[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[IA-13-064; NRC-2014-0103]

In the Matter of Daniel Wilson

AGENCY: Nuclear Regulatory Commission.

ACTION: Order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an order prohibiting Mr. Wilson from involvement in NRC-licensed activities for a period of 1 year. The order also requires Mr. Wilson to notify the NRC of any current involvement in NRC-licensed activities, to immediately cease those activities, and to notify the NRC of the name, address, and telephone number of the employer.

DATES: *Effective Date*: See attachment.

ADDRESSES: Please refer to Docket ID **NRC-2014-0103** when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- **Federal Rulemaking Web Site:** Go to http://www.regulations.gov and search for Docket ID **NRC-2014-0103**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; e-mail: Carol.Gallagher@nrc.gov

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may access publicly available documents online in the NRC Library at **http://www.nrc.gov/reading-rm/adams.html**. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Robert G. Carpenter, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-1330, e-mail: Robert.Carpenter@nrc.gov.

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated at Rockville, Maryland, this 29th day of April 2014

For the Nuclear Regulatory Commission

/RA/

Roy P. Zimmerman, Director
Office of Enforcement

NUCLEAR REGULATORY COMMISSION

[NRC-2014-0103]

In the Matter of	**)**	**IA-13-064**
Daniel Wilson	**)**	
	)	

Order Prohibiting Involvement in NRC-Licensed Activities

I.

Daniel Wilson (Mr. Wilson) was formally employed as the Chemistry Manager at the Entergy Nuclear Operations (ENO) Indian Point Energy Center (Licensee). ENO holds License Nos. DPR-26 and DPR-64 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR) on September 28, 1973 and December 12, 1975, respectively. The licenses authorize the operation of Indian Point Nuclear Generating Units 2 and 3 in accordance with the conditions specified therein. The facility is located on the Licensee's site in Buchanan, New York.

II.

Between March 30, 2012, and March 26, 2013, an investigation was conducted at IP to determine if Mr. Wilson, while employed as the IP Chemistry Manager, deliberately entered false data into a Chemistry database pertaining to an emergency diesel generator (EDG) fuel oil storage tank (FOST) and the reserve fuel oil storage tank (RFOST). Per the IP Technical Specifications (TS), the fuel oil is sampled nominally every 92 days and analyzed to determine if it is within limits for specified parameters, including total particulate concentration. If the

particulate concentration is above the stated limit, it must be restored to below the limit within seven days for an FOST, or 30 days for the RFOST; otherwise, ENO must immediately declare the associated EDGs inoperable. For the RFOST, all the EDGs would be declared inoperable, which would require ENO to shutdown both operating units.

During a self-assessment conducted in January/February 2012 to prepare for an upcoming NRC Component Design Bases Inspection, ENO staff at IP reviewed the EDG fuel oil delivery systems and storage tanks. The IP self-assessment team identified that: (1) results of RFOST samples taken on June 17, 2011, and December 1, 2011, were not entered into the Chemistry Department database until July 14, 2011, and January 23, 2012, respectively; and (2) although both samples exceeded the TS particulate limits, no condition reports (CRs) had been written to document the issues and notify site operations and, evidently, no re-sampling performed to confirm that the oil had been restored to below the limit within the 30-day allowed outage time.

On February 2, 2012, the IP self-assessment team inquired of Chemistry department staff, including Mr. Wilson, about this issue. Subsequently, on February 5, 2012, Mr. Wilson entered information in the Chemistry database indicating that re-samples for the June 17, 2011, and December 1, 2011, RFOST samples had, in fact, been performed on June 29, 2011, and December 9, 2011, respectively (i.e., within the 30 day period allowed by TS), and that the re-samples were below the TS particulate limit. However, during the OI investigation, Mr. Wilson admitted to OI that the re-samples had actually not been obtained. Mr. Wilson informed OI that he had entered false values in the database instead of documenting the issue in a CR or otherwise informing the IP Operations Department that the site was operating in violation of its TS. Mr. Wilson also admitted that he similarly entered false re-sample data for the IP 22 EDG FOST after identifying that the TS particulate limit had been exceeded for a November 18, 2011, sample taken from that tank. Namely, on February 6, 2012, Mr. Wilson entered data to indicate that a resample had been performed on December 7, 2011, and that the resample was below

the TS particulate limit.

During the investigation, Mr. Wilson testified to OI that he entered the false values because he believed the original sample results were incorrect as a result of poor IP Chemistry Department sampling practices. Namely, the samples had been obtained from the bottom of the RFOST and shipped in a tin-coated can; both practices that were specifically not recommended by newer industry guidance because sediment could collect at the bottom of the tank and the tin coating could contaminate the samples. Mr. Wilson said that he did not report the out-of-specification results because he wanted more time to prove his theory and incorporate new test methods, and he did not want the plant to shut down when he did not believe it really needed to do so.

Based on the OI investigation, the NRC determined that Mr. Wilson committed multiple apparent violations (AVs), pursuant to 10 CFR 50.5, in that he deliberately: (a) caused ENO to remain in violation of the TS Limiting Condition for Operation for the RFOST and 22 FOST for longer than it would have had Mr. Wilson taken the appropriate action of informing IP Operations; and, (b) provided to ENO incomplete and inaccurate information that was material to the NRC by entering false data into the chemistry database and/or related condition reports to indicate that the RFOST and the 22 FOST had been resampled, and the results had been within TS limits when, in fact, resamples had not been taken.

In a letter dated December 18, 2013, the NRC described the AV and informed Mr. Wilson that the NRC was considering escalated enforcement action against him. In the letter, we also offered Mr. Wilson the opportunity to discuss the AV during a pre-decisional enforcement conference (PEC) or to engage the NRC in an alternative dispute resolution (ADR) mediation session or to provide a written response before we made our enforcement decision.

In a December 27, 2013, telephone call with the NRC Acting Deputy Assistant General Counsel, Mr. Wilson's attorney informed the NRC that he neither required a PEC or an ADR

mediation session, nor intended to submit a written response, but that Mr. Wilson was willing to cooperate with the NRC.

III.

Based on the above, the NRC has concluded that Daniel Wilson, a former employee of the Licensee, engaged in deliberate misconduct that has: (1) caused the Licensee to operate IP Units 2 and 3 in violation of their TS requirements for a longer period than if he had written a CR (or otherwise notified the IP Operations Department of the issue); and (2) prevented ENO from informing the NRC of this TS-prohibited condition, in violation of 10 CFR 50.73.

NRC must be able to rely on the Licensee and its employees to comply with NRC requirements, including site TS, which establish limits for the safe operation of nuclear reactor facilities and actions to take when such limits are not met. Mr. Wilson's actions to independently interpret the validity of a TS limit and deliberately disregard the actions required for an exceeded TS limit have raised serious doubt as to whether he can be relied upon to comply with NRC requirements.

Consequently, I lack the reasonable assurance that licensed activities can be conducted in compliance with Commission requirements and that the health and safety of the public will be protected, if Daniel Wilson were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health and safety, and the common defense and security of the nation require that Mr. Wilson be prohibited from any involvement in NRC-licensed activities for a period of one year from the date of this Order.

IV.

Accordingly, pursuant to Sections 103, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, and 10 CFR 50.5. IT IS HEREBY ORDERED THAT:

1. Daniel Wilson is prohibited for one year from the date of this Order from engaging in, supervising, directing, or in any other way conducting NRC-licensed activities. 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 in the NRC's jurisdiction pursuant to the authority granted by 10 CFR 150.20.

2. If Daniel Wilson is currently involved with another licensee in NRC-licensed activities, he must immediately cease those activities, and inform the NRC of the name, address, and telephone number of the employer, and provide a copy of this order to the employer.

The Director, Office of Enforcement, or designee, may, in writing, relax or rescind any of the above conditions upon demonstration by Daniel Wilson of good cause.

V.

Any person adversely affected by this Order may submit a written answer to this Order within 30 days of issuance. In addition, Daniel Wilson and any other person adversely affected by this Order may request a hearing on this Order within 30 days of issuance. Where good cause is shown, consideration will be given to extending the time to answer or 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, DC 20555-001, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007, as amended by 77 FR 46562, August 3, 2012), codified in pertinent part at 10 CFR Part 2, Subpart C. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.
To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at (301) 415-1677, to: (1) request a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html*. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. Participants may attempt to use other software not listed on the web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a web browser plug-in from the NRC web site. Further information on the web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public web site at *http://www.nrc.gov/site-help/e-submittals.html*.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time (ET) on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC web site at *http://www.nrc.gov/site-help/e-submittals.html*, by e-mail at MSHD.Resource@nrc.gov, or by a toll-free call at (866) 672-7640. The NRC Meta System Help

Desk is available between 8 a.m. and 8 p.m., ET, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket, which is available to the public at *http://ehd1.nrc.gov/ehd/*, unless excluded pursuant to an order of the Commission or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, participants are requested not to include copyrighted materials in their submission, except for limited excerpts that serve the purpose of the adjudicatory filings and constitute a Fair Use application.

If a person other than Daniel Wilson requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by the recipient or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. 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 30 days from the date this Order is issued 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.

Dated at Rockville, Maryland, this 29th day of April 2014

For the Nuclear Regulatory Commission

/RA/

Roy P. Zimmerman, Director
Office of Enforcement