

2000. For further information, call David F. Peterson at 301-713-6050.

Mary Ann Hadyka,

Committee Management Officer.

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NUCLEAR REGULATORY COMMISSION

[License No. 45-23000-02, Docket No. 030-33583, EA 99-223]

In the matter of Roof Survey and Consultants, Inc., 2045 Wesvan Drive, N.E., Roanoke, Virginia 24012.

Order Modifying Order Suspending License (Effective Immediately) and Order Revoking License

I

Roof Survey and Consultants, Inc. (RSCI or (licensee) 2045 Wesvan Drive, N.E., Roanoke, VA 24012, is the holder of Byproduct Material License No. 45-23000-02 (the license), which was issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30 on September 14, 1994. The license authorized RSCI to possess byproduct material, i.e., a Troxler Model No. 3216 portable roofing gauge containing a nominal 44 millicuries of Americium-241, for use in measuring the moisture density of roof surfaces in accordance with the conditions specified in the license. Mr. Charles R. Akers, President and Radiation Protection Officer, is the only authorized user listed on the license.

II

Pursuant to 10 CFR 171.16, the licensee is required to pay an annual fee for the license. The licensee's annual fee for License No. 45-23000-02 for fiscal year 1996, as set forth in fee category 3P of 10 CFR 171.16(d), was \$1600. In accordance with 10 CFR Part 15, the licensee was sent an original invoice dated August 22, 1996, a second notice dated September 23, 1996, and a final notice dated October 24, 1996, requesting payment of the annual fee. The final notice of payment due specifically informed RSCI that non-payment of the fee might result in the suspension or revocation of the license in accordance with the Commission's regulations at 10 CFR 171.23. To date, the annual fee for 1996 has not been paid.

On April 3, 1997, NRC issued an Order Suspending License (Effective Immediately) to RSCI, based on non-payment of license fees for fiscal year 1996. The Order of April 3, 1997,

required, among other things, that RSCI dispose of any licensed material, acquired or possessed under the authority of License No. 45-23000-02.

As of September 5, 1997, the licensee had not complied with the April 3, 1997 Order, in that no disposal of licensed material had occurred. On July 14, 1997, an inspection was conducted which verified that the gauge was stored at Mr. Akers' residence. Mr. Akers was not present during the inspection. On November 20, 1997, an inspection was attempted but the inspector was not able to contact Mr. Akers. On March 27, 1998, an inspection was again attempted; however, Mr. Akers was not present and security of the device could not be verified. On December 8, 1998, an inspection was again attempted. Mr. Akers was not available. His spouse, however, was home and allowed the inspector to verify that the material was still in safe secure storage. Region II attempted to contact Mr. Akers on April 20, 1999, and left a message requesting a return call on his answering machine. Mr. Akers did not return the call.

On May 20, 1999, NRC sent the licensee a certified letter, return receipt requested, reiterating the requirements of the April 3, 1997 Order, that RSCI dispose of any licensed material, acquired or possessed under the authority of License No. 45-23000-02. No response was received. On August 3, 1999, the United States Postal Service confirmed that Mr. Akers signed for and received the certified letter on May 28, 1999. On August 4, 1999, the Director of NRC's Region II Division of Nuclear Materials Safety, attempted to contact Mr. Akers via telephone. Mr. Akers was not available, and a message was left with the person answering the call to have Mr. Akers call the NRC Region II office. To date, Mr. Akers has not returned any calls or otherwise contacted the NRC.

Based on the above, two deliberate violations of NRC requirements have been identified. The violations are: (1) Failure to pay the annual fees prescribed by 10 CFR 171.16 for Byproduct Material License No. 45-23000-02 for Fiscal Year 1996; and, (2) failure to comply with the terms of the April 3, 1997, Order Suspending License. Specifically, that Order required the licensee to dispose of all licensed nuclear material, acquired or possessed under the authority of License No. 45-23000-02, and to submit an answer in writing and under oath and affirmation and specifically admit or deny each charge made therein. As of this date, the licensee has neither disposed of the material possessed

under the license nor answered that Order.

III

The deliberate failures of the licensee to comply with the April 3, 1997 Order and to pay the annual fee as required by Commission regulations demonstrate that the licensee is either unwilling or unable to comply with Commission requirements. Moreover, because the licensee has failed to respond to NRC inquiries, the NRC is unable to ascertain the current status of licensed material in the licensee's possession. Consequently, I lack the requisite reasonable assurance that public health and safety will be protected if the licensee were to continue in possession of licensed material at this time. Therefore, the public health, safety, and interest require that the licensee report the current location, physical status, and storage arrangements of its licensed material; that the licensee leak test the licensed material; that the licensee transfer the licensed material to an authorized recipient as described below; and that Byproduct Material License No. 45-23000-02 be revoked. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of the violations described above is such that no further notice is required and that the public health, safety and interest require that the provisions of Section IV.A. of this Order be immediately effective.

IV

Accordingly, pursuant to sections 81, 161b, 161c, 161i, 161o, 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 Parts 30, 170, and 171,

A. *It is hereby ordered*, effective immediately, That:

1. The requirements of Paragraphs A through E of Section III of the Order dated April 3, 1997, and attached hereto remain in effect except where modified below.

2. The licensee shall contact Mr. Douglas M. Collins, Director, Division of Nuclear Materials Safety, NRC Region II, at telephone number 404-562-4700 or 1-800-577-8510, within five days of the date of this Order and report the current location, physical status, and storage arrangements of the licensed material. Additionally, the licensee shall submit a written statement documenting this information under oath or affirmation to the Regional Administrator, NRC Region II, Atlanta Federal Center, 61 Forsyth Street, SW, Suite 23T85, Atlanta, Georgia 30303, within seven days of the date of this Order.

3. Within ten days of the date of this Order, the licensee shall complete a leak test pursuant to Byproduct Material License No. 45-23000-02, Condition 14.A., B., C., and D. to confirm the absence of leakage and to establish the levels of residual radioactive contamination. The licensee shall, within five days of the date the leak test results are known, submit the results of the leak test in writing to the Regional Administrator, NRC Region II, at the address given in Paragraph 2 above. If the test reveals the presence of 0.005 microcuries or greater of removable contamination, the licensee shall immediately contact Mr. Douglas M. Collins, NRC Region II, at the telephone number given in Paragraph 2 above.

4. Within 30 days of the date of this Order, the licensee shall cause all licensed material in its possession to be transferred to an authorized recipient in accordance with 10 CFR 30.41 and shall submit a completed Form NRC-314 to the Regional Administrator, NRC Region II, at the address given in paragraph 2. above.

B. It is further ordered:

1. Upon a written finding by the Regional Administrator, NRC Region II, that no licensed material remains in the licensee's possession and that other applicable provisions of 10 CFR 30.36 have been fulfilled, Byproduct Material License No. 45-23000-02 is revoked.

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

V

In accordance with 10 CFR 2.202, the licensee must, and any other person adversely affected by this Order may submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. 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 shall include a statement of good cause for the extension. The answer may consent to the Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and set forth the matters of fact and law on which the licensee or other person adversely affected relies and reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted

to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Rulemakings and Adjudications Staff, Washington, D.C. 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; to the Assistant General Counsel for Materials Litigation and Enforcement at the same address; and to the Regional Administrator, NRC Region II, Atlanta Federal Center, 61 Forsyth Street, S.W., Suite 23T85, Atlanta, Georgia 30303-3415; and to the licensee if the answer or hearing request is by a person other than the licensee. If a person other than the licensee 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 2.714(d).

If a hearing is requested by the licensee or 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 Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the licensee, 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 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 4th day of October 1999.

For the Nuclear Regulatory Commission.

Carl J. Paperiello,

Deputy Executive Director for Materials, Research and State Programs.

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NUCLEAR REGULATORY COMMISSION

Workshop Concerning the Revision of the Baseline Safety Inspection Program for Nuclear Fuel Cycle Facilities

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of public workshop.

SUMMARY: NRC will host a public workshop in Rockville, Maryland to provide the public, those regulated by the NRC, and other stakeholders, with information about and an opportunity to provide views on how NRC plans to revise its safety inspection program for nuclear fuel cycle facilities. This workshop follows the recent initial public stakeholder meeting held at NRC Headquarters on September 16, 1999. Presentations given at each meeting together with a transcript of the meeting will be placed on the NRC Internet web page (<http://www.nrc.gov>). Similar to the revisions of the inspection and oversight program for commercial nuclear power plants, NRC initiated an effort to improve its programs for nuclear fuel cycle facilities. This is described in SECY-99-188 titled, Evaluation and Proposed Revision of the Nuclear Fuel Cycle Facility Safety Inspection Program. SECY-99-188 is available in the Public Document Room and on the NRC Web Page at <http://www.nrc.gov/NRC/COMMISSION/SECYS/index.html>.

Purpose: To explain the planned revision of the fuel cycle safety inspection program and obtain stakeholder's views. The baseline safety inspection program applies to nuclear fuel cycle facilities regulated under 10 CFR Parts 40, 70 and 76. The facilities currently include gaseous diffusion plants, highly enriched uranium fuel fabrication facilities, low-enriched uranium fuel fabrication facilities, and a uranium hexafluoride (UF₆) production facility. These facilities possess large quantities of materials that are potentially hazardous (*i.e.*, radioactive, toxic, and/or flammable) to the workers, public, or environment. In revising the inspection program, the goals are to have an inspection program that: (1) Provides earlier and more objective indications of acceptable and changing safety performance, (2) increases stakeholder confidence in the NRC, and (3) increases regulatory effectiveness and efficiency. In this regard, the NRC desires the revised inspection program to be more risk-informed and performance-based and more focused on significant risks. Where practicable, the