



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
2100 RENAISSANCE BOULEVARD, SUITE 100
KING OF PRUSSIA, PENNSYLVANIA 19406-2713

July 29, 2013

Docket Nos. 030-37882
030-37957
Control No. 144277
EA-11-086

License Nos. 52-31352-01MD
52-31352-02

Frank Kolodziej, M.D.
President and Owner
International Cyclotron, Inc.
Calle Jose Marti #56
Floral Park
Hato Rey, PR 00918

SUBJECT: INTERNATIONAL CYCLOTRON, INC., REQUEST FOR ADDITIONAL
INFORMATION CONCERNING LICENSES, CONTROL NO. 144277 AND
ORDER SUSPENDING LICENSED ACTIVITIES DATED DECEMBER 19, 2011

Dear Dr. Kolodziej:

This is in reference to U.S. Nuclear Regulatory Commission (NRC) License Nos. 52-31352-01MD and 52-31352-02 for International Cyclotron, Inc. This is also in reference to the NRC Order Suspending Licensed Activities (Order) issued to International Cyclotron on December 19, 2011 (Enforcement Action EA-11-086), due to its failure to provide a financial assurance instrument to cover future decommissioning costs, as required by Title 10 of the Code of Federal Regulations (10 CFR) Section 30.35(f). In accordance with the Order, because an acceptable financial assurance instrument was not submitted to the NRC by February 17, 2012, International Cyclotron was required to cease all licensed activities, excluding possession and storage of the radioactive sources.

Please provide us with the following information, in writing, for our review:

1. Describe the activities you will perform to ensure that licensed materials possessed under the above-listed licenses remain secure, and in a safe condition.

The NRC is concerned because it appears that the facilities are secure, but deteriorating.

On June 12, 2013, Lester Tripp of this office visited your facility at Calle José Marti #56, Floral Park, Hato Rey, Puerto Rico, to tour the facility authorized by the above listed NRC licenses. He was accompanied by your Radiation Safety Officer, David Rhoe. The visit was limited to observing the condition of your facility and discussion of the status of efforts to maintain the facilities. Based on this visit, the facility appeared to be closed, with no electrical service, but was adequately secured. There was rain water present, and the lower level of the facility was flooded. The flooding was not in the area of the cyclotron, or the sealed source storage area. Based on the previous visits that occurred

on February 22, 2012; September 6, 2012, and February 4, 2013, it appears that the facilities are deteriorating, with water intruding into the building where rooftop ventilation equipment has been removed. Based on the NRC inspectors' observations, the areas where the licensed materials are stored is still dry, but we are concerned that continued deterioration could affect the licensed materials and the ability to use the facilities in the future.

2. Provide a description of your efforts since the Order became effective to a) obtain a financial assurance instrument and re-start your licensed activities; b) transfer (sell) your licensed materials and facilities to persons who could be authorized to perform such activities; and c) decommission your licensed facilities and dispose of radioactive wastes.

The NRC is concerned because it appears that little progress has been made to meet the requirements of the Order.

On June 12, 2013, Lester Tripp spoke with you by telephone to inquire if there was any progress towards obtaining a Financial Assurance (FA) instrument, and to discuss your plans for the future of International Cyclotron. Based on this discussion, we understand that you have not obtained a FA instrument for NRC License No. 52-31352-02. We further understand that four companies have expressed interest in purchasing International Cyclotron, and a sale of the company could take place in the next six months. However, you are waiting for the completion of an evaluation of the company's worth. During the previous contacts with inspectors and in electronic mail correspondence with NRC staff members during the past year, you previously stated that you have buyers interested in purchasing the facilities and equipment but it appears that little progress has been made.

Please be aware that:

- If you sell International Cyclotron, you must, in accordance with 10 CFR 30.34(b), first obtain NRC consent to transfer the licenses to another entity. This will require you and the purchaser to demonstrate that the purchaser is qualified to perform the licensed activities. Please refer to Chapter 5, "Change of Control" in NUREG-1556, "Consolidated Guidance About Materials Licensees," Volume 15, "Program-Specific Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source or Special Nuclear Material Licenses" (NUREG-1556, Volume 15) for further guidance. This information may be viewed electronically at <http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1556/v15/>.
- If you, instead, obtain a financial assurance instrument, you should refer to the guidance in NUREG-1757, "Consolidated NMSS Decommissioning Guidance," Volume 3, "Financial Assurance, Recordkeeping and Timeliness." This information is also available on the NRC website. Any financial assurance instrument must be submitted to the NRC for review and acceptance before International Cyclotron's license could be amended to allow resumption of licensed activities.
- If you do not either sell International Cyclotron or obtain an acceptable financial

assurance instrument by February 17, 2014, you will not have conducted principal activities under the licenses for a period of 24 months. In that case, in accordance with 10 CFR 30.36(d), within 60 days (i.e., by April 14, 2014), you must notify the NRC in writing and begin decommissioning your facilities. If you cannot immediately begin decommissioning, you must notify the NRC in writing within the 60 days, and submit a decommissioning plan to the NRC within 12 months of the notification.

Current NRC regulations and guidance are included on the NRC's website at www.nrc.gov; select **Nuclear Materials; Med, Ind, & Academic Uses**; then **Licensee Toolkits, see our toolkit index page**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 8:00 a.m. to 5:30 p.m. EST, Monday through Friday (except Federal holidays).

We request a reply within 30 days, and will continue our review upon receipt of this information. Please reply to my attention at the Region I Office and refer to Mail Control No. 144277. If you have any technical questions regarding this deficiency letter, please call Betsy Ullrich at (610) 337-5040.

Sincerely,

Original signed by Judith A. Joustra

Judith A. Joustra, Chief
Commercial and R&D Branch
Division of Nuclear Materials Safety

cc:

Frank Kolodziej, (home address)
Frank Kolodziej, (alternate business address)
David Rhoe, Radiation Safety Officer

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