

responsible manufacture of controlled substances in accordance with its previous manufacturing registration. Additionally, Johnson Matthey has addressed and corrected prior regulatory discrepancies in a timely manner, demonstrating the commitment required of a DEA registrant.

Finally, concerning the administrative law judge's recommendation with respect to duplicative mandated hearing provisions, the Deputy Administrator disagrees with Judge Bittner's conclusion in this proceeding that the requirement of an order to show cause, pursuant to 21 U.S.C. 824(c), comprises simply a "notice provision." Rather, the Deputy Administrator finds that, as currently written, the statute mandates that the Government issue an order to show cause whenever it seeks to deny or revoke a DEA Certificate of Registration. The Deputy Administrator acknowledges that, in some cases, this may subject an applicant to multiple hearings. However, whether the Government would be estopped from raising issues at a show cause hearing subsequent to a "third-party hearing" would depend on whether the issues were actually litigated and determined. In any event, this decision could only be determined on a case-by-case basis. The Deputy Administrator also notes, as provided in the regulations, that hearings conducted pursuant to an order to show cause may be consolidated with a hearing requested by a third-party. 21 CFR 1301.43(a). The Deputy Administrator encourages that parties to these type of proceedings consolidate these hearings whenever possible.

The Deputy Administrator hereby adopts the administrative law judge's findings of fact and conclusions of law, except as previously noted. Accordingly, the Deputy Administrator of the Drugs Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the application of Johnson Matthey, Inc. for registration as a bulk manufacturer of methylphenidate, be, and it hereby is, approved subject to the requirements enumerated by the administrative law judge.

Dated: May 8, 1995.

**Stephen H. Greene,**

*Deputy Administrator.*

[FR Doc. 95-11934 Filed 5-15-95; 8:45 am]

BILLING CODE 4410-09-M

## MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

### Meeting

**AGENCY:** Martin Luther King, Jr. Federal Holiday Commission.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Act, Public Law 92-463, as amended, the Martin Luther King, Jr. Federal Holiday Commission announces a forthcoming meeting of the Commission.

**DATE:** May 23, 1995.

**TIME:** 12:30 p.m.-3:30 p.m.

**LOCATION:** U.S. House of Representatives, O'Neill Building, House Annex 1, Room 116, Washington, D.C. The public is invited.

**FOR FURTHER INFORMATION CONTACT:** Valerie Pinkney, Executive Officer, Washington Office (202) 708-1005.

Dated: May 10, 1995.

**Valerie Pinkney,**

*Executive Officer.*

[FR Doc. 94-12021 Filed 5-15-94; 8:45 am]

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## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Institute of Museum Services

#### Information Collection Submitted to OMB for Review

**AGENCY:** Institute of Museum Services.

**ACTION:** Notice of information submitted to OMB for review.

**SUMMARY:** The Institute of Museum Services (IMS) is submitting an information collection for review by the Office of Management and Budget under the Paperwork Reduction Act. The collection is entitled "US. Museums on the Internet 1995—A Survey for the Institute of Museum Services." IMS has requested that review be completed by May 19, 1995.

IMS recently established a connection to the Internet. We would like to enhance our service to the museum community by providing IMS information through the Internet. Currently, no body of data exists to determine how many museums have Internet connections or, if they do, what level of service museums have. Therefore, we propose to survey the museum community on a voluntary-response basis with a brief questionnaire to ask museums to give us the information we need to know to be able to provide information most

efficiently. IMS distribution plan for the survey will assure a broad collection of data. A statistical analysis is not warranted due to the cost of such analysis and the limited usefulness of this data collect which, due to the rapidly changing use of the Internet, will become obsolete.

For this collection, the estimated average burden hours is .05 and the frequency of response is once. The number of respondents is 1000.

**ADDRESSES:** Submit comments to Mr. Dan Chenok, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3002 NEOB, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Submit requests for more information, including copies of the proposed collection of information and supporting documentation, to IMS Internet Policy Committee, Institute of Museum Services, Room 609, 1100 Pennsylvania Ave., NW., Washington, DC 20506.

**Diane Frankel,**

*Director, Institute of Museum Services.*

[FR Doc. 95-11953 Filed 5-15-95; 8:45 am]

BILLING CODE 7036-01-M

## NUCLEAR REGULATORY COMMISSION

[Docket No. 999-90004 Texas License No. L04153 EA 95-007]

### IHS Geotech & CMT, Inc., San Antonio, Texas; Order Imposing Civil Monetary Penalty

#### I

IHS Geotech & CMT, Inc., (Licensee) is the holder of Texas Radioactive Material License L04153 issued by the Texas Bureau of Radiation Control. The license authorizes the Licensee to possess and use sealed sources of various radioisotopes in moisture/density gauges at temporary job sites throughout Texas, except in areas under exclusive federal jurisdiction. In areas of exclusive federal jurisdiction, these activities can only be conducted pursuant to an NRC specific or general license.

#### II

An inspection of the Licensee's activities in areas under exclusive federal jurisdiction, i.e., certain military installations located in Texas, was conducted December 16, 1994 to January 12, 1995. The results of this inspection indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and

Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated February 23, 1995. The Notice states the nature of the violation, the provisions of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violation. The Licensee responded to the Notice in letters dated March 21, 1995. In its response, the Licensee admitted the violation but requested mitigation because it disagreed with the NRC's application of the duration adjustment factor in determining the civil penalty amount.

### III

After consideration of the Licensee's response and argument for mitigation contained therein, the NRC staff has determined as set forth in the Appendix to this Order, that the violation occurred as stated, that the duration of the noncompliance with appropriately used as a basis for deriving the civil penalty amount and, therefore, that the \$500 civil penalty proposed for the violation designated in the Notice should be imposed.

### IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that:

The Licensee pay a civil penalty in the amount of \$500 within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738.

### V

The Licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the Commission's Document Control Desk, Washington, D.C. 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011.

If a hearing is requested, the Commission will issue an Order designating the time and place of the

hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

Whether, on the basis of the violation admitted by the Licensee, this Order should be sustained.

Dated at Rockville, Maryland, this 4th day of May 1995.

For the Nuclear Regulatory Commission.

**James Lieberman,**

*Director, Office of Enforcement.*

### Appendix To Order Imposing Civil Monetary Penalty 999-90004

#### *Appendix: Evaluation and Conclusion*

On February 23, 1995, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for a violation identified during an NRC inspection. IHS Geotech & CMT, Inc. (Licensee) responded to the Notice on March 21, 1995. In its response, the Licensee admitted the violation but requested mitigation because it disagreed with the NRC's application of the duration adjustment factor in determining the civil penalty amount. A restatement of the violation and the NRC's evaluation and conclusion regarding the Licensee's request follow:

#### *Restatement of Violation*

10 CFR 30.3 states, in part, that except for persons exempted, no person shall possess or use byproduct material except as authorized by a specific or general license issued pursuant to Title 10, Chapter 1, Code of Federal Regulations.

Contrary to the above, on numerous occasions between January 1991 and December 1994, IHS Geotech & CMT, Inc. (IHS) possessed and used byproduct material at various military facilities under exclusive federal jurisdiction without being authorized by a specific or general license issued pursuant to Title 10, Chapter 1, Code of Federal Regulations, and IHS was not exempted. (01013).

This is a Severity Level III violation (Supplement VI). Civil Penalty—\$500

#### *Summary of Licensee's Response to Violation*

The Licensee admitted the violation but requested mitigation because it disagreed with the NRC's application of the duration adjustment factor in determining the civil penalty amount.

#### *Summary of Licensee's Request for Mitigation*

The Licensee said "Once overlooked, the event had occurred. Only an inspection, as occurred, or some other event, would terminate the period of violation. A more timely review of NRC records or periodic inspections by Radiation Safety Officers on the military installations of San Antonio would have worked to my advantage."

#### *NRC Evaluation of Licensee's Request for Mitigation*

The licensee's argument suggests that someone other than the Licensee, i.e., the NRC or military officials, should have discovered the violation, resulting in it being corrected earlier than it was. This is contrary to a basic premise of the NRC's Enforcement Policy and regulatory philosophy, that it is licensees who are responsible for assuring compliance with all applicable requirements. It is not acceptable for a licensee to remain in noncompliance regardless of the frequency of NRC inspections. In addition, due to the Licensee's noncompliance with NRC requirements, the NRC staff was unaware of the Licensee's activities under NRC jurisdiction and, thus could not conduct inspections.

The NRC staff considered it significant that the violation continued for nearly four calendar years. This effectively denied the NRC staff the opportunity, over an extended period of time, to ensure that IHS Geotech & CMT, Inc., was appropriately licensed by the state of Texas and was conducting its activities safely when working in areas of exclusive federal jurisdiction.

The NRC's Enforcement Policy (Section VI.B.2 (f)), states that a base civil penalty may be escalated by as much as 100% to reflect the added technical or regulatory significance resulting from the violation or the impact of it remaining uncorrected for more than one day. The Policy adds that this factor should normally be applied in cases involving particularly safety significant violations or one where a significant regulatory message is warranted.

Although the NRC staff developed no evidence to suggest that the Licensee's activities were performed unsafely, the NRC staff has concluded that the lack of opportunity to verify that the Licensee was operating safely over nearly four years warranted an increase in the base civil penalty value to emphasize the regulatory significance of this violation.

When balanced against the remaining adjustment factors, this resulted in a proposed civil penalty of \$500. The NRC staff notes that the penalty proposed was below the costs the Licensee would have incurred had the Licensee either obtained an NRC license to conduct these same activities during the period of noncompliance or followed the accepted NRC practice of submitting a reciprocity form (Form 241) and paying the associated reciprocity fees for each of the years in question.

#### *NRC Conclusion*

The NRC staff concludes that the duration factor was appropriately considered in determining the civil penalty amount and that the \$500 civil penalty was correctly assessed. Consequently, the proposed civil penalty in the amount of \$500 should be imposed.

[FR Doc. 95-11989 Filed 5-15-95; 8:45 am]

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