

FORM 23-II: Confirmatory Order Modifying License (Effective Immediately)(Materials Licensees)

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
) Docket No. _____
(LICENSEE)) License No. _____
(City, State)) EA-YY-XXX

CONFIRMATORY ORDER MODIFYING LICENSE
(EFFECTIVE IMMEDIATELY)

[Double space from here to end, except single space signature block.]

I

(Name of licensee) (Licensee) is the holder of NRC License No. _____ issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part __. The license authorizes the Licensee to _____. The license was issued on (date), was most recently amended (renewed) on (date), and is due to expire on (date) (is under timely renewal).

II

[This section should provide a description of relevant events, facts, violations, technical or legal reasons that provide the substantive basis for issuing the Order, e.g.:

“By letter dated (date), the Licensee informed the Commission that it had a teletherapy misadministration to a patient on (date). The misadministration was reviewed during a special safety inspection that was conducted by the NRC Region __ staff on (date). It was determined that the misadministration resulted from _____.

The NRC is concerned that the circumstances surrounding the misadministration reflect inadequate control over the safe use of licensed material. The Licensee met with the NRC staff during a predecisional enforcement conference at the NRC Region __ office on (date), to review the circumstances that led to this event. During the enforcement conference, the Licensee proposed various corrective actions that could be taken to reduce the possibility of another teletherapy misadministration. The Licensee agreed to submit these proposals to the NRC in writing for review and approval.”]

III

[This section should begin by setting forth any commitments the Licensee has made in response to the NRC's concerns, e.g.:

"By letter dated (date), the Licensee has agreed that:

1. _____
2. _____
3. _____"]

[This section should end with the licensee's consent and waiver of rights to a hearing and why the staff is accepting the commitments, e.g., " On (date), the Licensee consented to issuing this Order with the commitments, as described in Section IV below. The Licensee further agreed in its (date) letter that this Order is to be effective upon issuance and that it has waived its right to a hearing. Implementation of these commitments will provide enhanced assurance that sufficient resources will be applied to the radiation safety program, and that the program will be conducted safely and in accordance with NRC requirements."]

I find that the Licensee's commitments as set forth in Section IV are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that the public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above and Licensee's consent, this Order is immediately effective upon issuance.

IV

Accordingly, pursuant to Sections 103, [Include "104b" if any of the licenses subject to the order were issued under Section 104b], 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 and 10 CFR Part 50, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT LICENSE NO. ____ IS MODIFIED AS FOLLOWS:

[Specifically list how license is modified, e.g.:

- A. _____
- B. _____
- C. _____
- D. _____]

The Regional Administrator, Region ____, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

V

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. 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 20555-0001, and include a statement of good cause for the extension. Any

request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555-0001. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region __,

(regional address), and to the Licensee. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to hearingdocket@nrc.gov and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

If a hearing is requested by 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 Confirmatory 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 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

_____, Director
Office of Enforcement

Dated this ____ day of (Month) 20(XX)