

August 18, 2011

EA-10-161

Mr. Murray Savage
Chief Executive Officer
Professional Service Industries, Inc.
1901 South Meyers Road, Suite 400
Oakbrook Terrace, IL 60181

SUBJECT: CONFIRMATORY ORDER (EFFECTIVE IMMEDIATELY)
NRC INSPECTION REPORT NOS. 030-33792/2009-001 AND 2009-002(DNMS)
AND NRC OFFICE OF INVESTIGATIONS REPORT NO. 3-2009-021
PROFESSIONAL SERVICE INDUSTRIES, INC.

Dear Mr. Savage:

The enclosed Confirmatory Order is being issued to Professional Service Industries, Inc. (PSI) as a result of a successful Alternative Dispute Resolution (ADR) session. The enclosed commitments were made by PSI as part of a settlement agreement between PSI and the U.S. Nuclear Regulatory Commission (NRC) concerning apparent violations of NRC requirements as discussed in the subject inspection report provided by our letter dated May 16, 2011.

In the subject inspection report, the NRC provided you with the results of an NRC inspection and an investigation conducted by the NRC's Office of Investigations. The report identified eight apparent safety violations as well as apparent security-related violations. The safety and security-related violations involved performance of radiography in the Rock Springs, Wyoming, area and the details were discussed in the subject inspection report. Our letter also informed you that the apparent violations were being considered for escalated enforcement action in accordance with the NRC's Enforcement Policy. In addition, the NRC indicated that willfulness on the part of an office manager and a radiographer appeared to have been a factor in one example of an apparent violation. A factual summary of the results of the investigation was enclosed with our letter.

In response to our letter, you requested ADR. An ADR mediation session was held on July 11, 2011, and a preliminary settlement agreement was reached. The elements of the preliminary agreement were formulated and agreed to at the mediation session. Consistent with the purposes of ADR, you and the NRC acknowledged that the session was not for the purposes of reaching any conclusions regarding any facts or circumstances as discussed in the NRC's letter dated May 16, 2011.

The Appendix to Enclosure 1 and Enclosure 4 contain Sensitive Unclassified Non-Safeguards Information. Upon separation, this cover letter and Enclosures 1 through 3 are decontrolled.

M. Savage

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At the session, you made no admission that PSI had deliberately violated any NRC requirements. You agreed that a Confirmatory Order (Effective Immediately) (Order) with a Notice of Violation (Notice) and with an agreement to pay a civil penalty in the amount of \$15,000 would be issued in settlement of a disputed claim in order to avoid further action by the NRC. In light of the corrective actions you have taken or agreed to take, as described in the Order (Enclosure 1), the NRC is satisfied that its concerns will be addressed by making your commitments legally binding. Therefore, the NRC has agreed not to pursue any further enforcement action in connection with the issues described in our May 16, 2011, letter to you.

As evidenced by your signed "Consent and Hearing Waiver Form" (Enclosure 2) dated August 9, 2011, you agreed to the issuance of the Order and Notice. In order to meet NRC's obligations for transparency and openness, the security-related commitments have been placed in a non-publicly available Appendix to the Order and the Notice has been broken into two parts: The Notice in Enclosure 3 describes the safety violations while the security-related violations are described in a non-publicly available Notice in Enclosure 4.

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 Confirmatory Order shall be subject to criminal prosecution as set forth in that section. Violation of this Confirmatory Order may also subject the person to civil monetary penalties.

In accordance with Title 10 of the Code of Federal Regulations (10 CFR) 2.390 of the NRC's "Rules of Practice," a copy of this letter, along with its publicly available enclosures, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. However, because of the security-related information contained in the Appendix to Enclosure 1 and in Enclosure 4, and in accordance with 10 CFR 2.390, copies of these documents will not be available for public inspection. Additionally, the Appendix to Enclosure 1 and Enclosure 4 must be protected from unauthorized disclosure. Security-related information is discussed in Regulatory Information Summary RIS-2005-031, "Control of Security-Related Sensitive Unclassified Non-Safeguards Information" (ML053480073), which is available on the NRC's Web site.

M. Savage

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The Confirmatory Order, without its Appendix, will be published in the *Federal Register*. The NRC will also include this letter and its publicly available enclosures on its Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement.html> under Significant Enforcement Actions.

Sincerely,

/RA/

Mark A. Satorius
Regional Administrator

Docket No. 030-33792
License No. 12-16941-03 (terminated)

Enclosures:

1. Confirmatory Order (Effective Immediately)
with Non-Publicly Available Appendix
2. Consent and Hearing Waiver
3. Notice of Violation
4. Security-Related Notice of Violation (Non-Publicly Available)
5. NUREG/BR-0254 Payment Methods
(Licensee only)

cc w/encls: PSI Radiation Safety Officer
All Agreement States

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M. Savage

-3-

The Confirmatory Order, without its Appendix, will be published in the *Federal Register*. The NRC will also include this letter, and its public enclosures on its Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement.html> under Significant Enforcement Actions.

Sincerely,
/RA/

Mark A. Satorius
Regional Administrator

Docket No. 030-33792
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5. NUREG/BR-0254 Payment Methods
(Licensee only)

cc w/encls: PSI Radiation Safety Officer
All Agreement States

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NAME	Lougheed	Bloomer	Louden for Boland	Heck	
DATE	08/15/11	08/15/11	08/16/11	08/16/11	
OFFICE	D:OE	D:FSME	D:OGC	RIII	RIII
NAME	Zimmerman ¹	Carpenter ²	Scott ³	Orth	Satorius
DATE	08/05/11	07/29/11	08/03/11	08/16/11	08/18/11

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- 1 OE concurrence received via e-mail from K. Day on August05, 2011.
 - 2 FSME concurrence received via e-mail from D. White on July 29, 2011.
 - 3 OGC "No Legal Objection" received via e-mail from M. Lemoncelli on August 03, 2011.

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Letter to Murray Savage from Mark A. Satorius dated August 18, 2011

SUBJECT: CONFIRMATORY ORDER (EFFECTIVE IMMEDIATELY)
NRC INSPECTION REPORT NOS. 030-33792/2009-001 AND 2009-002(DNMS)
AND NRC OFFICE OF INVESTIGATIONS REPORT NO. 3-2009-021
PROFESSIONAL SERVICE INDUSTRIES, INC.

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	030-33792
Professional Service Industries, Inc.)	12-16941-03 (terminated)
Oakbrook Terrace, Illinois)	EA-10-161

CONFIRMATORY ORDER (EFFECTIVE IMMEDIATELY)

I

Professional Service Industries, Inc., (PSI) was the holder of Materials License No. 12-16941-03 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Title 10 of the Code of Federal Regulations (10 CFR) Part 30 on September 13, 1995, and terminated on January 29, 2010. The license authorized PSI to possess and use sealed radioactive sources in performance of industrial radiographic activities in Rock Springs, Wyoming, and at temporary job sites within Federal jurisdiction.

This Confirmatory Order is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on July 11, 2011.

The Appendix to this document contains Sensitive Unclassified Non-Safeguards Information. Upon separation, this Order is decontrolled.

On March 31, 2009, the NRC conducted an inspection at the PSI Oakbrook Terrace, Illinois, facility, and on July 27 through 30, 2009, at the PSI Rock Springs, Wyoming, facility and at a temporary jobsite in Wyoming. The NRC also continued to do in-office inspection through April 25, 2011. On April 10, 2009, the NRC Office of Investigations (OI) initiated an investigation (OI Case No. 3-2009-021) to determine whether management individuals at the PSI Rock Springs, Wyoming, office engaged in deliberate misconduct by allowing uncertified radiographers to conduct radiography and by failing to ensure that qualified individuals were present to maintain proper surveillance during radiographic operations.

The NRC inspection identified that safety and security-related violations had occurred at PSI's Rock Springs, Wyoming, office, and at temporary job sites in the vicinity of the Rock Springs, Wyoming, office during 2008 and 2009. The apparent safety violations included PSI's failure to:

- (1) ensure that individuals acting as radiographers had required training;
- (2) ensure that individuals acting as radiographer's assistants had required training and that there were two qualified individuals present when performing radiography at temporary jobsites;
- (3) provide a radiographer's assistant with a personnel dosimeter to wear while conducting radiographic operations;
- (4) conduct annual reviews of its Radiation Protection Program content and implementation;
- (5) provide annual reports of the doses received by monitored individuals to those individuals;
- (6) use physical barriers for the restricted area perimeter;
- (7) prevent unauthorized personnel from being within the restricted area boundaries while industrial radiographic equipment was in use; and
- (8) conduct reasonable surveys to assure compliance

with public dose limits. The security-related violations are described in the non-publicly available Appendix to this Confirmatory Order.

The NRC investigation determined that a manager in the PSI Rock Springs, Wyoming, office willfully assigned an individual to perform radiography on at least one occasion, knowing that the individual was not properly qualified. The NRC investigation also determined that an individual deliberately accepted the assignment and performed radiography, knowing that his Industrial Radiography Radiation Safety Personnel (IRRSP) card had expired.

On July 11, 2011, the NRC and PSI met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. Alternative Dispute Resolution is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement on resolving any differences regarding the dispute. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

III

In response to the NRC's offer, PSI requested use of the NRC's ADR process to resolve differences it had with the NRC. During an ADR session on July 11, 2011, a preliminary settlement agreement was reached. The elements of the agreement consisted of the following:

1. Within 90 days of the issuance of this Confirmatory Order, PSI agrees to review the training, certification and security authorization of each employee performing or assisting

with radiography. Within 30 days of the completion of the review, a corporate level individual will sign a statement indicating whether the employee is authorized to work with licensed material. For radiographers, this statement will include the expiration date for their radiography training required by 10 CFR Part 34.43 or equivalent State requirements. A copy of the statement will be provided to the employee, the employee's immediate supervisor, and the local radiation safety officer, as well as be kept by the corporate office. Prior to the employee being assigned to a radiography crew, the person assigning work will verify that the employee is qualified. PSI will implement a periodic (at least biennial) review of the qualification statements for at least the next five years. This item will be included as a line item in the PSI annual audit (required by 10 CFR Part 20.1101 or the equivalent State requirements) of the Radiation Safety Program for the next five years; it may be lined through for those years not requiring review.

2. Within 90 days of the issuance of this Confirmatory Order, PSI agrees to develop and implement procedures for the corporate radiation safety office to directly perform or to observe the local radiation safety officer's performance of the field inspections/audits of radiographers and radiographer assistants required by 10 CFR Part 34.43(e) or equivalent State requirements. The procedures shall define the periodicity of the inspections/audits, such that each branch office is inspected by the corporate radiation safety staff at least once every year. These procedures will be maintained and revised based on lessons learned for a minimum of five years. These procedures will include

safety and security areas to be evaluated by corporate radiation staff and areas that will be evaluated by branch office radiation staff.

3. Within 90 days of the issuance of this Confirmatory Order, PSI agrees to develop and implement a disciplinary program with a graded approach for radiation safety and security infractions. Under the program, corporate staff will have the authority to take direct disciplinary action for radiation safety and security issues. The disciplinary program will emphasize individual responsibility for radiation safety and radioactive material security, and will encourage reporting safety and security concerns, including the employee hotline. Prior to implementation of the program, PSI will train its employees on the program. PSI agrees to perform biennial verification that the procedure remains current for the next five years (minimum of two verifications). This item will be included as a line item in the PSI annual audit of the Radiation Safety Program for the next five years; it may be lined through for those years not requiring review.

4. Within 90 days of the issuance of this Confirmatory Order, PSI agrees to develop, implement, and provide training to all radiation safety officers, radiographers, and assistant radiographers. Additionally, this training shall be provided to new employees prior to working with licensed material for the first time. Refresher training will be provided annually (at intervals not to exceed 12 months) thereafter for all employees involved in licensed activities. Records of training materials and course attendees shall be maintained for at least five years. Verification of training will be included as a line

item in the PSI annual audit of the Radiation Safety Program for the next five years. The training shall address at a minimum:

- (a) A review of requirements for safe and secure performance of radiography, including review of PSI's Operating and Emergency Procedures;
 - (b) A review of any radiation mishaps, audit deficiencies, or regulatory violations within PSI as well as significant events within the industry (if known);
 - (c) A review of the consequences of and the potential actions that could be taken for deliberate violations of PSI requirements;
 - (d) A review of PSI's license conditions and regulations governing the use of licensed material (including appropriate reporting requirements such as 10 CFR 30.50 and 10 CFR 34.101; and employee protection requirements such as those contained in 10 CFR 30.7, or the equivalent State requirements);
 - (e) A review of the changes made to PSI procedures and policies resulting from the terms of this Confirmatory Order.
5. Within 90 days of the date of this Confirmatory Order, PSI agrees to develop and schedule a training session on safety culture and the role and responsibility of the radiation safety officer to maintain an effective safety culture. The training shall be presented to each radiation safety officer within 180 days of the date of this Confirmatory Order. The training shall be conducted annually for five years and provided to newly assigned radiation safety officers within 30 days of assignment, if that assignment occurs greater than 180 days after the issuance of this Confirmatory Order. Verification

of training will be included as a line item in the PSI annual audit of the Radiation Safety Program for the next five years.

6. PSI agrees to include as part of the annual reviews of the Radiation Safety Program (including security aspects), an assessment of the effectiveness of and adherence to the terms of this Confirmatory Order. The assessment will be summarized and provided to all PSI employees who have responsibilities in the use of radiography. The complete assessment will be provided to corporate management and retained for at least five years from the date of the audit.

7. [Official Use Only – Security-Related Information. Described in the non-publicly available Appendix to this Confirmatory Order].

8. Within 30 days of issuance of this Confirmatory Order, PSI agrees to revise procedures to increase the independence of inspections/audits of each radiographer and assistant radiographer for the next two years following issuance of this Confirmatory Order. The revised procedure will have at least one quarterly inspection/audit at each branch office be conducted by an independent auditor (corporate radiation safety officer, radiation safety officer from a different branch office, an independent consultant, or another individual meeting the NRC's requirements for a radiation safety officer). As prescribed by procedure, the field audits shall be unannounced and the auditor shall observe PSI radiographers actually performing radiographic operations. Serious deficiencies (such as untrained personnel, not wearing dosimetry, unsafe operations or security issues)

identified during the audit will be discussed with the local and corporate radiation safety officers within 24 hours of the observation and a plan to correct the problem will be put into place within the following 48 hours following the conversation. The auditor will provide both the local and corporate radiation safety officers with a copy of the audit results, including discussion of areas needing improvement. The annual audit of the Radiation Safety Program will include verification that field audit deficiencies have been corrected.

9. PSI agrees to make a one-time submittal to the Director, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region III, 2443 Warrenville Road, Lisle, IL 60532-4352, as to how each of the above items was completed, including copies of procedure changes and training materials, within 30 days following the completion of the last item (which is scheduled to be completed no later than 180 days after the issuance of this Confirmatory Order). PSI also agrees to provide the NRC a summary of its annual reviews of the Radiation Safety Program, including information about how this Confirmatory Order has been met for the next five years following issuance of this Confirmatory Order. This summary shall be provided to the NRC within 60 days of completion of the annual audit.

10. PSI agrees to provide the NRC with a minimum of eight days notice prior to entering NRC's jurisdiction beyond the requirements of 10 CFR 150.20, for a period of three years following issuance of this Confirmatory Order.

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11. PSI agrees to provide written long-term corrective actions for each of the specific safety and security violations enclosed with the Order within 60 days of the issuance of this Confirmatory Order.
12. In consideration of the above actions on the part of PSI, NRC agrees to limit the civil penalty amount in this enforcement action to \$15,000. Accordingly, within 30 days of the date of this Confirmatory Order, PSI shall pay the civil penalty in the amount of \$15,000 in accordance with NRC Technical Report (NUREG)/BR-0254 and submit to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, a statement indicating when and by what method payment was made.
13. In consideration of the above actions on the part of PSI, NRC agrees to enclose Notices of Violation to this Confirmatory Order documenting the eight safety violations described above, the security-related violations described in the non-publicly available Appendix to this Confirmatory Order, and the severity level of each violation, with no additional response requirements beyond the terms specified in this agreement.
14. PSI makes no admission that any employee or former employee deliberately violated any NRC requirements and the NRC agrees not to pursue any further enforcement action in connection with events described in the NRC's May 16, 2011, letter to PSI. This does not prohibit the NRC from taking enforcement action in accordance with the

NRC Enforcement Policy if PSI commits similar violations in the future or violates this Confirmatory Order.

On August 9, 2011, the licensee consented to issuing this Confirmatory Order with the commitments, as described in Section V below. PSI further agreed that this Confirmatory Order is to be effective upon issuance and that it has waived its right to a hearing.

IV

Since the licensee has agreed to take additional actions to address NRC concerns, as set forth in Item III above, the NRC has concluded that its concerns can be resolved through issuance of this Confirmatory Order.

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

V

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 and 10 CFR Part 30, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT:

1. Within 90 days of the issuance of this Confirmatory Order, PSI shall review the training, certification and security authorization of each employee performing or assisting with radiography. Within 30 days of the completion of the review, a corporate level individual shall sign a statement indicating whether the employee is authorized to work with licensed material. For radiographers, this statement shall include the expiration date for their radiography training required by 10 CFR Part 34.43 or equivalent State requirements. A copy of the statement shall be provided to the employee, the employee's immediate supervisor, and the local radiation safety officer, as well as be kept by the corporate office. For the next five years, the person assigning work will verify that the employee is qualified prior to the employee being assigned to a radiography crew. PSI shall implement a periodic (at least biennial) review of the qualification statements for at least the next five years. This item shall be included as a line item in the PSI annual audit (required by 10 CFR Part 20.1101 or the equivalent State requirements) of the Radiation Safety Program for the next five years; it may be lined through for those years not requiring review.

2. Within 90 days of the issuance of this Confirmatory Order, PSI shall develop and implement procedures for the corporate radiation safety office to directly perform or to observe the local radiation safety officer's performance of the field inspections/audits of radiographers and radiographer assistants required by 10 CFR Part 34.43(e) or equivalent State requirements. The procedures shall define the periodicity of the inspections/audits, such that each branch office is inspected by the corporate radiation safety staff at least once every year. These procedures shall be maintained and revised based on lessons learned for a minimum of five years. These procedures shall include safety and security areas to be evaluated by corporate radiation staff and areas that shall be evaluated by branch office radiation staff.

3. Within 90 days of the issuance of this Confirmatory Order, PSI shall develop and implement a disciplinary program with a graded approach for radiation safety and security infractions. Under the program, corporate staff shall have the authority to take direct disciplinary action for radiation safety and security issues. The disciplinary program shall emphasize individual responsibility for radiation safety and radioactive material security, and shall encourage reporting safety and security concerns, including the employee hotline. Prior to implementation of the program, PSI shall train its radiography employees on the program. PSI shall perform biennial verification that the procedure remains current and that the program remains in effect for the next five years (minimum of two verifications). This item shall be included as a line item in the PSI annual audit of the radiography Radiation Safety Program for the next five years; it may be lined through for those years not requiring review.

4. Within 90 days of the issuance of this Confirmatory Order, PSI shall develop, implement, and provide training to all radiography radiation safety officers, radiographers, and assistant radiographers. For the next five years, this training shall be provided to new radiography employees prior to working with licensed material for the first time. Additionally, for the next five years, refresher training will be provided annually (at intervals not to exceed 12 months) for all employees involved in licensed activities. Records of training materials and course attendees shall be maintained for at least five years. Verification of training shall be included as a line item in the PSI annual audit of the Radiation Safety Program for the next five years. The training shall address at a minimum:
- (a) A review of requirements for safe and secure performance of radiography, including review of PSI's Operating and Emergency Procedures;
 - (b) A review of any radiation mishaps, audit deficiencies, or regulatory violations within PSI as well as significant events within the industry (if known);
 - (c) A review of the consequences of and the potential actions that could be taken for deliberate violations of PSI requirements;
 - (d) A review of PSI's license conditions and regulations governing the use of licensed material (including appropriate reporting requirements such as 10 CFR 30.50 and 10 CFR 34.101; and employee protection requirements such as those contained in 10 CFR 30.7 or the equivalent State requirements);
 - (e) A review of the changes made to PSI procedures and policies resulting from the terms of this Confirmatory Order.

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5. Within 90 days of the date of this Confirmatory Order, PSI shall develop and schedule a training session on safety culture and the role and responsibility of the radiography radiation safety officer to maintain an effective safety culture. The training shall be presented to each radiation safety officer within 180 days of the date of this Confirmatory Order. The training shall be conducted annually for five years and provided to newly assigned radiation safety officers within 30 days of assignment, if that assignment occurs greater than 180 days after the issuance of this Confirmatory Order. Verification of training shall be included as a line item in the PSI annual audit of the Radiation Safety Program for the next five years.

6. PSI shall include as part of the annual reviews of the Radiation Safety Program (including security-related aspects), an assessment of the effectiveness of and adherence to the terms of this Confirmatory Order. The assessment shall be summarized and provided to all PSI employees who have responsibilities in the use of radiography. The complete assessment shall be provided to corporate management and retained for at least five years from the date of the audit.

7. [Official Use Only – Security-Related Information. Described in the non-publicly available Appendix to this Confirmatory Order].

8. Within 30 days of issuance of this Confirmatory Order, PSI shall revise procedures to increase the independence of inspections/audits of each radiographer and assistant radiographer for the next two years following issuance of this Confirmatory Order. The

revised procedure shall have at least one quarterly inspection/audit at each branch office be conducted by an independent auditor (corporate radiation safety officer, radiation safety officer from a different branch office, an independent consultant, or another individual meeting the NRC's requirements for a radiation safety officer). As prescribed by procedure, the field audits shall be unannounced and the auditor shall observe PSI radiographers actually performing radiographic operations. Serious deficiencies (such as untrained personnel, not wearing dosimetry, unsafe operations or security issues) identified during the audit shall be discussed with the local and corporate radiation safety officers within 24 hours of the observation and a plan to correct the problem shall be put into place within the following 48 hours following the conversation. The auditor shall provide both the local and corporate radiation safety officers with a copy of the audit results, including discussion of areas needing improvement. The annual audit of the Radiation Safety Program shall include verification that field audit deficiencies have been corrected.

9. PSI shall make a one-time submittal to the Director, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region III, 2443 Warrenville Road, Lisle, IL 60532-4352, as to how each of the above items was completed, including copies of procedure changes and training materials, within 30 days following the initial implementation of the last item (which is scheduled to be implemented no later than 180 days after the issuance of this Confirmatory Order). PSI shall provide the NRC a summary of its annual reviews of the Radiation Safety Program, including information about how this Confirmatory Order has been met for the next five years following

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issuance of this Confirmatory Order. This summary shall be provided to the NRC within 60 days of completion of the annual audit.

10. PSI shall provide the NRC with a minimum of eight days notice prior to entering NRC jurisdiction beyond the requirements of 10 CFR 150.20, for a period of three years following issuance of this Confirmatory Order.
11. PSI shall provide written long-term corrective actions for each of the specific safety and security-related violations enclosed with the Order within 60 days of the issuance of this Confirmatory Order.
12. Within 30 days of the date of this Confirmatory Order, PSI shall pay the civil penalty in the amount of \$15,000 in accordance with NUREG/BR-0254 and submit to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, a statement indicating when and by what method payment was made.

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

VI

Any person adversely affected by this Confirmatory Order, other than PSI, may request a hearing within 20 days of its publication in the *Federal Register*. 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.

All documents filed in the NRC's adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at (301) 415-1677, to request: (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

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Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps

the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at MSHD.Resource@nrc.gov, or by a toll-free call at (866) 672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001,

~~OFFICIAL USE ONLY – SECURITY RELATED INFORMATION~~

Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at http://ehd.nrc.gov/EHD_Proceeding/home.asp, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person (other than PSI) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

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 V above shall be final 20 days from the date this Confirmatory Order is published in the *Federal Register* without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE U.S. NUCLEAR REGULATORY COMMISSION

/RA/

Mark A. Satorius
Regional Administrator
NRC Region III

Dated this 18th day of August 2011

CONSENT AND HEARING WAIVER FORM

Professional Service Industries, Inc., hereby agrees to comply with the terms and conditions of the Confirmatory Order arising out of an alternative dispute resolution process related to enforcement action No. EA-10-161. Professional Service Industries, Inc., understands that the Confirmatory Order will be immediately effective upon its issuance. By signing below, Professional Service Industries, Inc., consents to the issuance of the referenced Confirmatory Order, effective immediately upon its issuance and, by doing so, agrees to waive the right to request a hearing on all or any part of the Confirmatory Order.

/RA/

Mark B. Weiland
Executive Vice President
Professional Service Industries, Inc.,

8/9/11
Date

NOTICE OF VIOLATION

Professional Service Industries, Inc.
Oakbrook Terrace, Illinois

Docket No. 030-33792
License No. 12-16941-03
(terminated)
EA-10-161

During U.S. Nuclear Regulatory Commission (NRC) inspections at Professional Services Industries, Inc. (PSI) on March 31, 2009, and from July 27 through July 30, 2009, with continuing in-office review through April 25, 2011, as well as an investigation conducted from April 10, 2009, through March 9, 2011, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

1. Title 10 of the Code of Federal Regulations (10 CFR), Section 34.43(a), requires, in part, that the licensee not permit any individual to act as a radiographer until the individual has received training in the subjects in 10 CFR 34.43(g) in addition to a minimum of two months of on-the-job training, and is certified through a Radiographer Certification Program by a certifying entity, in accordance with the criteria specified in Appendix A of 10 CFR Part 34.

Ten CFR 34.43(b)(2) requires that the licensee not permit any individual to act as a radiographer until the individual has demonstrated understanding of the licensee's license and operating and emergency procedures by successful completion of a written or oral examination covering this material.

Contrary to the above, between September 19, 2008, and March 16, 2009, inclusive, PSI permitted three individuals to act as radiographers and the individuals did not meet the training requirements specified above. Specifically:

- a. On six occasions between September 19 and 27, 2008, inclusive, an individual acted as a radiographer and the individual had not demonstrated understanding of PSI's license and operating and emergency procedures by successful completion of a written or oral examination covering this material.
- b. On eight occasions between January 14 and 26, 2009, inclusive, an individual acted as a radiographer and the individual was not certified by a certifying entity through a Radiographer Certification Program.
- c. On five occasions between March 12 and 16, 2009, inclusive, an individual worked as a radiographer and both the individual and local licensee management were aware that the individual's certification had expired.

This is a Severity Level III violation (Section 6.3)

2. Ten CFR 34.43(c)(3) requires that the licensee not permit any individual to act as a radiographer's assistant until the individual has demonstrated understanding of the instructions in 10 CFR 34.43(c)(1) by successfully completing a written test on the subjects covered and has demonstrated competence in the use of hardware described

in 10 CFR 34.43(c)(2) by successfully completing a practical examination on the use of such hardware.

Ten CFR 34.41(a) requires, in part, that radiography cannot be performed at a location other than a permanent radiographic installation if only one qualified individual is present.

Contrary to the above, between September 19, 2008, and January 26, 2009, inclusive, PSI permitted three individuals to act as radiographer's assistants on multiple occasions, when they had not successfully completed a written test on the subjects covered or had not successfully completed a practical examination on the use of such hardware. Furthermore, over this same timeframe, PSI performed radiography at temporary job sites and had either one or no qualified individuals present.

Specifically:

- a. On six occasions between September 19 and 27, 2008, inclusive, an individual acted as a radiographer's assistant and the individual had not successfully completed either a written test or a practical examination. The unqualified radiographer's assistant was also one of a two person crew assigned to perform radiography at a temporary job site.
- b. On three occasions between November 20 and 22, 2008, inclusive, an individual acted as a radiographer's assistant and the individual had not successfully completed either a written test or a practical examination. The unqualified radiographer's assistant was also one of a two person crew assigned to perform radiography at a temporary job site.
- c. On at least eleven occasions between December 3, 2008, and January 26, 2009, inclusive, an individual acted as a radiographer's assistant and the individual had not successfully completed either a written test or a practical examination. The unqualified radiographer's assistant was also one of a two person crew assigned to perform radiography at a temporary job site.

This is a Severity Level III violation (Section 6.3)

3. Ten CFR 34.47(a) requires, in part, that the licensee not permit any individual to act as a radiographer's assistant unless, at all times during radiographic operations, each individual wears, on the trunk of the body, a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor.

Contrary to the above, between September 19 and 27, 2008, inclusive, PSI permitted an individual to act as a radiographer's assistant on six occasions and did not provide the individual with a personnel dosimeter to wear while conducting radiographic operations.

This is a Severity Level III violation (Section 6.3)

4. Ten CFR 20.1101(c) requires, in part, that the licensee shall periodically (at least annually) review the Radiation Protection Program content and implementation.

Condition 19 of NRC License No. 12-16941-03 required, in part, that the licensee conduct its program in accordance with the statements, representations, and procedures contained in a list of documents, including the application dated August 30, 2005. The application contained the licensee's "Radiation Safety Program" and Section 2.2 listed a required duty of the corporate radiation safety Oversight Program as including the maintenance of the corporate databases of radiation safety audits of PSI branch offices and review of internal audit reports.

Contrary to the above, between August 30, 2005, and July 27, 2009, inclusive, PSI failed to conduct annual reviews of its Radiation Protection Program content and implementation.

This is a Severity Level IV violation (Section 6.7).

5. Ten CFR 19.13(b) requires, in part, that the licensee provide an annual report to each individual monitored under 10 CFR 20.1502 of the dose received in that monitoring year if the individuals' occupational dose exceeded 100 millirem TEDE [total effective dose equivalent].

Contrary to the above, as of July 30, 2009, PSI had not provided an annual report to each individual monitored under 10 CFR 20.1502 of the dose received in that monitoring year, and the individuals' occupational dose exceeded 100 millirem TEDE for years prior to 2009. Specifically, in 2007, a monitored individual received 800 millirem TEDE, and PSI had not provided the individual an annual report of the dose received. Additionally, in 2008, a second monitored individual received 1,660 millirem TEDE, and PSI had not provided the individual an annual report of the dose received.

This is a Severity Level IV violation (Section 6.7).

6. Condition 19 of License No. 12-16941-03 required, in part, that the licensee conduct its program in accordance with the statements, representations, and procedures contained in specified documents, including the application dated August 30, 2005. The application includes the licensee's, "Radiation Safety Program for Industrial Radiography, Operating and Emergency Procedures, Part D" (RSP).

Item 8.1.1 of the RSP requires, in part, that, when posting a restricted area perimeter, employees are to use physical barriers such as ropes, physical barricades, locked doors, etc., when possible.

Contrary to the above, on January 26, 2009, two PSI employee conducted radiography at a temporary job site and the employees failed to use physical barriers when it was possible for a restricted area perimeter.

This is a Severity Level IV violation (Section 6.3).

7. Condition 19 of License No. 12-16941-03 required, in part, that the licensee conduct its program in accordance with the statements, representations, and procedures contained in specified documents, including the application dated August 30, 2005. The application includes the licensee's, "Radiation Safety Program for Industrial Radiography, Management Responsibilities, Part A." Item 2.5.e of this section states, in part, that radiographic personnel have the responsibility and duty to prevent all unauthorized personnel from being within the restricted area boundaries while industrial radiographic equipment is in use.

Contrary to the above, on January 26, 2009, a PSI employee working as a radiographer did not prevent unauthorized personnel from being within the restricted area boundaries while industrial radiographic equipment was in use. Specifically, radiographic operations occurred while members of the client's staff, who were unauthorized personnel, were in the restricted area.

This is a Severity Level IV violation (Section 6.3).

8. Ten CFR 20.1501 requires that each licensee make or cause to be made surveys that may be necessary for the licensee to comply with the regulations in Part 20 and that are reasonable under the circumstances to evaluate the extent of radiation levels, concentrations or quantities of radioactive materials, and the potential radiological hazards that could be present. As defined in 10 CFR 20.1003, survey means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of radioactive material or other sources of radiation.

Ten CFR 20.1301(a) requires, in part, that licensees conduct operations so that: (1) the total effective dose equivalent to individual members of the public from the licensed operation does not exceed 100 millirem in a year; and (2) the dose in any unrestricted area from external sources, does not exceed 2 millirem in any one hour.

Contrary to the above, between January 29, 2009, and April 25, 2011, PSI failed to make a survey to evaluate the hazards incident to two members of the public in an unrestricted area to ensure that the requirements of 10 CFR 20.1301(a) of 2 millirem in any one hour were not exceeded during an event on January 26, 2009.

This is a Severity Level IV violation (Section 6.7).

The NRC has concluded that the actions described in the Confirmatory Order will provide an adequate response to the violations. Therefore, PSI is not required to separately respond to this Notice of Violation (Notice).

In accordance with 10 CFR 19.11, PSI may be required to post this publicly available Notice within two working days.

Dated this 18th day of August 2011