

give interested parties adequate time to prepare their comments on this draft guide. DG-0005 is the Second Proposed Revision 2 to Regulatory Guide 10.5, which was issued in October 1994 (noticed at 10 CFR 55141). This guide is being revised to provide guidance on the type and extent of information needed by the NRC staff to evaluate applications for a specific license of broad scope for byproduct material.

Comments received after March 31, 1995, will be considered if it is practical to do so, but the NRC can assure consideration only for comments received by this date. Comments should be accompanied by supporting data. Written comments may be submitted to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Comments may be submitted electronically, in either ASCII text or Wordperfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet. Background documents on the rulemaking are also available for downloading and viewing on the bulletin board.

If using a personal computer and modem, the NRC subsystem on FedWorld can be accessed directly by dialing the toll free number: 1-800-303-9672.

Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT-100 terminal emulation, the NRC NUREGs and RegGuides for Comment subsystem can then be accessed by selecting the "Rules Menu" option from the "NRC Main Menu." For further information about options available for NRC at FedWorld, consult the "Help/Information Center" from the "NRC Main Menu." Users will find the "FedWorld Online User's Guides" particularly helpful. Many NRC subsystems and databases also have a "Help/Information Center" option that is tailored to the particular subsystem.

The NRC subsystem FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS: 703-321-8020; Telnet via Internet: fedworld.gov (192.239.93.3); File Transfer Protocol (FTP) via Internet: ftp.fedworld.gov (192.239.92.205); and World Wide Web using: http://www.fedworld.gov (this is the Uniform Resource Locator (URL)).

If using a method other than the toll free number to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the "F—Regulatory, Government Administration and State Systems," then selecting "A—Regulatory Information Mall." At that point, a menu will be displayed that has an option "A—U.S. Nuclear Regulatory Commission" that will take you to the NRC Online main menu. You can also go directly to the NRC Online area by typing "/go nrc" at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the "Return to FedWorld" option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems but you will not have access to the main FedWorld system. For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-5780; e-mail AXD3@nrc.gov.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Distribution and Mail Services Section. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md, this 14th day of February 1995.

For the Nuclear Regulatory Commission.

Bill M. Morris,

*Director, Division of Regulatory Applications,
Office of Nuclear Regulatory Research.*

[FR Doc. 95-4267 Filed 2-21-95; 8:45 am]

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[Docket No. 030-31252; License No. 35-26996-01; EA 95-018]

Blackhawk Engineering, Inc., and Maria Hollingsworth (dba Blackhawk Engineering, Inc.) Tulsa, OK; Order to Cease and Desist Use and Possession of Regulated Byproduct Material

I

Blackhawk Engineering, Inc. (Blackhawk) was issued Byproduct Material License 35-26996-01 by the Nuclear Regulatory Commission (NRC or Commission) on August 22, 1989. The license authorized the possession and use of cesium-137 and americium-241 in gauges, in accordance with the conditions specified therein. The license expired on August 31, 1994, and the licensee did not submit a renewal application 30 days prior to the expiration date, as required by 10 CFR 30.37. Furthermore, the NRC has determined that Blackhawk Engineering, Inc., has not been recognized as a corporation in the state of Oklahoma since February 20, 1987, when the State of Oklahoma suspended Blackhawk's corporate status. Thus, although Blackhawk has been doing business as Blackhawk Engineering, Inc., it was not a legal corporation recognized by the State of Oklahoma or the NRC. The president of Blackhawk is Maria Hollingsworth.

II

On August 30, 1994, an NRC Region IV employee placed a phone call to Maria Hollingsworth, the president of Blackhawk, to discuss the August 31, 1994 license expiration. Records of that phone call indicate that Ms. Hollingsworth said she had received a renewal package from NRC and that she planned to send a renewal application within 30 days. No renewal application was received. Ms. Hollingsworth has stated in a recent interview with an NRC investigator on January 12, 1995, that she had apparently confused payment of an NRC annual fee with license renewal at the time of the August 1994 call, and stated "I had no idea I had to submit another application."

On November 3, 1994, an NRC Region IV employee again called Ms. Hollingsworth and discussed the fact that Blackhawk's NRC license had expired and, therefore, in accordance with 10 CFR 30.36(c)(1)(i), Blackhawk was no longer authorized to use NRC-regulated gauges listed on the license, i.e., gauges containing sealed sources of radioactive material. During this call, the NRC instructed Ms. Hollingsworth to secure these gauges and maintain them in storage, and confirmed her

commitment to submit a new license application. These commitments were confirmed by NRC in a November 8, 1994 Confirmatory Action Letter (CAL) to Ms. Hollingsworth. The CAL described the commitments that she had made, including her commitment to "Ensure that licensed material is not used until this matter is resolved and a specific license authorizing possession and use of byproduct material is issued from this office." Her receipt of the CAL was confirmed on November 23, 1994, during another telephone call from NRC Region IV. On December 19, 1994, NRC Region IV conducted an inspection of Blackhawk.

In January 1995, the NRC Office of Investigations began an investigation based on concerns about the accuracy of Ms. Hollingsworth's statements to NRC personnel during the December 19, 1994 inspection. Ms. Hollingsworth was interviewed by an NRC investigator and, in a signed, sworn statement on January 12, 1995, she admitted that she understood in November 1994 that she should no longer use the gauges; admitted that she had used gauges containing byproduct material up until December 22, 1994, to complete a construction job; and admitted that she had not been truthful when she told the NRC inspector, during the December 19, 1994 inspection, that she had not used any gauges since 1992. She stated "I needed to get the job done and I thought by not telling * * * the truth I could go ahead and get the job done."

III

Based on the above, Maria Hollingsworth, doing business as Blackhawk Engineering, Inc., has willfully violated NRC requirements by deliberately using NRC-regulated material in violation of 10 CFR 30.36(c)(1)(i), and by deliberately making false statements to NRC personnel in violation of 10 CFR 30.9. These deliberate violations also constitute a violation of 10 CFR 30.10, which prohibits deliberate misconduct. The NRC must be able to rely on the Licensee and its employees to comply with NRC requirements, including the requirement to provide information that is complete and accurate in all material respects. By her actions, Ms. Hollingsworth has demonstrated that she is either unwilling or unable to comply with Commission requirements and cannot be trusted to provide complete and accurate information to the Commission. Furthermore, Ms. Hollingsworth is currently in possession of NRC-regulated byproduct material without a valid NRC license.

Consequently, I lack the requisite reasonable assurance that the health and safety of the public will be protected. Therefore, the public health, safety, and interest require that Blackhawk Engineering, Inc. and Maria Hollingsworth, doing business as Blackhawk Engineering, Inc., be required to cease and desist unauthorized possession of regulated byproduct material and to provide certification to the NRC that all regulated byproduct material has been transferred to authorized recipients.

IV

Accordingly, pursuant to sections 81, 161b, 161c, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR parts 20 and 30, it is hereby ordered that Blackhawk Engineering, Inc. and Maria Hollingsworth, doing business as Blackhawk Engineering, Inc., shall:

A. Immediately cease and desist from any further use of byproduct material now in their possession, with the exception that sealed source(s) containing cesium-137 or americium-241 shall be tested for leakage by a person authorized to perform the test prior to the transfer of the source(s) to another person or entity if a leak test has not been performed within the last six months prior to transfer.

B. Maintain safe control over the byproduct material, as required by 10 CFR part 20, by keeping the material in locked storage and not allowing any person access to the material, except for purposes of assuring the material's continued safe storage, until the material is transferred to a person authorized to receive and possess the material in accordance with the provisions of this Order and the Commission's regulations.

C. Within 30 days of the date of this Order, transfer all byproduct material to a person authorized to receive and possess it.

D. At least two working days prior to the transfer of the byproduct material, notify Ms. Linda Howell, Region IV, by telephone (817-860-8213) so that the NRC may, if it elects, observe the transfer of the material to the authorized recipient.

E. Within seven days following completion of the transfer, provide to the Regional Administrator, Region IV, in writing, under oath or affirmation: (1) Confirmation, on NRC Form 314, that the byproduct material has been transferred; (2) the last date that the byproduct material was used; (3) a copy of the leak test performed prior to transfer; (4) a copy of the survey

performed in accordance with 10 CFR 30.36(c)(1)(v); and (5) a copy of the certification from the authorized recipient that the source has been received.

Copies of the response to this Order shall be sent to the Regional Administrator, Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, and to the Assistant General Counsel for Hearings and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

After reviewing the response, the NRC will determine whether further action is necessary to ensure compliance with NRC requirements.

Dated at Rockville, Maryland this 14th day of February 1995.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

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[Docket No. 50-029]

Yankee Atomic Electric Co.; Yankee Nuclear Power Station; Order Approving the Decommissioning Plan and Authorizing Decommissioning of Facility

I

The Yankee Atomic Electric Company (YAEC, the licensee) is the holder of Facility Operating License No. DPR-3 issued by the U.S. Nuclear Regulatory Commission (NRC, the Commission) formerly the Atomic Energy Commission, pursuant to 10 CFR Part 50 on July 9, 1960. The license was amended on August 5, 1992, to remove the authority of the licensee to operate the Yankee Nuclear Power Station (YNPS, the plant). The facility is located on the licensee site in the Town of Rowe, Franklin County, Commonwealth of Massachusetts.

II

On October 1, 1991, the plant was shut down for an evaluation of potential reactor vessel integrity problems. In February 1992, all fuel was removed from the reactor vessel to the Spent Fuel Pit. By letter dated February 27, 1992, YAEC informed the NRC that the plant was permanently shut down and that decommissioning would commence. This action initiated the two year clock in 10 CFR 50.82 that requires submittal of a decommissioning plan within that time interval. YAEC submitted the Decommissioning Plan (Plan) on