



NUCLEAR REGULATORY COMMISSION

[IA-23-013; NRC-2023-0203]

Order; Issuance; In the Matter of Magnus Quitmeyer

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) issued an Order to Magnus Quitmeyer, a former employee of Arizona Public Services Company (APS), prohibiting his involvement in any NRC licensed activities for a period of five years. The Order is based on him having twice tested positive for an illegal substance, namely marijuana, during fitness-for-duty tests while he was employed by APS and held an NRC operator's license. The Order is also based on the results of NRC investigations. The Order is effective upon issuance.

DATES: The Order was issued on November 30, 2023.

ADDRESSES: Please refer to Docket ID **NRC-2023-0203** 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 Website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2023-0203**. Address questions about Docket IDs in Regulations.gov to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@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 <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, 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, at 301-415-4737, or by email to PDR.Resource@nrc.gov. The Order to Magnus Quitmeyer

is available in ADAMS under Accession No. ML23298A161.

- **NRC's PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeremy Groom, Region IV, U.S. Nuclear Regulatory Commission, telephone: 817-200-1182, email: Jeremy.Groom@nrc.gov.

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated: December 4, 2023.

For the Nuclear Regulatory Commission.

David L. Pelton,

Director,

Office of Enforcement.

Attached – Order

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
Magnus Lawrence Quitmeyer, Jr.) IA-23-013
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)

ORDER PROHIBITING INVOLVEMENT IN
NRC-LICENSED ACTIVITIES

I

Magnus Quitmeyer was formerly employed as a reactor operator at Arizona Public Service Company's (APS) Palo Verde Nuclear Generating Station (Palo Verde). Magnus Quitmeyer was the holder of reactor operator license No. OP-503382 issued on November 12, 2019, by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to part 55 of title 10 of the *Code of Federal Regulations* (10 CFR). The license authorized Magnus Quitmeyer to manipulate the controls of Palo Verde located in Tonopah, Arizona. At the request of APS, on October 26, 2022, the NRC terminated license No. OP-503382 retroactive to October 13, 2022.

II

On August 7, 2020, during a random fitness-for-duty (FFD) test, Magnus Quitmeyer tested positive for an illegal substance (marijuana metabolite) while performing duties as a reactor operator at Palo Verde. This was a violation of 10 CFR 55.53(j) which requires, in part, that the licensee (Magnus Quitmeyer) shall not use any illegal drugs and shall not perform activities authorized by a license issued under 10 CFR part 55 while under the influence of an illegal substance that could adversely affect the ability to safely and competently perform licensed duties.

On September 29, 2020, the NRC Office of Investigations (OI), Region IV, initiated an investigation (4-2020-031) to determine if Magnus Quitmeyer, a licensed operator employed by APS, was willfully unfit for duty while on shift at Palo Verde. During his OI testimony, Magnus Quitmeyer indicated that he used another person's prescription marijuana while on vacation from June 19 to July 6, 2020. Magnus Quitmeyer stated that due to stresses in his life, he "threw caution to the wind" and used the marijuana three to four times a day, every day, while on vacation. Magnus Quitmeyer stated that once he started using marijuana, "it was almost like that, I just kind of blocked it out and I just was like, you know what; I'm just going to go on vacation and do whatever I want, and the consequences be damned." The investigation was completed on July 14, 2021.

On January 27, 2022, the NRC issued Magnus Quitmeyer a letter and Notice of Violation for his deliberate action to violate 10 CFR 55.53(j), Agencywide Documents Access and Management System (ADAMS) Accession No. ML22027A588.

On September 14, 2022, during a random FFD test, Magnus Quitmeyer again tested positive for an illegal substance (marijuana metabolite) while performing duties as a reactor operator at Palo Verde and again caused himself to be in violation of 10 CFR 55.53(j). The positive test was more than 3 times the regulatory limit for tetrahydrocannabinol (THC) established by NRC regulations and Palo Verde procedures. On September 20, 2022, APS put his site unescorted access on administrative hold, pending review of the initial positive results. The test result was confirmed on September 26, 2022, and APS terminated his employment.

On November 18, 2022, the NRC OI, Region IV, initiated an investigation (4-2023-005) to determine if Magnus Quitmeyer, a licensed operator employed by APS, was willfully unfit for duty while on shift at Palo Verde. During his OI testimony, Magnus

Quitmeyer indicated that beginning around June 2022, he used cannabidiol (CBD) oil as a sleep aid approximately 3-4 times per week over the course of approximately three months due to stresses in his life. Magnus Quitmeyer stated, "in the back of my mind, I knew there was a possibility of this backfiring or something bad happening, but I just kind of shoved it away and did it." However, Magnus Quitmeyer's testimony that CBD oil was the cause of his September 14, 2022, positive FFD test was inconsistent with the test results of 53 nanograms/milliliter and the professional judgement of the Palo Verde medical review officer who testified that it was very unlikely for even someone very heavily using CBD oil with small amounts of THC to have these test results, thus, the positive test was more consistent with marijuana use. The investigation was completed on June 13, 2023.

On September 7, 2023, the NRC issued Magnus Quitmeyer a letter (ML23237B483) that documented a factual summary of investigation 4-2023-005 and the details of the apparent violation of 10 CFR 55.53(j). The letter provided Magnus Quitmeyer an opportunity to: (1) respond in writing to the apparent violation in the letter within 30 days of the date of the letter or (2) request a predecisional enforcement conference. The NRC Region IV staff attempted to provide Magnus Quitmeyer the letter by both regular and certified United States Postal Service mail. In addition, between September 6 and October 2, 2023, the NRC Region IV staff attempted several times to contact Magnus Quitmeyer by cell phone, text message, and e-mail to discuss the potential enforcement action. Magnus Quitmeyer failed to respond to all of the NRC staff's attempts to communicate with him.

Based on the above, Magnus Quitmeyer deliberately used an illegal substance (marijuana metabolite) and then performed duties as a reactor operator at Palo Verde. This was a violation of 10 CFR 55.53(j) which requires, in part, that the licensee (Magnus Quitmeyer) shall not use any illegal drugs and shall not perform activities authorized by a license issued under 10 CFR part 55 while under the influence of an illegal substance that could adversely affect the ability to safely and competently perform licensed duties. The NRC holds licensed operators to high performance standards and entrusts them with assuring the public health and safety in the operation of a nuclear power plant. Incorporated into this trust is the expectation that licensed operators will follow all NRC requirements.

Consequently, due to Magnus Quitmeyer's positive FFD test results on two separate occasions, and his repeated deliberate actions to use an illegal substance, 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 Magnus Quitmeyer were permitted at this time to be involved in the performance of licensed activities. Therefore, the public health, safety and interest require that Magnus Quitmeyer be prohibited from any involvement in NRC-licensed activities for a period of five years from the date of this Order. Additionally, Magnus Quitmeyer is required to notify the NRC of his first employment in NRC-licensed activities for a period of one year following the prohibition period.

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 THAT:

1. Magnus Quitmeyer is prohibited for five 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 Magnus Quitmeyer is currently involved with another licensee in NRC-licensed activities, he must immediately cease those activities, and inform the NRC by email at R4Enforcement@nrc.gov 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, Magnus Quitmeyer shall, within 30 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, and email it to R4Enforcement@nrc.gov with 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, Magnus Quitmeyer 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 Magnus Quitmeyer of good cause.

V

At this time, Magnus Quitmeyer is not required to respond to this Order; however, if he chooses to respond, he must submit a written answer to this Order under oath or affirmation within 30 days of its publication in the *Federal Register* to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. In addition, Magnus Quitmeyer 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 directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, 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 website at <https://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 website at <https://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 website at <https://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 website at <https://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 Magnus Quitmeyer requests a hearing, that person shall set forth with particularity the manner in which his or her 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 Magnus Quitmeyer 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.

FOR THE NUCLEAR REGULATORY
COMMISSION

/RA/

David L. Pelton, Director
Office of Enforcement

Dated this 30th day of November 2023

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