

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of
Mary Files

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IA-09-075

ORDER PROHIBITING INVOLVEMENT IN
NRC-LICENSED ACTIVITIES
(EFFECTIVE IMMEDIATELY)

I

Ms. Mary Files was employed as a contract welder at the Duke Energy Carolinas LLC's (DEC) McGuire Nuclear Station (MNS) (Licensee) in October of 2008. The Licensee is the holder of License Nos. NPF-9 (Unit 1) and NPF-17 (Unit 2), issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50 on June 12, 1981, and March 3, 1983, respectively. The licenses authorize the operation of the McGuire Nuclear Station (facility), Units 1 and 2, in accordance with the conditions specified therein. The facility is located on the Licensee's site in Huntersville, North Carolina.

II

On September 3, 2009, an investigation of licensed activities was completed by the NRC's Office of Investigations at DEC's facility at Huntersville, NC. The purpose of the investigation was to review the circumstances surrounding a fitness-for-duty (FFD) matter that occurred at MNS on October 20, 2008. The incident involved Ms. Mary Files, a contract welder at the time, who deliberately introduced and used an illegal drug (marijuana) inside the Protected Area at MNS.

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10 CFR 26.10(c), states in part, that a licensee's FFD program must have a goal of achieving a drug-free workplace and a workplace free of the effects of such substances. 10 CFR 26.20 states, in relevant part, that each licensee subject to this part shall establish and implement written policies and procedures designed to meet the general performance objectives and specific requirements of this part. Section 26.23(a) states, in part, that contractor personnel performing activities within the scope of this part for a licensee must be subject to the licensee's program relating to fitness-for-duty. The Duke Energy Nuclear Policy Manual, NSD 217.8, Revision 14, states, in relevant part, that illegal drugs are prohibited by company or departmental policy from actual or attempted introduction into the site Protected Area. On or about October 20, 2008, Ms. Files, a contract welder, introduced and used marijuana inside of the Protected Area at MNS.

III

Based on the above, it appears that Ms. Mary Files, formerly a contract employee of the Licensee, engaged in deliberate misconduct in violation of 10 CFR 50.5, that caused the Licensee to be in violation of 10 CFR 26.10, 10 CFR 26.20, and Duke Energy Nuclear Policy Manual NSD 217.8, Revision 14. The NRC must be able to rely on the Licensee and its employees to comply with NRC requirements, including the requirement to maintain a drug-free workplace and a workplace free of the effects of such substances. Ms. Files' actions have raised serious doubt as to whether she can be relied upon to comply with NRC requirements.

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 will be protected if Ms. Mary Files were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety and interest require that Ms. Mary Files be prohibited from any involvement in NRC-licensed activities for a period of five years from the date of this Order. Additionally, Ms. Files is required to notify the NRC of her first employment in NRC-licensed activities for a period of one year following the prohibition period. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of Ms. Files' 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, 161o, 182 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:

1. Ms. Mary Files is prohibited for five years from the date of this Order from engaging in 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 pursuant to the authority granted by 10 CFR 150.20.
2. If Ms. Mary Files is currently involved with another licensee in NRC-licensed activities, she 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.

3. For a period of one year after the five year period of prohibition has expired, Ms. Mary Files shall, within 20 days of acceptance of her first employment offer involving NRC-licensed activities or her becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555-0001, of the name, address, and telephone number of the employer or the entity where she is, or will be, involved in NRC-licensed activities. In the notification, Ms. Files shall include a statement of her commitment to compliance with regulatory requirements and the basis for why the Commission should have confidence that she will now comply with applicable NRC requirements.

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

V

In accordance with 10 C.F.R. 2.202, Ms. Mary Files must, and any other person adversely affected by this Order may, submit an answer to this Order within 20 days of the date of its publication in the Federal Register. In addition, Ms. Mary Files and any other person adversely affected by this Order may request a hearing on this Order within 20 days of the date of its publication in the Federal Register. 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, D. C. 20555-0001, and include a statement of good cause for the extension.

A request for a hearing must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August, 2007, 72 Fed. Reg. 49,139 (Aug. 28, 2007). The E-Filing process requires participants to submit and serve documents over the internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five (5) days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at HEARINGDOCKET@NRC.GOV, or by calling (301) 415-1677, to request (1) 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 NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate also is available on NRC's public website at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for a hearing through EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public website at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its document through EIE. To be timely, electronic filings must be submitted to the EIE system no later than 11:59 p.m. Eastern Time 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 EIE 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 document 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 is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC website at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:00 a.m. and 8:00 p.m., Eastern Time, Monday through Friday, excluding government holidays. The help line number is (866) 672-7640.

Participants who believe that they have good cause for not submitting documents electronically must file a motion, in accordance with 10 C.F.R. 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.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at http://ehd.nrc.gov/EHD_Proceeding/home.asp, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a 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. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, Participants are requested not to include copyrighted materials in their works.

If a person other than Ms. Mary Files requests a hearing, that person shall set forth with particularity the manner in which her interest is adversely affected by this Order and shall address the criteria set forth in 10 C.F.R. 2.309(d).

If a hearing is requested by Ms. Mary Files 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. Pursuant to 10 CFR 2.202(c)(2)(i), Ms. Mary Files, or any other person adversely affected by this Order, 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 this Order is published in the Federal Register 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 2nd day of June, 2010

FOR THE NUCLEAR REGULATORY COMMISSION,

/RA/

Roy P. Zimmerman, Director
Office of Enforcement