



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

February 2, 2017

IA-16-059

Mr. Curtis Thompson
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390(a)]

SUBJECT: ORDER PROHIBITING INVOLVEMENT IN NRC-LICENSED ACTIVITIES

Dear Mr. Thompson:

The enclosed Order is being issued because the U.S. Nuclear Regulatory Commission (NRC) has determined that you, as a former radiographer employed by American Engineering Testing, Inc. (AET), engaged in deliberate misconduct while conducting radiographic operations. Specifically, while employed by AET in Gary, Indiana, you deliberately failed to comply with NRC regulations in Title 10 of the *Code of Federal Regulations* (CFR) 34.41(a) when you performed radiographic operations alone without another qualified individual present on February 1, 2015. Since your actions were deliberate, you also violated the NRC's deliberate misconduct rule, 10 CFR 30.10, which prohibits employees from engaging in deliberate misconduct that causes or would have caused, if not detected, a licensee to be in violation of any NRC requirement. In addition, you caused AET to be in violation of NRC requirements in 10 CFR 34.41(a). A copy of the enforcement action issued to AET is enclosed.

Because of your action described above and the information gathered during the investigation, the NRC lacks the requisite reasonable assurance that you are willing to comply with NRC requirements and has determined that you should be prohibited from engaging in licensed activities. Consequently, for a period of one year from the date the enclosed Order is issued, you will be prohibited from engaging in NRC-licensed activities that are conducted pursuant to a specific or general license issued by the NRC. During this one-year prohibition you cannot perform, supervise, assist, or otherwise engage in: (1) industrial radiographic operations for an NRC licensee; (2) industrial radiographic operations for an Agreement State licensee that are conducted under an NRC general license reciprocity granted pursuant to 10 CFR 150.20; or (3) any other licensed activity in NRC jurisdiction.

Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of this Order shall be subject to criminal prosecution as set forth in that section. Violation of this order may also subject the person to civil monetary penalty.

In accordance with 10 CFR 2.202, you are required to respond to the enclosed Order within 30 days of issuance and should follow the instructions specified in the enclosed Order when preparing your response. If you have additional information that you believe the NRC should consider, you may provide it in your response to the Order. The NRC will use your response, in part, to evaluate the appropriateness of the enforcement action as well as whether further enforcement action is necessary to ensure compliance with regulatory requirements. To the extent possible, your response should not include any personal, privacy, proprietary or

safeguards information so that it can be made available to the public without redaction. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's Agencywide Document Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Because this letter references and enclosed information related to enforcement action against an individual, this letter and its enclosures 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's Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Questions concerning this Order should be addressed to Juan Peralta, Chief, Enforcement Branch, who can be reached at (301) 287-9510.

Sincerely,

/RA/

Patricia K. Holahan, Director
Office of Enforcement

Enclosures:

1. Order Prohibiting Involvement in
NRC-Licensed Activities
2. Letter to American Engineering Testing, Inc.
Notice of Violation

cc w/encls:

State of Indiana

State of Minnesota

Letter to Curtis Thompson from Patricia Holahan dated 02/02/2017

SUBJECT: ORDER PROHIBITING INVOLVEMENT IN NRC-LICENSED ACTIVITES

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| DATE | 12/21/16 | 1/10/17 | 1/18/17 | 2/2/2017 | |

OFFICIAL RECORD COPY

1 Concurrence provided by Robert Sun via email dated December 21, 2016.
 2 Concurrence provided by Daniel Straus via email dated January 10, 2017.
 3 Concurrence provided by Kenneth O'Brien via email dated January 18, 2017.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of
Curtis Thompson

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IA-16-059

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

I.

Mr. Curtis Thompson was employed as a radiographer for American Engineering Testing, Inc. (AET), whose corporate offices are located in St. Paul, Minnesota. American Engineering Testing, Inc., holds License No. 22-20271-02 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 34 of Title 10 of the *Code of Federal Regulations* (10 CFR) on September 12, 2012. The license authorizes industrial radiographic operations in accordance with conditions specified in the license.

II.

From August 19 through November 19, 2015, the NRC inspected and reviewed AET's use of byproduct material for industrial radiography. During the August 19, 2015, inspection, AET indicated that Mr. Thompson had performed radiography on February 1, 2015, at AET's field station in Gary, Indiana, without another qualified radiographer or radiographer's assistant present. As a result, the NRC's Office of Investigation (OI) initiated an investigation to

determine whether Mr. Thompson willfully performed radiographic operations without at least one other qualified individual present.

The NRC investigation found that Mr. Thompson had performed radiography on numerous bridge components for a client of AET in Gary, Indiana, in the week prior to February 1, 2015, with a qualified radiographer's assistant. After that work was completed, the radiography film was determined to be out of specification. The customer requested the work be re-done, which would take several hours. Mr. Thompson decided to redo the work himself on February 1, 2015. He arrived at the client's facility, retrieved the radiography camera and proceeded to re-do all the work. Mr. Thompson then submitted the radiography film to the client and AET.

On the following day, February 2, 2015, AET reviewed the radiography film and questioned Mr. Thompson about when he had performed the work. Mr. Thompson indicated that he completed the work on February 1, 2015. AET then examined key card entry data from the client's security office and determined that Mr. Thompson worked alone, contrary to 10 CFR 34.41(a). Mr. Thompson later admitted to working alone and stated during the OI investigation that, although he knew that NRC rules required radiography be performed only when another qualified individual was present, he felt it was more important to complete the work than to follow those regulations.

By letter dated October 16, 2016, the NRC informed Mr. Thompson that the NRC was considering escalated enforcement action for apparent violations of NRC's deliberate misconduct rule, 10 CFR 30.10, because he engaged in conduct he knew to be contrary to NRC

regulations. Specifically, on February 1, 2015, Mr. Thompson performed radiographic operations without another radiographer or qualified individual present, which resulted in AET being in violation of 10 CFR 34.41(a). The NRC's October 16, 2016, letter provided Mr. Thompson the opportunity to request a predecisional enforcement conference (PEC), provide a written response, or request alternative dispute resolution (ADR) with the NRC in an attempt to resolve issues associated with these apparent violations. Mr. Thompson has not subsequently contacted the NRC to request a PEC, provide a written response, or request ADR.

Based on the evidence gathered during the inspection and the OI investigation, the NRC has concluded that Mr. Thompson engaged in deliberate misconduct in violation of 10 CFR 30.10(a)(1). Mr. Thompson engaged in deliberate misconduct that caused AET to be in violation of 10 CFR 34.41(a) by performing radiographic operations alone on February 1, 2015, at a temporary job site in Gary, Indiana.

III.

Based on the above, the NRC has concluded that Mr. Curtis Thompson engaged in deliberate misconduct, in violation of 10 CFR 30.10(a)(1) that has caused the Licensee to be in violation of 10 CFR 34.41(a). American Engineering Testing, Inc., is required to follow those requirements by the license issued to it pursuant to 10 CFR Part 34. The NRC must be able to rely on the Licensee and its employees to act with integrity and comply with NRC requirements. Mr. Thompson's action in causing AET to violate 10 CFR 34.41(a) raises serious doubt as to whether he can be relied upon to comply with NRC requirements.

Consequently, the NRC lacks 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 Mr. Thompson was permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety and interest require that Mr. Thompson be prohibited from any involvement in NRC-licensed activities for a period of 1 year from the date of this Order. Additionally, Mr. Thompson is required to notify the NRC of his first employment in NRC-licensed activities for a period of 1 year following the prohibition period. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of Mr. Thompson'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 81,161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 30.10, IT IS HEREBY ORDERED, EFFECTIVE UPON THE DATE OF ISSUANCE, THAT:

1. Mr. Thompson is prohibited for 1 year from the date of this Order from performing, 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 Mr. Thompson is currently involved in NRC-licensed activities with another licensee, he must cease those activities immediately. In addition, Mr. Thompson must immediately 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 1 year after the 1-year period of prohibition has expired, Mr. Thompson shall, within 20 days of acceptance of his first employment offer involving NRC-licensed activities or his 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 he is, or will be, involved in the NRC-licensed activities. In the notification, Mr. Thompson shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

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

V.

In accordance with 10 CFR 2.202, Mr. Thompson must submit a written answer to this Order under oath or affirmation within 30 days of its issuance. Mr. Thompson's failure to respond to this Order could result in additional enforcement action in accordance with the

Commission's Enforcement Policy (ADAMS Accession Number ML16271A446). Any person adversely affected by this Order may submit a written answer to this Order within 30 days of its issuance. In addition, Mr. Thompson and any other person adversely affected by this Order may request a hearing on this Order within 30 days of its 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 and petition for leave to intervene (petition), 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 that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). 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. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>. 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 identification

(ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (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 the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at <http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is 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 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's 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, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, 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 stating why there is good cause for not filing electronically and 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, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents 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 the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. 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 submission.

If a person other than Mr. Thompson 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 Mr. Thompson 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), Mr. Thompson 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 30 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 2nd day of February 2017.

For the Nuclear Regulatory Commission,

/RA/

Patricia K. Holahan, Director
Office of Enforcement