offsite lab for confirmation testing. The certifying scientist at the offsite lab confirmed the quantitative results and sent confirmation to the Dominion Medical Review Officer (MRO), who determined that your test result was positive for marijuana metabolites and cocaine metabolites above the cutoff levels specified in section 3.8 of SY-AA-FFD-101.

This is a Severity Level III violation (Example 6.4).

Since you no longer have an NRC license, as Surry Power Station requested it to be terminated on February 26, 2015, 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 to the violation with your application. This reply should be clearly marked as a "Reply to a Notice of Violation; IA-2015-066" 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.

In such case, the reply should be addressed to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, NRC Region II, 245 Peachtree Center Avenue, NE (Suite 1200), Atlanta, GA 30303-1257; and be marked Open by Addressee Only - Response to a Notice of Violation; IA-2015-066. 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 Notice of Violation 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 day of December 4, 2015.

FACTUAL SUMMARY

Office of Investigations Report No. 2-2015-028

On June 25, 2015, the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI), Region II, completed an investigation regarding activities at the Surry Power Station (Surry). The purpose of the investigation was to determine whether a licensed (inactive) Reactor Operator (RO) deliberately used illegal narcotics in violation of his NRC license and Fitness for Duty (FFD) procedures.

Based on the investigation, the pertinent facts are as follows:

On February 3, 2015, a licensed RO at the Surry Power Station reported for duty. The RO was in Surry's follow-up FFD testing program because of a previous incident. The RO provided a urine sample, which was determined to have met the applicable cut-off levels in initial screening as described in Surry's procedure SY-AA-FFD-101 "Fitness for Duty Program", revision 9. The FFD result was sent to an offsite lab for confirmation testing. The certifying scientist at the offsite lab confirmed the quantitative results and sent confirmation to the Dominion Medical Review Officer (MRO), who determined that the FFD test result was positive for marijuana metabolites and cocaine metabolites above the cutoff levels specified in section 3.8 of Surry's procedure SY-AA-FFD-101.

During a transcribed interview with an OI investigator on June 10, 2015, the RO admitted to use of an illegal narcotic several days prior to his FFD test. The RO acknowledged his previous training, knowledge, and experience regarding FFD requirements and the FFD program at Surry.

Based on the above, the evidence indicates that the RO at Surry deliberately used illegal narcotics in violation of his RO license and the Surry FFD procedure.