



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, DC 20555 - 0001

September 12, 2001

IA-01-022

Mr. Virgil J. Hood, Jr.
[REDACTED]

SUBJECT: DEMAND FOR INFORMATION - NRC OFFICE OF INVESTIGATIONS
REPORT NO. 2-1997-033

Dear Mr. Hood:

The enclosed Demand for Information is being issued to you as a result of an investigation by the NRC Office of Investigations (OI) which concluded that you failed to control licensed material not in storage and deliberately failed to notify the NRC of a missing or stolen source. The NRC made numerous unsuccessful attempts to communicate with you during the investigation in order to obtain information regarding the location and condition of licensed material. Although you were not listed on Moisture Protection Systems Analysts' (MPSA) license as an authorized user, information developed during the OI investigation indicates that you used the moisture density gauge containing licensed material which was possessed by MPSA. In addition, you were the Vice President of MPSA. As such, it was reasonable for the NRC to expect you to respond to the NRC's requests for information, which you have repeatedly failed to do. The NRC is therefore requesting you to provide the information set forth in Section III in the enclosed Demand for Information. The NRC will use your response to this Demand for Information to determine whether the NRC has reasonable assurance that you will conduct NRC licensed activities in a manner that provides adequate protection to the public health and safety. Failure to comply with the provisions of this Demand for Information may result in enforcement action.

Questions concerning this Demand for Information should be addressed to Mr. Frank J. Congel, Director, Office of Enforcement, who can be reached at (301) 415-2741.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure and your response (with your address redacted) will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room). To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal

privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection, described in 10 CFR 73.21.

Sincerely,

/RA/

Carl J. Paperiello
Deputy Executive Director for Materials,
Research and State Programs

Enclosure: As stated

cc w/ encl:
Commonwealth of Virginia

Mr. Virgil J. Hood, Jr.
[REDACTED]

Mr. Virgil J. Hood, Jr.
[REDACTED]

Mr. Virgil J. Hood, Jr.
[REDACTED]

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UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the Matter of
Mr. Virgil J. Hood, Jr.

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IA-01-022

DEMAND FOR INFORMATION

I

Mr. Virgil J. Hood, Jr. was the Vice President of Moisture Protection Systems Analysts, Inc. (MPSA or the Licensee) formerly located at 1350 Beverly Road, Suite 223, McLean, Virginia 22101. The Licensee was the holder of Byproduct Materials License No. 45-24851-02 (the license), which was issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30 on June 19, 1986 and renewed on January 30, 1992. The license authorized MPSA to possess byproduct material, i.e., a Seaman Nuclear Corporation Model R-50 portable roofing gauge containing a nominal 40 millicuries (mCi) of Americium-241, for use in measuring moisture density of roof surfaces in accordance with the conditions specified in the license. On April 20, 1998, the Licensee's license was revoked.

II

Between December 31, 1997, and January 31, 2001, the NRC Office of Investigations (OI) conducted an investigation to determine the location of a moisture density gauge containing licensed material after the Licensee failed to pay the NRC annual license fee for fiscal year 1996, and had vacated the premises listed on its license without prior notice to the NRC. These actions by the Licensee had resulted in the NRC issuing an Order Suspending License (Effective Immediately) (Order Suspending License) to MPSA on May 15, 1997. The Order

Suspending License imposed certain requirements upon the Licensee and required a response from the Licensee. Subsequently, after the Licensee failed to submit the required answer to the Order Suspending License, a Notice of Violation and Proposed Imposition of Civil Penalty - \$5,500, and Order Modifying Order Suspending License (Effective Immediately) and Order Revoking License (Order Revoking License) were issued to MPSA revoking its license on April 20, 1998. The Order Revoking License required that the Licensee maintain licensed material in safe storage, immediately notify the NRC of its current business location and status of licensed material, test the gauge for leak tightness, and transfer all licensed material to an authorized recipient within 30 days of the Order Revoking License. To date, the Licensee has failed to respond to the Order Revoking License. On May 5, 2000, the NRC was notified that a portable moisture density gauge containing licensed material had been received at a landfill. The gauge was a Seaman Nuclear Corporation Model No. R-50 portable moisture density gauge, and was labeled as belonging to MPSA.

The OI investigation determined that the Licensee deliberately refused to allow NRC inspection of the licensed material or of required records, as required by 10 CFR 30.52; failed to control licensed material, as required by 10 CFR 20.1801 and 10 CFR 20.1802; and deliberately failed to notify the NRC of a missing or stolen source as required by 10 CFR 20.2201(a)(1)(i). It further concluded that the Licensee's Vice President, Mr. Hood, failed to control licensed material not in storage and deliberately failed to notify the NRC of a missing or stolen source. In addition, information developed during the investigation indicated that, although not named as an authorized user on the license, Mr. Hood used the moisture density gauge containing licensed material. Consequently, it was reasonable for the NRC to expect Mr. Hood to respond to questions concerning the Licensee's activities. During the investigation, numerous attempts

were made to contact Mr. Hood in order to determine his responsibilities under the license and his responsibilities with regard to the identified violations. In this regard, the NRC issued a subpoena for Mr. Hood to appear at a compelled interview on September 16, 1998; requested an interview with Mr. Hood on September 22, 1998; subpoenaed Mr. Hood on November 4, 1999, to attend a compelled interview on December 3, 1999; and, by letter dated March 23, 2001, requested Mr. Hood to respond to the apparent violations in writing or to attend a predecisional enforcement conference to discuss the apparent violations identified during the investigation. Mr. Hood failed to respond to the subpoenas or to appear at the interviews, and did not respond to the letter dated March 23, 2001.

This situation demonstrates a lack of regard for, and adherence to, NRC requirements and raises serious questions as to whether Mr. Hood will in the future adhere to NRC requirements.

Therefore, further information is needed to determine whether the Commission can have reasonable assurance that in the future Mr. Hood will conduct licensed activities in accordance with the Commission's requirements.

III

Accordingly, pursuant to sections 161b, 161c, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204, the Commission requests that Mr. Hood submit the following information:

1. A description of your responsibilities as Vice President of MPSA with regard to NRC licensed activities.
2. An explanation as to whether or not you were an authorized user of the gauge.
3. An explanation as to why you did not heed the subpoenas issued for compelled interviews on September 16, 1998, and December 3, 2000, or respond to the letter dated March 23, 2001, offering you an opportunity to respond to the apparent violation and to request a predecisional enforcement conference.
4. A statement that demonstrates your commitment to compliance with regulatory requirements and sets forth the basis for why the Commission should have confidence that you will comply with applicable NRC requirements in the future.

You may provide any other information that you want the NRC to consider, including a statement as to whether you believe that the statements made in Section II are accurate. You may respond to this Demand for Information by filing a written answer under oath or affirmation or by setting forth your reasons why this Demand for Information should not have been issued if the requested information is not being provided. The response to this Demand for Information is to be submitted to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, in writing and under oath or affirmation. Copies also shall be sent to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to the Regional Administrator, NRC Region II, 61 Forsyth St. SW, Suite 23T85, Atlanta, GA 30303-8931. The response should be sent 30 days from the date of this Demand for

Information if your current employment is involved in NRC-licensed activities or within 20 days of acceptance of an employment offer involving NRC-licensed activities or your becoming involved in NRC-licensed activities for five years from the date of this Demand for Information. 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 pursuant to the authority granted by 10 CFR 150.20.

Upon review of your answer the Commission may institute a proceeding pursuant to 10 CFR 2.202 or take such other action as may be necessary to ensure compliance with regulatory requirements. Your response to the Demand for Information will be considered before a decision is made in this matter.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room). Therefore, to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal

privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is

necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Carl J. Paperiello
Deputy Executive Director for Materials,
Research and State Programs

Dated this 12th day of September 2001