



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[Docket No. IA-19-007; NRC-2019-0169]

Order Prohibiting Involvement in NRC-Licensed Activities

AGENCY: Nuclear Regulatory Commission.

ACTION: Order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an order prohibiting involvement in NRC-licensed activities to Mr. Justin Roberts. Mr. Justin Roberts was an Assembler employed by Enrichment Technology United States at the Louisiana Energy Services (LES)(d/b/a URENCO USA UUSA or licensee) uranium enrichment facility. Mr. Justin Roberts engaged in deliberate misconduct that caused LES to be in violation of NRC's regulations.

DATES: The Order prohibiting involvement in NRC-licensed activities was issued on September 5, 2019.

ADDRESSES: Please refer to Docket ID **NRC-2019-0169** 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 <https://www.regulations.gov> and search for Docket ID **NRC-2019-0169**. Address questions about NRC docket IDs in Regulations.gov to Jennifer Borges; telephone: 301-287-9127; e-mail: Jennifer.Borges@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 Document collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, 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.

- **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: Thomas Marenchin, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-001; telephone: 301-287-9518, e-mail: Thomas.Marenchin@nrc.gov.

SUPPLEMENTARY INFORMATION:

The text of the Order is attached.

Dated at Rockville, Maryland, this 5th day of September, 2019.

For the Nuclear Regulatory Commission.

George A. Wilson, Director,
Office of Enforcement.

Attachment – Order.

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

In the Matter of
Justin Roberts)

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IA-19-007

**ORDER PROHIBITING INVOLVEMENT IN
NRC-LICENSED ACTIVITIES**

I

At the time of the incident described below, Mr. Justin Roberts was an Assembler employed by Enrichment Technology United States (ETUS) at the Louisiana Energy Services (LES)(d/b/a URENCO USA UUSA or licensee) uranium enrichment facility in Eunice, NM. LES holds License No. SNM-2010, as amended on February 7, 2019, by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 70 of Title 10 of the *Code of Federal Regulations* (10 CFR). The license authorizes uranium enrichment operations in accordance with the conditions specified in the license.

II

An investigation was initiated by the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region II (RII), on September 23, 2016, to determine whether licensee employees deliberately failed to maintain control of a classified component at the LES uranium enrichment facility in Eunice, NM. The OI investigation was completed on October 24, 2018.

On September 20, 2016, the LES Security Manager contacted the Federal Bureau of Investigation (FBI) regarding the loss of control of a component jointly classified by the NRC and the Department of Energy (DOE) as “Confidential – Restricted Data.”

On the morning of September 20, 2016, LES was made aware of the potential loss of control of the component when one of its employees (ETUS Employee #1) reported to LES security management that, while at his residence, he had discovered a classified component in his personal lunchbox on that same morning.

ETUS Employee #1 stated that he did not know how the component ended up in his possession and stated that he did not put it in his lunchbox. Upon discovering the component, ETUS Employee #1 maintained control of it until he arrived at work, at which time he returned it to security personnel.

Numerous interviews were conducted with LES employees to determine the sequence of events leading to the discovery of the classified component. Interviews indicate that ETUS Employee #1 left work at approximately 4:00 PM on Monday, September 19, 2016. ETUS Employee #1 placed his lunchbox in the kitchen of his house upon arriving home, where it remained until the following morning.

The component, as well as a sheet of paper that was used to obscure view of the component in the lunchbox, was evaluated for latent fingerprints. ETUS Employee #1 discovered the sheet of paper in the lunchbox at the same time he discovered the component. He placed the sheet of paper in a plastic bag and turned it over to LES security personnel the following day. The evaluation determined that the only

fingerprints found on the sheet of paper belonged to another ETUS employee (referred to as ETUS Employee #2, and subsequently identified as Mr. Roberts).

In addition to the fingerprint evidence, OI determined that only eight people had access to the area where the component was stored. A review of badge records indicates that on the day in question, Mr. Roberts entered into the airlock to access the clean room an unusual number of times between 2:15 p.m. and 3:00 p.m. According to an LES supervisor, there was no logical reason why Mr. Roberts should badge in and out of the clean room that many times in that time frame.

OI investigators found Mr. Roberts not to be credible in his testimony. In particular, OI became aware that Mr. Roberts was not truthful regarding his work for his previous employer and his employment status.

There is also sufficient information in the record to demonstrate that Mr. Roberts knew that removing the component from the facility was a violation of NRC requirements. First, Mr. Roberts signed a Security Acknowledgement stating that he agreed to properly control classified information while employed at LES. Second, Mr. Roberts signed a Classified Information Nondisclosure Agreement stating that he would not reveal Classified Information or Restricted Data to unauthorized persons and that he was aware of the requirements of the Atomic Energy Act and its prescribed penalties. Finally, Mr. Roberts training records indicated that he received initial security training in 2013, and refresher training in 2013, 2014, and 2015.

Based on the physical evidence obtained that demonstrates that Mr. Roberts had handled the paper found in ETUS Employee #1's lunchbox, along with Mr. Roberts access to the component and demonstrable lack of credibility, it appears that Mr. Roberts removed the component from the clean room and placed it in ETUS Employee #1's lunchbox.

These actions caused LES, an NRC licensee, to be in violation of multiple requirements of Title 10 of the Code of Federal Regulations (10 CFR) Part 95, Facility Security Clearance and Safeguarding of National Security Information and Restricted Data.

III

Based on the above, the NRC has concluded that Mr. Justin Roberts engaged in deliberate misconduct in violation of 10 CFR 70.10(a)(1) that caused LES to be in violation of 10 CFR 95.25, 10 CFR 95.27, and 10 CFR 95.35. The NRC must be able to rely on the licensee and its employees to comply with NRC requirements. Mr. Roberts' actions raised 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. Roberts were permitted at this time to be involved in NRC-licensed activities. Therefore, the public's health, safety, and interest require that Mr. Roberts be prohibited from any involvement in NRC-licensed activities for a period of one year from the date of this Order. Finally, Mr. Roberts is

required to notify the NRC of his first employment in NRC-licensed activities for a period of one year following the one-year prohibition period for having any involvement in NRC licensed activities.

IV

Accordingly, pursuant to sections 81, 161b, 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 70.10, IT IS HEREBY ORDERED THAT:

1. Mr. Justin Roberts 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 Mr. Justin Roberts is currently engaged in NRC-licensed activities with any licensee, he must immediately cease those activities, and inform the NRC of the name, address and telephone number of the licensee, and provide a copy of this Order to the licensee.
3. For a period of one year after the one-year period of prohibition for conducting NRC-licensed activities has expired, Mr. Justin Roberts 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. Roberts 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. Roberts of good cause.

V

In accordance with 10 CFR 2.202, Mr. Roberts must submit a written answer to this Order under oath or affirmation within 30 days of its publication in the *Federal Register*. Mr. Roberts failure to respond to this Order could result in additional enforcement action in accordance with the Commission's Enforcement Policy. 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. Roberts 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.

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 (hereinafter “petition”), and documents filed by interested governmental entities participating 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 by 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 ten (10) calendar 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 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.

The Commission will issue a notice or Order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the *Federal Register* and served on the parties to the hearing.

If a person (other than Justin Roberts) 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 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 thirty (30) calendar days from the date of issuance 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.

FOR THE NUCLEAR REGULATORY
COMMISSION

George A. Wilson, Director
Office of Enforcement

Dated this 5th day of September, 2019
[FR Doc. 2019-19556 Filed: 9/9/2019 8:45 am; Publication Date: 9/10/2019]