

U. S. NUCLEAR REGULATORY COMMISSION

In the Matter of

Midstate Testing Laboratory, Inc.	)	Byproduct Material License
7943 New Jersey Avenue	)	No. 13-11822-01
Hammond, Indiana 46323	)	EA 82-94

ORDER TO SHOW CAUSE AND ORDER  
SUSPENDING LICENSE EFFECTIVE IMMEDIATELY

I

Midstate Testing Laboratory, Inc. (the "licensee") holds Byproduct Material License No. 13-11822-01 (the "license") issued by the Nuclear Regulatory Commission. The license authorizes the licensee to use and possess byproduct material in the performance of radiographic operations under conditions specified in the license and the Commission's regulations. The license expires on February 29, 1984.

II

On June 2, 1982 the Senior Inspector of Midstate Testing Laboratory, Inc., contacted the NRC Region III office and stated that Midstate Testing Laboratory, Inc., was going bankrupt and was "locked out" of their facility on June 2, 1982.

On June 2, 1982 the NRC Region III office contacted the landlord, Kennedy Industrial Parks, and verified that Midstate Testing Laboratory, Inc. had been locked out of its facility located at 7943 New Jersey Avenue in Hammond, Indiana.

The NRC Region III office made numerous attempts to contact the president of Midstate Testing Laboratory, Inc. by telephone during the period June 4 through June 17, 1982, but was not able to establish contact.

On June 18, 1982 the NRC Region III office inspected the Midstate Testing Laboratory, Inc. facility with the landlord's permission. It was noted the licensee's inventory consisted of five radiographic exposure devices, three sealed radiography sources, and one soil moisture probe containing radioactive material.

On June 22, 1982 the NRC Region III office sent a letter to the president of Midstate Testing Laboratory, Inc., at the Hammond, Indiana address. The letter stated that if the licensee did not contact NRC by 4:00 p.m. on June 28, 1982, and make arrangements to transfer the radioactive material the NRC would take measures to ensure that the radioactive material would be placed in a safe storage location pending final disposal.

The licensee, Midstate Testing Laboratory, Inc., has not contacted the NRC or made arrangements to transfer the radioactive material. Therefore, the president of Midstate Testing Laboratory, Inc., has apparently abandoned the radioactive material.

The abandonment of radioactive material by a licensee is a condition that would warrant the Commission to refuse to grant a license on an original application. Under 10 CFR 30.34(f), licensees are required to notify the Commission in writing

when the licensee decides to permanently discontinue all activities involving materials authorized under a license. In the circumstances at hand, the licensee has apparently abandoned his place of business and the licensed material at the business premises, and the licensee has made no apparent arrangements to transfer the material or to ensure its continued safekeeping. Moreover, Commission representatives have been unable to determine the licensee's intended actions with respect to its license and the radioactive material. In these circumstances, there is no assurance that the licensee will conduct its activities in accordance with the Commission's requirements. Therefore, I have determined that the licensee should show cause why License No. 13-11822-01 should not be revoked. In view of the foregoing circumstances surrounding the licensee's apparent abandonment of the material and its business premises, I have also determined that the public health, safety, and interest require an immediate suspension of License No. 13-11822-01 and transfer of the material to an authorized recipient within 5 days of issuance of this Order.

III

Accordingly, pursuant to Sections 81, 161(b), and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2, 30 and 34, IT IS HEREBY ORDERED THAT:

- A. Effective immediately, License No. 13-11822-01 is suspended pending further order, and the licensee shall cease and desist from any use of byproduct material in its possession and from any further acquisition or receipt of byproduct material;

- B. Within 5 days of the issuance of this Order the licensee shall transfer or permit the transfer of all radioactive material within its possession to a person authorized to possess such material; and
- C. The licensee shall show cause, as provided in Section IV below, why License No. 13-11822-01 should not be revoked.

#### IV

Within 25 days of the date of this Order, the licensee may show cause why the license should not be revoked, as required in Section III.C. above, by filing a written answer under oath or affirmation that sets forth the matters of fact and law on which the licensee relies. The licensee may answer, as provided in 10 CFR 2.202(d), by consenting to the entry of an Order in substantially the form proposed in this Order to Show Cause. Upon failure of the licensee to file an answer within the specified time, the Director of the Office of Inspection and Enforcement may issue without further notice an Order revoking License No. 13-11822-01.

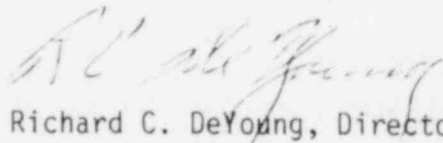
#### V

The licensee may request a hearing on this Order within 25 days after the issuance of this Order. Any answer to the Order or request for a hearing shall be submitted to the Director, Office of Inspection and Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555. A copy shall also be sent to the

Executive Legal Director at the same address. A REQUEST FOR A HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF SECTIONS III.A and III.B OF THIS ORDER.

If the licensee requests a hearing on this Order, 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, on the basis of the matters set forth in Section II of this Order, License No. 13-11822-01 should be revoked.

FOR THE NUCLEAR REGULATORY COMMISSION

  
Richard C. DeYoung, Director

Office of Inspection and Enforcement

Dated at Bethesda, Maryland  
this 22 day of July 1982