

NUCLEAR REGULATORY COMMISSION

[IA-13-033; NRC-2014-0061]

In the Matter of George Geisser, III

AGENCY: Nuclear Regulatory Commission.

ACTION: Order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an order prohibiting Mr. Geisser, III from involvement in NRC-licensed activities for a period of 3 years. The order also requires Mr. Geisser, III to notify the NRC of any current involvement in NRC-licensed activities and for a period of 1 year after the 3-year period of prohibition has expired, that he provide a written notice for his first employment offer involving NRC-licensed activities.

DATES: *Effective Date:* See attachment.

ADDRESSES: Please refer to Docket ID **NRC-2014-0061** when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2014-0061**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; e-mail: Carol.Gallagher@nrc.gov.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public](#)

[Documents](#)” and then select “[Begin Web-based ADAMS Search.](#)” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

- **NRC’s PDR:** You may examine and purchase copies of public documents at the NRC’s PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Thomas Marenchin, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-2979, e-mail: Thomas.Marenchin@nrc.gov.

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated at Rockville, Maryland, this 20th day of March 2014.

For the Nuclear Regulatory Commission.

Roy P. Zimmerman, Director,
Office of Enforcement.

Attachment – Order Prohibiting Involvement in NRC Licensed Activities

NUCLEAR REGULATORY COMMISSION

In the Matter of)
) **IA-13-033**
George Geisser, III)

**ORDER PROHIBITING INVOLVEMENT IN
NRC LICENSED ACTIVITIES**

I.

George Geisser, III is President of Geisser Engineering Corporation (GEC) located in Riverside, Rhode Island. GEC does not possess a license issued by the NRC pursuant to Part 30 of Title 10 of the *Code of Federal Regulations* (10 CFR). However, GEC is the holder of a State of Rhode Island materials license, which authorizes the possession and use of portable moisture/density gauges containing sealed sources of radioactive material within the State of Rhode Island. The holder of a State license may perform work authorized by the license in other State or Federal jurisdictions provided the State licensee files for reciprocity with the appropriate regulatory authority.

II.

On May 9, 2012, the NRC conducted an inspection at GEC facilities, with continued in-office review through August 15, 2013. The inspection was an examination of activities conducted under the general license pursuant to 10 CFR 150.20 as it relates to safety and

security, compliance with the Commission's rules and regulations, and with the conditions of the GEC State of Rhode Island Radioactive Materials License RI-3L-050-01. During the inspection, an apparent violation of 10 CFR 150.20 was identified. The apparent violation involved GEC's failure to file for reciprocity on multiple occasions between October 21, 2009, and June 23, 2011. Specifically, GEC used portable gauges on 22 occasions in the State of Connecticut and at Newport Naval Station in Newport, Rhode Island, an area of exclusive Federal jurisdiction within the Agreement State of Rhode Island, without filing for reciprocity with the NRC.

Additionally, an investigation was conducted by the NRC's Office of Investigations (OI) to determine whether Mr. Geisser, the President/Owner of GEC, deliberately engaged in the use of licensed material in areas of NRC jurisdiction without filing for reciprocity. Based on the evidence gathered during the investigation, which was completed on April 26, 2013, the NRC concluded that Mr. Geisser acted deliberately.

In a letter dated August 16, 2013, the NRC informed Mr. Geisser that the NRC was considering escalated enforcement action against him for an apparent violation of the NRC's deliberate misconduct rule, 10 CFR 30.10. Specifically, the NRC concluded that Mr. Geisser apparently deliberately conducted and directed employees of GEC to use licensed material in areas of NRC jurisdiction on 22 occasions between October 21, 2009, and June 23, 2011, without filing for reciprocity with the NRC, which caused GEC to be in violation of 10 CFR 150.20.

In a separate letter dated August 16, 2013, the NRC informed Mr. Geisser that the NRC was also considering escalated enforcement action against his company for multiple violations of 10 CFR 150.20. In those letters, the NRC offered GEC and Mr. Geisser a choice to attend a Predecisional Enforcement Conference (PEC) or to request Alternative Dispute Resolution (ADR) with the NRC in an attempt to resolve issues associated with the apparent violation. During a conference call with NRC staff, Mr. Geisser indicated that he would like to participate in a PEC. A PEC was conducted on November 20, 2013.

During the PEC, Mr. Geisser indicated that, as President of GEC, he did, in fact, engage in the use of licensed material in NRC jurisdiction without filing for reciprocity with the NRC. However, he disagreed that his actions were deliberate. Mr. Geisser stated that he deliberately performed licensed activities in the Commonwealth of Massachusetts (MA) without filing for reciprocity with MA, but did not act deliberately to violate NRC's requirements when he conducted the same licensed activities in the State of Connecticut or at the Newport Naval Station in Rhode Island without filing for reciprocity with the NRC. Mr. Geisser further stated that he thought his Rhode Island license covered licensed activities for all locations within Rhode Island.

Based on the results of the inspection and the OI investigation, and information provided during the PEC, the NRC concluded that Mr. Geisser engaged in deliberate misconduct in violation of 10 CFR 30.10(a)(1).

III.

Mr. Geisser, the President of GEC, has engaged in deliberate misconduct, in violation of 10 CFR 30.10(a)(1), which has caused GEC to be in violation of 10 CFR 150.20(b)(1). GEC, as the holder of an Agreement State license, was required under 10 CFR 150.20(b)(1) to file NRC Form 241, "Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, or Offshore Waters," a copy of its Agreement State specific license, and the appropriate fee, with the Regional Administrator of the appropriate NRC regional office 3 days prior to engaging in licensed activities in areas of NRC jurisdiction. The NRC must be able to rely on GEC and its employees to act with integrity and comply with all applicable NRC's requirements. As President of GEC, Mr. Geisser's actions in causing GEC to violate 10 CFR 150.20(b)(1) raised serious doubt as to whether he can be relied upon to comply with NRC's 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. Geisser were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety and interest require that Mr. Geisser be prohibited from any involvement in NRC-licensed activities for a period of 3 years from the effective date of this Order. Additionally, Mr. Geisser is required to notify the NRC of his acceptance of his first employment offer involving NRC-licensed activities or his first becoming involved in NRC-licensed activities for a period of 1 year after the 3-year period of prohibition has expired.

IV.

Accordingly, pursuant to sections 81, 161b, 161i, 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 30.10, IT IS HEREBY ORDERED THAT:

1. George Geisser, III is prohibited for 3 years from the effective date of this Order from engaging in, supervising, directing, or in any other way conducting 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 George Geisser, III is currently involved in NRC-licensed activities as defined in Paragraph IV.1 above, other than as the President of GEC, he must cease those activities no later than the effective date of this Order, and within 15 days of the effective

date of this Order, he must: (a) provide written notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, of a description of those activities, and the name, address, and telephone number of the entity where he is involved in the NRC-licensed activities, and (b) provide a copy of this to those entities.

3. For a period of 1 year after the 3-year period of prohibition has expired, George Geisser, III shall, within 20 days following acceptance of his first employment offer involving NRC-licensed activities, as defined in Paragraph IV.1 above, provide written notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, of the name, address, and telephone number of the entity where he is, or will be, involved in the NRC-licensed activities, and a description of the type of activities. In the notification, George Geisser, III 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's requirements.

The Director, Office of Enforcement, or designee, may, in writing, relax or rescind any of the above conditions upon demonstration by George Geisser, III of good cause.

V.

In accordance with 10 CFR 2.202, George Geisser, III, must submit a written answer to this Order under oath or affirmation within 20 days of its issuance. The response shall admit or deny the charge made in the Order. George Geisser, III's failure to respond to this Order could result in additional enforcement action in accordance with the Commission's Enforcement Policy. Any person adversely affected by this Order may submit a written answer to this Order

within 20 days of its issuance. In addition, George Geisser, III and any other person adversely affected by this Order may request a hearing on this Order within 30 days of its issuance.

Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be directed 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.

All documents filed in NRC 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's 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 10 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 (1) request a digital identification (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.

Information about applying for a digital ID certificate is available on the 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 the NRC's "Guidance for Electronic Submission," which is available on the NRC'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 System, users will be required to install a Web browser plug-in from the NRC's public 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's 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's 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 or 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 NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Meta System Help Desk through the "Contact Us" link located on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail to MSHD.Resource@nrc.gov, or by a toll-free call to 1-866-672-7640. 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, 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 the NRC electronic hearing docket, which is available to the public at <http://ehd1.nrc.gov/ehd/>, 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, participants are requested not to include copyrighted materials in their submission, except for limited excerpts that serve the purpose of the adjudicatory filings and constitute a Fair Use application.

If a person other than Mr. Geisser 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 licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. 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 final 30 days from issuance 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.

Dated at Rockville, Maryland, this 20th day of March 2014.

For the Nuclear Regulatory Commission.

/RA/

Roy P. Zimmerman, Director,
Office of Enforcement.