

RAS 6964

DOCKETED 10/30/03

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

SERVED 10/30/03

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before Administrative Judges:
Michael C. Farrar, Presiding Officer
Dr. Charles N. Kelber, Special Assistant

In the Matter of
CFC LOGISTICS, INC.
(Materials License)

Docket No. 30-36239-ML
ASLBP No. 03-814-01-ML
October 30, 2003

NOTICE OF HEARING AND OF OPPORTUNITY
TO PETITION FOR LEAVE TO INTERVENE
OR
TO PARTICIPATE AS AN INTERESTED GOVERNMENTAL ENTITY

In this proceeding, certain named residents of the Quakertown, Pennsylvania area requested a hearing to challenge the application of CFC Logistics, Inc., for an NRC license to operate a cobalt-60 irradiator at the CFC food processing warehouse not far from their residences. By Memorandum and Order issued July 7, 2003, the Commission referred the hearing request to the Atomic Safety and Licensing Board Panel's Chief Administrative Judge for appointment of a Presiding Officer to conduct a 10 CFR Part 2, Subpart L informal adjudicatory proceeding on the pending matter.

The above-named Presiding Officer and Special Assistant were appointed on July 14, 2003. See 68 Fed.Reg. 42,785-86 (July 18, 2003). The NRC Staff issued CFC the requested license on August 27, 2003, subject to the outcome of this adjudicatory proceeding. By Memorandum and Order (LBP-03-20) issued on October 29, 2003, the Presiding Officer granted the hearing request.

In light of the foregoing, PLEASE TAKE NOTICE that a hearing will be conducted in this proceeding. As noted above, this hearing will be governed by the informal hearing procedures

set forth in 10 CFR Part 2, Subpart L (10 CFR §§ 2.1201-63). The parties currently designated as participating in this proceeding are three of the Quakertown residents (Andrew Ford, Kelly Helt and Tom Helt) and CFC Logistics, with the precise role of the NRC Staff not yet defined. The hearing will begin with written evidentiary presentations, at a time yet to be determined, on those “areas of concern” advanced by the residents and found “germane” in the Presiding Officer’s October 29 decision. Oral presentations will be at the Presiding Officer’s discretion, if needed to create an adequate record for decision. 10 CFR § 2.1235.

Further, in accordance with 10 CFR §§ 2.1205(j),(k) and 2.1211(b), PLEASE TAKE NOTICE of the opportunity, within thirty (30) days from the date of publication of this notice of hearing in the Federal Register, for (1) any person whose interest may be affected by this proceeding to file a petition for leave to intervene; and for (2) any interested governmental entity to file a request to participate. The following criteria govern those two categories:

- Any petition for leave to intervene must set forth the information required by 10 CFR § 2.1205(e), including a detailed description of (1) the interest of the petitioner in the proceeding; (2) how that interest may be affected by the results of the proceeding, including the reasons why the petitioner should be permitted to intervene with respect to the factors set forth in 10 CFR § 2.1205(h); (3) the petitioner's areas of concern regarding the application/license; and (4) the circumstances establishing that the petition to intervene is timely in accordance with 10 CFR § 2.1205(d).
- Under 10 CFR § 2.1211(b), any request to participate by an interested governmental entity must state with reasonable specificity the requestor's areas of concern regarding the CFC activity that is the subject of the application/license.

All prospective participants should be aware that, pursuant to 10 CFR § 2.1205(n), the Presiding Officer may take steps “in the interest of avoiding repetitive factual presentations and

argument” at the hearing, and thus will likely consider consolidating presentations by parties having similar concerns.

In addition, pursuant to 10 CFR § 2.1211(a), any person not a party to the proceeding may submit a written “limited appearance” statement setting forth his or her position on the issues in this proceeding. These statements do not constitute evidence, but may assist the Presiding Officer and/or parties in the definition of the issues being considered. Persons wishing to submit a written limited appearance statement should send it to the Office of the Secretary (Attention: Docketing and Service Branch), U.S. Nuclear Regulatory Commission, Washington, DC. 20555-0001. Two copies of the statement should also be served on the Office of the Atomic Safety and Licensing Board Panel at the same NRC/DC address.

In his October 29, 2003 Order, the Presiding Officer directed that on or before Friday, November 28, 2003, the NRC Staff prepare and submit the hearing file for this proceeding. Once the hearing file is received and any needed prehearing conferences are held, the Presiding Officer will, pursuant to 10 CFR § 2.1233, establish a schedule for the filing of written presentations by the above-named residents and by CFC (and perhaps by the NRC Staff), which presentations may be subject to supplementation to accommodate the grant of any intervention petition or request to participate by an interested governmental entity. After receiving the parties' written presentations, the Presiding Officer may, pursuant to 10 CFR §§ 2.1233(a), 2.1235, submit written questions to the parties or any interested governmental entity or provide an opportunity for oral presentations by any party or interested governmental entity, which may include oral questioning of witnesses by the Presiding Officer.

Documents relating to this proceeding are available for public inspection at the Commission's Public Document Room at NRC Headquarters in Rockville, Maryland. Additionally, documents are available electronically through the NRC's Agencywide Documents

Access and Management System (ADAMS), with access to the public through the NRC's Internet Web site Public Electronic Reading Room link at <<http://www.nrc.gov/reading-rm/adams.html>>. Also, general information regarding the conduct of agency adjudicatory proceedings, including the provisions of 10 CFR Part 2, Subpart L, can be found by accessing the NRC hearing process page at <<http://www.nrc.gov/what-we-do/regulatory/adjudicatory/hearing-pro.html>>.

BY THE PRESIDING OFFICER

/RA/

Michael C. Farrar
ADMINISTRATIVE JUDGE

Rockville, Maryland

October 30, 2003

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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CFC LOGISTICS, INC.) Docket No. 30-36239-ML
QUAKERTOWN, PENNSYLVANIA)
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(Materials License))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB NOTICE OF HEARING AND OF OPPORTUNITY TO PETITION FOR LEAVE TO INTERVENE OR TO PARTICIPATE AS AN INTERESTED GOVERNMENTAL ENTITY have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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ENTITY

[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 30th day of October 2003