



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[IA-16-075; NRC-2017-0053]

In the Matter of Casey Pooler

AGENCY: Nuclear Regulatory Commission.

ACTION: Order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an Order prohibiting Mr. Casey Pooler from involvement in NRC-licensed activities for a period of 3 years. The Order also requires Mr. Pooler to notify the NRC of any current involvement in NRC-licensed activities. Additionally, Casey Pooler is required to notify the NRC of his first employment in NRC-licensed activities for a period of one year following the 3-year prohibition period.

DATES: Effective Date: See attachment.

ADDRESSES: Please refer to Docket ID **NRC-2017-0053** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2017-0053**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC’s Agencywide Documents Access and Management System (ADAMS):**

You may obtain publicly available documents online in the ADAMS Public Documents collection 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: David Furst, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-287-9087; E-mail: David.Furst@nrc.gov.

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated at Rockville, Maryland, this 15th day of February 2017.

For the Nuclear Regulatory Commission.

Patricia K. Holahan,
Director, Office of Enforcement.

NUCLEAR REGULATORY COMMISSION

[IA-16-075]

In the Matter of Casey Pooler

Order Prohibiting Involvement in NRC Licensed Activities

I.

Casey Pooler was employed as a contract security officer at the NextEra Energy Seabrook, LLC (NextEra) Seabrook Station (Seabrook). NextEra holds License No. NPF-86 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR), on March 15, 1990. The license authorizes the operation of Seabrook (facility) in accordance with the conditions specified therein. The facility is located on the Licensee's site in Seabrook, New Hampshire.

II.

On August 24, 2015, an investigation was initiated at the Licensee's facility to evaluate the circumstances surrounding a security response weapon that NextEra staff identified as having foreign material lodged inside the barrel. Based on the results of the investigation, the NRC determined that Mr. Pooler deliberately placed the material inside the weapon. Specifically, the weapon had been staged at a Seabrook security post on August 2, 2015. It was returned to the armory on August 21, 2015, for routine cleaning. While cleaning the weapon, the armorer found that a foam earplug insert and two pieces of rolled up paper had

been stuffed in the barrel. NextEra notified the NRC Senior Resident Inspector at Seabrook, who in turn, informed regional staff and management. The region immediately dispatched security inspectors and investigators and, on August 24, 2015, formally launched a high-priority investigation by the NRC's Office of Investigations (OI).

During initial interviews, Mr. Pooler acknowledged to OI that he had stood watch in the position with the affected rifle on two occasions during the subject period. However, he testified that he had not placed the materials in the weapon and that he had no information about how the materials got inside of it. Afterward, Mr. Pooler made several comments to other security officers indicating that he may have been involved in tampering with the rifle. He asked a coworker to contact the OI agents and ask them to meet him at an off-site location. Although OI agents contacted Mr. Pooler, he declined to meet with them at that time.

On multiple occasions between August 27 and September 24, 2015, OI attempted to re-interview Mr. Pooler, but he declined each request. On October 19, 2015, Mr. Pooler spoke with OI and stated that he believed he placed the materials in the weapon. He told OI that he did not know why he did it, and adamantly stated that he was not trying to hurt anyone or to assist anyone with gaining access to the site. He acknowledged that it was reasonable to assume that he didn't come forward about what he had done because he was afraid of being fired. Mr. Pooler also affirmed that he was not aware of adverse issues with any other weapons or equipment at the site.

Based on the OI investigation, the NRC determined that Mr. Pooler committed an apparent violation (AV) of 10 CFR 50.5(a)(1), in that his deliberate actions caused NextEra to be in violation of 10 CFR 73.55(k)(2), which requires licensees to ensure that all firearms necessary to implement the site security plans and protective strategy are in working condition. Specifically, Mr. Pooler placed foreign material into the barrel of a rifle staged at a Seabrook

security post that was established to implement the site protective strategy. Because of the foreign material, the licensee could not ensure that the rifle would fire properly.

In a letter dated December 1, 2016, the NRC described the AV and informed Mr. Pooler that the NRC was considering escalated enforcement action against him. In the letter, the NRC also offered Mr. Pooler 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 the NRC made an enforcement decision. In a December 13, 2016, telephone call with NRC Region I Enforcement staff, Mr. Pooler'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. Pooler was willing to cooperate with the NRC's intended enforcement action.

III.

Based on the above, it appears that Casey Pooler, a contract employee of the Licensee, engaged in deliberate misconduct that caused the Licensee to be in violation of 10 CFR 73.55(k)(2). Casey Pooler's action has raised serious doubt as to whether he can be relied upon to comply with the NRC's 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 Casey Pooler were permitted at this time to be involved in NRC-licensed activities. Therefore, Casey Pooler is prohibited from any involvement in NRC-licensed activities for a period of three years from the date of this Order. Additionally, Casey Pooler is required to notify the NRC of his first employment in NRC-licensed activities for a period of one year following the prohibition period.

IV.

Accordingly, pursuant to sections 103, 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 10 CFR 50.5. IT IS HEREBY ORDERED, EFFECTIVE UPON THE DATE OF ISSUANCE, THAT:

1. Casey Pooler is prohibited for three years 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 Mr. Pooler is currently involved with another licensee in NRC-licensed activities, he must immediately cease those activities; 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 three-year period of prohibition has expired, Mr. Pooler 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. Pooler 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. Pooler of good cause.

V.

The NRC has determined that Mr. Pooler's communications with the NRC, both during the investigation and subsequently through his attorney, are sufficient to constitute an answer to the Order. Therefore, to satisfy the requirements of 10 CFR 2.202, Mr. Pooler need only acknowledge to the NRC that he has received the Order. This may be done by Mr. Pooler or through his attorney, and may be accomplished by telephone call or electronic mail message to the NRC Region I Senior Enforcement Specialist Marjorie McLaughlin ((610) 337-5240 or Marjorie.mclaughlin@nrc.gov). Any person adversely affected by this Order may submit a written answer to this Order within 30 days of its publication in the *Federal Register*. In addition, Mr. Pooler and any other person adversely affected by this Order may request a hearing on this Order within 30 days 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, DC 20555-001, and include a statement of good cause for the extension.

VI.

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. Pooler 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. Pooler 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 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.

Dated at Rockville, Maryland, this 15th day of February 2017.

For the Nuclear Regulatory Commission.

Patricia K. Holahan,
Director, Office of Enforcement.

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