

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:*

NRC Form 327—Special Nuclear Material (SNM) and Source Material (SM) Physical Inventory Summary Report;

NUREG/BR-0096—Instructions and Guidance for Completing Physical Inventory Summary Reports.

2. *Current OMB approval number:*

3150-0139.

3. *How often the collection is required:* The frequency of reporting corresponds to the frequency of required inventories, which depends essentially on the strategic significance of the SNM covered by the particular license.

Certain licensees possessing strategic SNM are required to report inventories every 2 months. Licensees possessing SNM of moderate strategic significance must report every 6 months. Licensees possessing SNM of low strategic significance must report annually.

4. *Who is required or asked to report:* Fuel facility licensees possessing special nuclear material.

5. *The number of annual respondents:*

10.

6. *The number of hours needed annually to complete the requirement or request:* 98 (an average of approximately 4.25 hours per response for 23 responses).

7. *Abstract:* NRC Form 327 is submitted by fuel facility licensees to account for special nuclear material. The data is used by NRC to assess licensee material control and accounting programs and to confirm the absence of (or detect the occurrence of) special nuclear material theft or diversion. NUREG/BR-0096 provides specific guidance and instructions for completing the form in accordance with the requirements appropriate for a particular licensee.

Submit, by July 6, 1998, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (<http://www.nrc.gov>) under the FedWorld collection link on the home page tool bar. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T-6 F33, Washington, DC, 20555-0001, or by telephone at 301-415-7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 30th day of April, 1998.

For the Nuclear Regulatory Commission.

Beth C. St. Mary,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

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NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it

displays a currently valid OMB control number.

1. *Type of submission:* Revision.

2. *The title of the information collection:* "An Approach for Using Probabilistic Risk Assessment in Risk-informed Decisions on Plant-Specific Changes to the Current Licensing Basis," Regulatory Guides RG-1.174 through RG-1.178.

3. *The form number if applicable:* Not applicable.

4. *How often the collection is required:* Use of the new risk-informed methodology for making changes in the licensing basis of operating plants in the areas of inservice inspection (ISI), inservice testing (IST), graded quality assurance (GQA), and technical specifications (TS), is available to all licensees but is not required. Licensees may make voluntary submittals when, and if, in their judgment, it is to their advantage to do so (for example, to improve plant safety, reduce costs, gain operating flexibility).

5. *Who will be required or asked to report:* Licensees of nuclear power plants may report when, and if, in their judgment, it is to their advantage to do so.

6. *An estimate of the number of responses:* ISI: 6, IST: 3, QA: 1, TS: 20.

7. *The estimated number of annual respondents:* ISI: 6, IST: 3, QA: 1, TS: 20.

8. *An estimate of the total number of hours needed annually to complete the requirement or request (per respondent):* ISI: 6,200, IST: 5,200, QA: 4,000, TS: 1,060.

9. *An indication of whether Section 3507(d), Pub. L. 104-13 applies:* Not applicable.

10. *Abstract:* In the specific areas of ISI, IST, GQA, and TS, a new series of Regulatory Guides provides a risk-informed method for licensees to use in requesting changes to their current licensing bases (CLB). No changes or additions have been made to any rules or regulations in conjunction with the issuance of this series of guides. The new method will be a voluntary alternative to the deterministically-based CLB change method previously used (which will remain acceptable as an alternative to the new risk-informed method).

The new risk-informed alternative method will allow licensees to concentrate on plant equipment and operations that are most critically important to plant safety so as to achieve a savings in total effort and greater operating flexibility with an insignificant change in overall safety. The guides specify the records, analyses, and documents that licensees

are expected to prepare in support of risk-informed changes to their CLB in the specified areas.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (<http://www.nrc.gov>) under the FedWorld collection link on the home page tool bar. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer by June 8, 1998: Erik Godwin, Office of Information and Regulatory Affairs (3150-0011), NEOB-10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395-3084.

The NRC Clearance Officer is Brenda Jo. Shelton, 301-415-7233.

Dated at Rockville, Maryland, this 1st day of May 1998.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

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NUCLEAR REGULATORY COMMISSION

[IA 98-002]

Mr. Thomas C. Johnson; Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)

I

Mr. Thomas C. Johnson (Mr. Johnson) was formerly employed as a contractor employee at the Niagara Mohawk Power Corporation (NMPC), Nine Mile Point nuclear facility as a computer programmer. NMPC holds Facility License Nos. DPR-63 and NPF-69 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50. These licenses authorize NMPC to operate the Nine Mile Point facilities, Units 1 and 2, in accordance with the conditions specified therein.

II

In May 1996, NMPC initiated an investigation into whether Mr. Johnson and others were involved in the alteration of a computer code used to select individuals for random drug and alcohol testing. Based on the evidence

developed during the NMPC investigation, as well as a subsequent review by the NRC Office of Investigations (OI), OI concluded that Mr. Johnson and another contractor computer programmer intentionally altered the fitness-for-duty (FFD) computer program to ensure that certain individuals (including themselves) would be excluded from random FFD screening. Specifically, a patch had been inserted into the computer program to ensure certain individuals would not be selected. Moreover, the two individuals planned and executed a scheme (and a number of precautions) to elude detection and prevent tracing. These actions caused NMPC to violate 10 CFR 26.24, which requires that individuals be tested in a statistically random and unpredictable manner. As a result of this violation, Mr. Johnson, the other contractor, and others, were prevented from being selected for random FFD testing.

Although Mr. Johnson, in an interview with NMPC investigators on May 15, 1996, denied knowledge of this matter, during a subsequent interview by NMPC investigators on May 22, 1996, Mr. Johnson admitted that he was involved in a joint effort with another individual in altering the computer program for FFD testing selection. Mr. Johnson was offered an opportunity for an enforcement conference with the NRC, but declined.

III

Based on the above, the NRC has concluded that Mr. Johnson engaged in deliberate misconduct. Mr. Johnson's actions constitute a violation of 10 CFR 50.5(a)(1), which prohibits an individual from engaging in deliberate misconduct that causes or, but for detection, would have caused, a licensee to be in violation of any rule, regulation, or order, or any term, condition, or limitation of any license, issued by the Commission. In this case, Mr. Johnson caused the Licensee to be in violation of 10 CFR 26.24. Specifically,

10 CFR Part 26.24, requires, in part, that as a means to deter and detect substance abuse, the licensee shall implement a testing program that includes unannounced drug and alcohol testing that is to be imposed in a statistically random and unpredictable manner so that all persons in the population subject to the testing shall have an equal probability of being selected and tested.

Contrary to the above, at some time prior to May 1996, Mr. Johnson and another contractor computer programmer altered the FFD computer program used to ensure that individuals were tested for drugs and alcohol in a statistically random and unpredictable manner, resulting in certain individuals

being excluded from random FFD screening. As a result, for an indeterminate period prior to May 1996, individuals were selected for testing in a manner that was not statistically random and unpredictable.

The NRC must be able to rely on the Licensee, its contractors, and the Licensee and contractor employees to comply with NRC requirements. Mr. Johnson's action in altering the FFD program, and his collusion with another individual to hide that alteration, constitute deliberate violations of Commission regulations, and by doing so, raises serious doubt as to whether he can be relied upon to comply with NRC requirements and to provide complete and accurate information to NRC Licensees and their contractors in the future, and raises doubt about his trustworthiness and reliability.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public would be protected if Mr. Johnson were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety and interest require that Mr. Johnson be prohibited from any involvement in NRC-licensed activities for a period of five years from the date of this Order. Additionally, for a period of three years after the five year period of prohibition has expired, Mr. Johnson is required to notify the NRC of his acceptance of each employment offer involving NRC-licensed activities. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of Mr. Johnson's conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 103, 161b, 161i, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 50.5, and 10 CFR 150.20, *it is hereby ordered, effective immediately, that:*

A. Thomas C. Johnson is prohibited from engaging in activities licensed by the NRC for five years from the date of this Order. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

B. For a period of three years after the five year period of prohibition has expired, Mr. Johnson shall, within 20 days of his acceptance of each