

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.

[FR Doc. 98-12173 Filed 5-6-98; 8:45 am]

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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

employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.A above, provide notice to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the first notification, Mr. Johnson shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will comply with applicable NRC requirements.

The Director, OE, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Johnson of good cause.

V

In accordance with 10 CFR 2.202, Mr. Johnson must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Johnson or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region I, U.S. Nuclear Regulatory, 475 Allendale Road, King of Prussia, Pennsylvania 19406, and to Mr. Johnson if the answer or hearing request is by a person other than Mr. Johnson. If a person other than Mr. Johnson requests a hearing, that person shall set forth with particularity the manner in which that person's interest is adversely

affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Mr. Johnson or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Johnson may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 28th day of April 1998.

For the Nuclear Regulatory Commission,
James Lieberman,

Director, Office of Enforcement.

[FR Doc. 98-12182 Filed 5-6-98; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[IA 98-001]

Mr. Albert M. Nardslico, Jr.; Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)

I

Mr. Albert M. Nardslico (Mr. Nardslico) 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. Nardslico 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. Nardslico 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 for drugs and alcohol in a statistically random and unpredictable manner. As a result of this violation, Mr. Nardslico, the other contractor employee involved in planning the scheme, and others, were prevented from being selected for random FFD testing. In addition, during the time in which his name was excluded from random selection, Mr. Nardslico had access to the site protected area, which was also at a time when Mr. Nardslico may have been using marijuana offsite. (Mr. Nardslico admitted, during the predecisional enforcement conference in the NRC Region I office on February 13, 1998, and during a June 21, 1996 interview with NMPC investigators, that he had used marijuana while employed at Nine Mile Point. While he did not recall the periods of such use, he was unable to confirm that he did not use marijuana while his name had been excluded from the FFD testing pool.)

During his interviews with NMPC, as well as during the predecisional enforcement conference with the NRC, Mr. Nardslico denied that he was involved in the alteration of the computer program. Notwithstanding Mr. Nardslico's denials, another contractor computer programmer, who had admitted his involvement in the alteration, implicated Mr. Nardslico as also being involved in the alteration. Specifically, in transcribed interviews under oath, the other contract computer programmer indicated: (1) That the corruption of the FFD computer code was a joint effort of him and Mr. Nardslico; (2) that he and Mr. Nardslico