



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, DC 20555 - 0001

September 12, 2001

IA-01-021

Mr. Virgil J. Hood, Sr.  
**[REDACTED]**

SUBJECT: ORDER PROHIBITING INVOLVEMENT IN NUCLEAR REGULATORY  
COMMISSION (NRC) LICENSED ACTIVITIES (EFFECTIVE IMMEDIATELY) -  
NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-1997-033

Dear Mr. Hood:

The enclosed Order Prohibiting Involvement in NRC Licensed Activities (Effective Immediately) (Order) is being issued because of your deliberate misconduct in violation of 10 CFR 30.10 of the Commission's regulations, as described in the Order. As President and Radiation Safety Officer (RSO) of Moisture Protection Systems Analysts, Inc. (MPSA), your deliberate misconduct caused MPSA to be in violation of an Order Modifying Order Suspending License (Effective Immediately) and Order Revoking License dated April 20, 1998, and 10 CFR 20.2201(a)(1)(i).

As described in the Order, the NRC's Office of Investigations (OI) conducted an investigation between December 31, 1997, and January 31, 2001, to determine the location of a portable moisture density gauge containing licensed material. The investigation also involved a review of the facts and circumstances surrounding the discovery, at a landfill, of a portable moisture density gauge containing licensed material that belonged to your company, and a determination of whether the incident was reported to the NRC. Based on the results of the investigation, it was substantiated that you deliberately failed to notify the NRC of a missing or stolen source, and that you failed to control licensed material not in storage.

On March 23, 2001, the NRC attempted to contact you by certified mail to provide you with the results of our review. Our letter provided you an opportunity to respond to the apparent violation and/or request a predecisional enforcement conference. Our letter of March 23<sup>rd</sup>, sent to MPSA, care of Atlas Contractors, Inc., 6224 Georgia Avenue, NW, Washington, D. C. 20011, and other addresses, was returned unopened. On May 18, 2001, we re-sent our letter to your address at 1715 Leighton Wood Lane, Silver Spring, MD, and it was not returned, indicating that you received the letter. The NRC had made numerous previous attempts to contact you personally regarding your licensed activities, including the issuance of two subpoenas to you for compelled interviews at NRC headquarters on September 16, 1998, and December 3, 1999. However, to date you have been unresponsive to our attempts to contact you.

As explained more fully in the enclosed Order, because of your deliberate misconduct, discussed above, and your failure to respond to the NRC, the NRC lacks reasonable assurance that you will conduct licensed activities in compliance with the Commission's requirements and that the health and safety of the public would be protected if you continued to be involved in NRC-licensed activities. Therefore, the NRC is issuing the enclosed Order prohibiting your

Mr. Virgil J. Hood, Sr.

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involvement in all NRC-licensed activities for a period of five years from the date of this Order. If you are involved with a licensee engaged in NRC-licensed activities on the date you receive the enclosed Order, you must immediately cease such activities, inform the NRC of the name, address and telephone number of the employer, and provide a copy of the enclosed Order to the employer. In addition, at any time after the five-year period of prohibition has expired, the Order requires you to notify the NRC the first time you accept employment involving NRC-licensed activities or become involved in NRC-licensed activities.

Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of this Order shall be subject to criminal prosecution as set forth in that section. Violation of this order may also subject the person to a civil monetary penalty.

Questions concerning this Order should be addressed to 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 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). In addition, per NRC practice, a press release will be issued to the local media.

Sincerely,

/RA/

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

Enclosure: As stated

cc w/ encl: See next page

cc w/ encl:

Commonwealth of Virginia

Mr. Virgil J. Hood, Sr.  
**[REDACTED]**

Mr. Virgil J. Hood, Sr.  
**[REDACTED]**

Mr. Virgil J. Hood, Sr.  
**[REDACTED]**

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UNITED STATES  
NUCLEAR REGULATORY COMMISSION

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

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IA-01-021

ORDER PROHIBITING INVOLVEMENT IN  
NRC-LICENSED ACTIVITIES  
(EFFECTIVE IMMEDIATELY)

I

Mr. Virgil J. Hood, Sr. was the President and Radiation Safety Officer (RSO) 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) to MPSA (Order Suspending License) 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 Licensee's license dated June 19, 1986, provides that the Licensee shall conduct its program in accordance with the statements, representations, and procedures contained in its application dated June 10, 1986. Mr. Virgil J. Hood, Sr. is identified as the MPSA President and as being chiefly responsible for the Radiation Safety Program in the MPSA Application for Material License dated June 10, 1986. As President and the individual responsible for the Radiation Safety Program, Mr. Hood was responsible for the safe handling of licensed material and for ensuring that licensed activities were conducted in accordance with NRC requirements. In addition, in signing as the Certifying Officer on the 1986 application and the application for license renewal dated January 23, 1992, Mr. Hood attested that the moisture density gauge

would be stored at one location (1350 Beverly Road, Suite 223, McLean VA 22101 in the renewal), that he was responsible for the radiation safety program, that the gauge was being stored in a locked enclosure that does not allow access by unauthorized persons, that leak tests would be performed, and, if there was need to dispose of the meter, that it would be returned to Seaman Nuclear Corporation. In signing the application for license, Mr. Hood certified that the MPSA program would conform with 10 CFR 30, 32, 33, 34, 35, 40, and all information in the application.

The Orders described above were sent to Mr. Virgil J. Hood, Sr. as President of MPSA. As President and the only user of the gauge identified in the application and license, Mr. Hood was required to respond to the Orders. This response should have included immediately notifying the NRC of its current business location and the status of the licensed material, submitting the results of testing the gauge for leak tightness, and confirming the transfer of all licensed material to an authorized recipient.

The NRC's investigation and review of this matter has determined that Mr. Hood engaged in deliberate misconduct that caused MPSA to be in violation of the Order Revoking License dated April 28, 1998, and 10 CFR 20.2201(a)(1)(i). Specifically, 10 CFR 30.34(a) requires, in part, that each license issued pursuant to the regulations in this part shall be subject to all the provisions of the Atomic Energy Act, now or hereafter in effect, and to all valid rules, regulations and orders of the Commission. As President and RSO for the Licensee, Mr. Hood did not respond in any manner to, or comply with, the requirements of the Order Revoking License to maintain the licensed material in safe storage, immediately notify the NRC of the Licensee's current business location and the status of the licensed material, test the sealed source for leak

tightness, transfer the licensed material to an authorized recipient within 30 days of the date of the Order Revoking License, or respond to the violations outlined in the Notice.

Although during the investigation, numerous additional attempts were made to contact Mr. Hood, including the issuance of two subpoenas for compelled interviews at NRC headquarters on September 16, 1998, and December 3, 1999, Mr. Hood failed to appear for the interviews and did not attempt to communicate with the NRC or respond to the Order Suspending License or Order Revoking License.

In addition, 10 CFR 20.2201(a)(1)(i) requires, in part, that each licensee report by telephone immediately after its occurrence becomes known to the licensee, any lost, stolen, or missing licensed material in an aggregate quantity equal to or greater than 1,000 times the quantity specified in Appendix C to Part 20 under such circumstances that it appears to the licensee that an exposure could result to persons in unrestricted areas. The NRC concluded that Mr. Hood's activities caused the Licensee to be in violation of 10 CFR 20.2201(a)(1)(i) in that, since May 10, 2000, as President and RSO, Mr. Hood failed to report by telephone that 40 mCi of Americium-241, a quantity greater than 1,000 times the quantity specified in Appendix C to 10 CFR Part 20, contained in a Seaman Nuclear Corporation Model No. R-50 portable moisture density gauge, Serial Number 8064, was lost, stolen, or missing. In May 2000, a Seaman Nuclear Corporation Model No. R-50 portable moisture density gauge, bearing Serial Number 8064, was found in a landfill.

In addition, the Licensee vacated the premises listed on the license (1350 Beverly Road, Suite 223, McLean, Virginia 22101) without prior notice in mid-December 1996, and a forwarding address was provided by one of the Licensee's clients as Atlas Contractors, Inc., 2811 12<sup>th</sup>

Street, NE, Washington, D.C. 20017-2402. The most recent business address for Atlas Contractors, Inc., is 6224 Georgia Ave NW, Washington, DC 20011-5112. As described above, the NRC has made numerous attempts to contact Mr. Hood at each of these addresses and issued two subpoenas for him to appear at compelled interviews at NRC headquarters. Most recently, on March 23, 2001, the NRC attempted to contact Mr. Hood, by certified mail to provide him with results of the investigation and review of this matter, and to provide him an opportunity to respond to the apparent violation and/or request a predecisional enforcement conference. The NRC's March 23, 2001, letter was sent to MPSA, care of Atlas Contractors, Inc., 6224 Georgia Avenue, NW, Washington, D. C. 20011 and was returned unopened. On May 18, 2001, the NRC re-sent this letter to Mr. Hood, at 1715 Leighton Wood Lane, Silver Spring, MD, and it was not returned, indicating that the letter was received.

### III

Based on the above, the NRC has concluded that Mr. Hood, President and RSO of the Licensee, engaged in deliberate misconduct that has caused the Licensee to be in violation of the Order Suspending License, Order Revoking License, and 10 CFR 20.2201(a)(1)(i). These actions constitute a violation of 10 CFR 30.10, which prohibits an individual from engaging in deliberate misconduct that causes a licensee to be in violation of any rule, regulation, or order or any term, condition or limitation of any license issued by the Commission. As defined by 10 CFR 30.10(c)(2), deliberate misconduct means an intentional act or omission that the person knows constitutes a violation of a requirement, procedure, or instruction of a licensee.

Mr. Hood's action in causing the Licensee to violate the Order Revoking License, and 10 CFR 20.2201(a)(1)(i), and his unresponsiveness to the NRC, have raised serious doubt as to whether he can be relied upon to comply with NRC requirements.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Mr. Hood were permitted at this time to be involved in NRC licensed activities. Therefore, the public health, safety and interest require that Mr. Hood be prohibited from any involvement in NRC-licensed activities for a period of five years from the date of this Order. Additionally, Mr. Hood is required to notify the NRC of his first employment in NRC-licensed activities at any time following the prohibition period. Furthermore, pursuant to 10 CFR 2.202, I find that the deliberate nature of Mr. Virgil J. Hood Sr.'s conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

#### IV

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 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:

1. Mr. Virgil J. Hood, Sr. is prohibited for five years from the date of this Order from engaging in NRC-licensed activities. 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.

2. If Mr. Virgil J. Hood, Sr. is currently involved with another licensee in NRC-licensed activities, he must immediately cease those activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this order to the employer.
  
3. At any time after the five year period of prohibition has expired, Mr. Virgil J. Hood, Sr. shall, within 20 days of acceptance of his first employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the notification, Mr. Virgil J. Hood, Sr. shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

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

In accordance with 10 CFR 2.202, Mr. Virgil J. Hood, Sr. 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, DC 20555, and include a statement of good cause for the extension. The answer may consent to this 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 shall set forth the matters of fact and law on which Mr. Virgil J. Hood, Sr. or other person adversely affected relies and the 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: Rulemakings and Adjudications Staff, 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 Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region II, 61 Forsyth St. SW, Suite 23T85, Atlanta, GA 30303-8931, and to Mr. Virgil J. Hood, Sr. if the answer or hearing request is by a person other than Mr. Virgil J. Hood, Sr. If a person other than Mr. Virgil J. Hood, Sr. 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 Mr. Virgil J. Hood, Sr. 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.

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 effective and 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.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

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

Dated this 12<sup>th</sup> day of September 2001