For further details with respect to the action see (1) the application for amendment dated February 11, 1997, as supplemented April 7, 1997, (2) Amendment Nos. 165 and 137 to License Nos. NPF–14 and NPF–22, respectively, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Dated at Rockville, Maryland, this 23rd day of April 1997.

For the Nuclear Regulatory Commission.

Chester Poslusny, Sr.,

Project Manager, Project Directorate I–2, Division of Reactor Projects—I/II Office of Nuclear Reactor Regulation.

[FR Doc. 97–10976 Filed 4–28–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[IA 97–008]

Derek F. Stephens; Confirmatory Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)

I

Mr. Derek F. Stephens was employed as a radiographer by Barnett Industrial X-Ray, Inc. (Licensee). The Licensee is the holder of License No. 35–26953–01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Parts 30 and 34 and last renewed on March 21, 1996. The license authorizes possession and use of byproduct material in accordance with the conditions specified therein.

II

On October 3, 1996, Mr. Stephens and a radiographer's assistant were conducting radiography activities at a refinery in Ponca City, Oklahoma. Mr. Stephens was the more senior of the two and had received training regarding his responsibilities for conducting activities in accordance with Licensee procedures and NRC regulations.

NRC regulations require, in part, that at all times during the conduct of radiography activities, each individual wear a direct reading pocket dosimeter, an alarm ratemeter, and either a film badge or a thermoluminescent dosimeter (TLD) (10 CFR 34.33). NRC regulations also require that a survey be made after each exposure to determine that the sealed source has been returned to its shielded position (10 CFR 34.43). NRC regulations further require that whenever a radiographer's assistant uses radiographic exposure devices or conducts radiation surveys required by 10 CFR 34.43(b), and the radiographer's assistant shall be under the personal supervision of a radiographer, including the radiographer providing immediate assistance if required and the radiographer watching the assistant's performance of the operations (10 CFR 34.44).

During radiography activities on October 3, 1996, Mr. Stephens and the radiographer's assistant were assigned to complete two radiographs. The exposure device was placed on a scaffold approximately 6 feet above the ground with the drive cable controls located on the ground. After the second exposure, Mr. Stephens instructed the radiographer's assistant to crank the source back in and remove the source guide tube. Mr. Stephens then left to remove the barricades and did not watch the radiographer's assistant. Without a survey meter, the radiographer's assistant approached and disconnected the source guide tube. After disconnecting the source guide tube, the radiographer's assistant observed that the source was not fully retracted into the exposure device and was still exposed. The radiographer's assistant immediately left the vicinity of the source and informed Mr. Stephens. As a result of this event, the radiographer's assistant received a higher-than-normal exposure, but the exposure did not exceed regulatory limits.

In violation of NRC requirements, Mr. Stephens did not wear a direct reading pocket dosimeter, an alarm ratemeter, and either a film badge or a TLD. Further, Mr. Stephens did not effectively supervise the radiographer's assistant to ensure that the radiographer's assistant conducted a proper survey, as required by 10 CFR 34.43(b). Because he was not properly supervising the radiographer's assistant, Mr. Stephens did not notice that when the radiographer's assistant approached the source, the radiographer's assistant could not have performed the proper survey because he did not have a survey meter.

NRC's investigation and inspection of this incident began on October 4, 1996. In a sworn, signed statement provided by Mr. Stephens to NRC's Office of Investigations (OI), Mr. Stephens stated he had been working for the Licensee since August 1995, and that he had received written and oral training, on-the-job training, and formal classroom training. He stated he had been a Level II radiographer for about 3 months and that he had been taught his responsibilities as a supervisor, including ensuring that the radiographer's assistant and others comply with safety and regulations. Further, he stated that both he and the radiographer's assistant forgot their personal dosimetry and realized it only when they discovered the source was not retracted. The results of NRC's investigation and inspection are documented in NRC Inspection Report 030–30691/96–01 dated December 23, 1996. A predecisional enforcement conference was conducted with the Licensee on January 6, 1997, and on February 24, 1997, the NRC issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of $4000 to the Licensee for the violations described in this Section II of this Order.

III

Based on its review of all available information, the NRC has concluded that Mr. Stephens, a former employee of the Licensee, engaged in deliberate misconduct in violation of 10 CFR 30.10 by causing the Licensee to be in violation of 10 CFR 34.33(a). Specifically, notwithstanding Mr. Stephens' assertion that he forgot his personal dosimetry, the NRC has concluded that Mr. Stephens deliberately failed to wear the required personal monitoring devices. This conclusion is based on the fact that: (1) Mr. Stephens was trained on using personal monitoring devices; (2) Mr. Stephens was provided personal monitoring devices, which he had in the Licensee's truck used in traveling to the work site; (3) prior to conducting licensed activities, Mr. Stephens is required to perform daily preoperational tests, such as checking the operability of the alarming ratemeter and zeroing the pocket dosimeter assigned to him; and (4) in an October 8, 1996 signed, written statement to OI, Mr. Stephens stated that he ''knew it was [his] responsibility to ensure Kevin [Assistant Radiographer] had his dosimetry but did not do so.''

In addition, the NRC has concluded that Mr. Stephens' failure to supervise, through direct observation, the radiographer's assistant as he approached the exposure device without a survey instrument and attempted to disassemble the equipment, represents careless disregard for regulatory requirements. Given his training and experience, Mr. Stephens

knew or should have known of the requirements of 10 CFR 34.44 that a radiographer's assistant must be under the personal supervision of a radiographer, including the radiographer providing immediate assistance if required and the radiographer watching the assistant's performance of operations. This conclusion is also supported by Mr. Stephens' October 8, 1996 signed, written statement to OI that he had been taught that his responsibility as a supervisor included insuring the assistants and others complied with safety and regulations.

These willful acts are significant because Mr. Stephens, the senior radiographer, failed to observe the safeguards designed to protect him, the radiographer's assistant, and others from unnecessary and potentially dangerous radiation exposures. These willful acts contributed to an unnecessary radiation exposure to the radiographer's assistant. The NRC must be able to rely on the Licensee and its employees to comply with NRC requirements. Mr. Stephen's actions during this incident have raised serious doubt as to whether he can be relied upon to comply with NRC requirements.

IV

By letter dated February 19, 1997, the NRC described its conclusions to Mr. Stephens. The letter documented the NRC's understanding that Mr. Stephens did not wish to participate in further discussions of the above issues, and that Mr. Stephens agreed to a commitment that he be prohibited from engaging in NRC-licensed activities for a period of 3 years. Mr. Stephens signed a statement dated March 11, 1997, consenting to the issuance of this Order with the commitment as described in Section V below. Mr. Stephens further agreed in his signed statement, that this Order is to be effective upon issuance and that he has waived his right to a hearing.

I find that Mr. Stephens' commitments as set forth in Section V are acceptable and necessary and conclude that with the commitment the public health and safety are reasonably assured. In view of the foregoing, I have determined that the public health and safety require that Mr. Stephens' commitments be confirmed by this Order. Based on the above and Mr. Stephens' consent, this Order is immediately effective upon issuance.

V

Accordingly, pursuant to Sections 161b, 161i, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.10, and 10 CFR 150.20, it is hereby ordered, effective immediately, that:

Mr. Stephens is prohibited from engaging in NRC-licensed activities, including work conducted as an employee of an Agreement State licensee if the work is performed in a non-Agreement State or an area of exclusive federal jurisdiction, for a period of 3 years from the date of this order.

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

V

Any person adversely affected by this Confirmatory Order, other than Mr. Stephens, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to 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, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011 and to Mr. Stephens. If such a person 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 2.714(d).

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 hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory 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 20 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 15th day of April 1997.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

[FR Doc. 97–10972 Filed 4–28–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–297]

Environmental Assessment and Notice of Finding of No Significant Environmental Impact Regarding Proposed Renewal of Facility License No. R–120, North Carolina State University

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to renew for 20 years Facility License No. R–120 for the North Carolina State University (NCSU or the licensee) PULSTAR Research Reactor located on the NCSU campus in Raleigh, North Carolina.

Environmental Assessment

This environmental assessment is written in connection with the proposed renewal for 20 years of the facility license of the NCSU PULSTAR Research Reactor (PULSTAR) at Raleigh, North Carolina, in response to a timely application from the licensee dated August 19, 1988; as supplemented on January 2, April 17, and December 18, 1989; April 17 and July 18, 1990; January 25, 1991; November 30, 1992; September 15, 1995; and October 4, November 25, and December 30, 1996. The proposed action would authorize continued operation of the reactor. The facility has been in operation since Facility License No. R–120 was issued in 1972. Currently, there are no plans to change any of the structures or operating characteristics associated with the reactor during the renewal period requested by the licensee.

Need for the Proposed Action

The proposed action is required to authorize continued operation of the reactor so that the facility can continue to be used in the licensee's mission of research.

Alternatives to the Proposed Action

Since we have concluded that there is no significant environmental impact associated with this license renewal, any alternatives will either have no