

UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
MR. RAYMOND TARR) Docket No. 030-15075
MR. MILTON R. HAMILTON) License No. 20-05520-05 (Expired)
OMNIWAVE ELECTRONICS CORPORATION) EA 94-124
RCM CORPORATION)
CHEROKEE ELECTRONICS CORPORATION)
Gloucester, Massachusetts)

ORDER TO CEASE AND DESIST USE AND POSSESSION OF REGULATED BYPRODUCT MATERIAL
AND DECOMMISSION FACILITY AND DEMAND FOR INFORMATION

Mr. Raymond Tarr was President and Mr. Milton R. Hamilton was an authorized user and the Executive Vice-President of Omni-Wave Electronics Corporation (Licensee), the holder of expired Byproduct Materials License No. 20-05520-05 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30 on November 15, 1985. The License authorized the possession and use of cobalt-60 in any form, up to 10 millicuries, and krypton-85 in any form, up to 500 millicuries, in accordance with the conditions specified therein. The License expired on April 30, 1990.

II

Since the expiration of the License, the byproduct material has remained at 22 Blackburn Drive, Gloucester, Massachusetts, 01930, in a building co-owned by Messrs. Tarr and Hamilton. It was represented to the NRC during a telephone conversation on August 20, 1992, between Mr. Milton Hamilton, Licensee, and Mr. Charles Amato, NRC, that there have been two successors of Omni-Wave Electronics, RCM Corporation and Cherokee Electronics Corporation.

The Licensee did not submit an application for renewal of the License pursuant to 10 CFR 30.37 prior to its expiration, nor did the Licensee notify the Commission, in writing, pursuant to 10 CFR 30.36, of a decision not to renew the License. On January 27, 1992, the NRC, Region I, issued a Notice of Violation (NOV) to the RCM Corporation, ATTN: Mr. Milton Hamilton, as successor to the Licensee, for failure to request renewal, or to file a notice of non-renewal or transfer of the byproduct material, prior to expiration of the License. The letter forwarding the NOV directed RCM Corporation to place the radioactive material in its possession in secure storage until such time as it acquired an NRC license, and stated that no other use of that material or purchase of additional material was authorized. RCM Corporation applied for a possession license on March 19, 1992. However, in a telephone conversation with Mr. Charles G. Amato, Health Physicist, NRC, Region I, on July 29, 1992, Mr. Hamilton stated that RCM Corporation was undergoing reorganization and requested that the application be withdrawn. In a letter dated August 3, 1992, the RCM Corporation withdrew its application for a possession license. As of this date, you, Omni-Wave, RCM Corporation or Cherokee Electronics Corporation have not applied for, nor obtained, an NRC license.

On August 11, 1993, the NRC, Region I, issued a Confirmatory Action Letter No. 1-93-004 (CAL) to Mr. Milton Hamilton of the Omni-Wave Electronics Corporation confirming the Licensee's commitment to develop and submit a decommissioning plan to the NRC Region I office by September 15, 1993, and that the decommissioning work be completed by November 15, 1993. The CAL also stated that Omni-Wave Electronics committed to prepare and transmit to the NRC by November 15, 1993, a report showing the disposition of radioactive material with copies of all

shipping papers. On September 9, 1993, Mr. Hamilton requested an extension to the date stated in the CAL, in order to raise funds for the completion of the decommissioning. He stated that due to a very tight budget and the approximate cost for decommissioning, it was anticipated that the decommissioning would be accomplished within 30-45 days. As of this date, a report has not been transmitted to NRC describing the decommissioning of the facility, nor have copies of shipping papers been submitted to the NRC showing the disposition of radioactive material.

On June 15, 1994, the NRC conducted a special confirmatory safety inspection at 22 Blackburn Drive, Gloucester, Massachusetts. The inspection was performed to identify licensed material still in possession under an expired license and to assure that the material was in safe storage. The inspection included the pump room area of the facility, the manufacturing area, and the storage area used for licensed material. The NRC inspector identified cobalt-60 and krypton-85 byproduct material, cobalt-60 contamination, and cobalt-60 waste, at the facility located at 22 Blackburn Drive, Gloucester, Massachusetts.

III

Messrs. Tarr and Hamilton, as co-owners of the building at 22 Blackburn Drive, Gloucester, Massachusetts, remain in possession of non-exempt radioactive material without a license. This is prohibited by Section 81 of the Atomic Energy Act (AEA) of 1954, as amended, and by 10 CFR 30.3, which state that, (except for persons exempt as provided in 10 CFR Parts 30 and 150), no person shall possess or use byproduct material except as authorized in a specific or

general NRC license. Messrs. Tarr and Hamilton continue to possess the radioactive material contrary to Section 81 of the AEA and 10 CFR 30.3, without an NRC license.

Improper handling of the byproduct material can result in unnecessary exposure to radiation. The Atomic Energy Act and the Commission's regulations require that the possession of licensed material be under a regulated system of licensing and inspection. Given the circumstances surrounding Messrs. Tarr's and Hamilton's possession of the byproduct material and failure of Mr. Hamilton, whether acting on the behalf of the Licensee or RCM Corporation, as successor to the Licensee, or as an individual, to respond adequately to the NOV and CAL, I lack the requisite reasonable assurance that the health and safety of the public will be protected while Messrs. Tarr and Hamilton remain in possession of the radioactive material without the required NRC license.

IV

Accordingly, in accordance with Sections 81 and 161b, i, and o of the Atomic Energy Act of 1954, as amended, and 10 CFR Parts 20 and 30 the Commission's regulations, Messrs. Tarr and Hamilton must:

- A. Cease and desist from any further use of byproduct material now in their possession.
- B. Continue to maintain safe control over the byproduct material, by keeping the material in locked storage and not allowing any person access to the

material, except for purposes of assuring the material's continued safe storage, until the material is transferred to a person authorized to receive and possess the material in accordance with the provisions of this Order and the Commission's regulations.

- C. Transfer the cobalt-60 and the krypton-85 byproduct material and all associated radioactively contaminated waste located at 22 Blackburn Drive, Gloucester, Massachusetts within 30 days to a person authorized to receive and possess the material.

- D. Decommission the facility within 60 days of the date of this Order and DFI and provide: (1) a notification of when decommissioning has been completed, and (2) a report providing the information required by 10 CFR 30.36 (c)(1)(v)(A) and (c)(1)(v)(B), appending to it the original and one copy of NRC Form-314, "Disposition of Radioactive Material," with copies of all shipping papers. This 60 day period does not excuse the continuing violation of the requirements in 10 CFR 30.36 to remove radioactive contamination, properly dispose of byproduct material, submit a completed form NRC-314, and conduct a radiation survey of the premises.

In addition to issuance of this Order, the Commission requires further information from Messrs. Tarr and Hamilton in order to determine whether the Commission can have reasonable assurance that in the future, should Messrs. Tarr or Hamilton perform licensed activities under any other NRC license, Messrs. Tarr

and Hamilton will conduct any activities in accordance with NRC requirements, and to determine whether enforcement action is warranted against Messrs. Tarr or Hamilton, as individuals.

Accordingly, pursuant to sections 161c, 161o, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204, Messrs. Tarr and Hamilton are hereby required to submit, either jointly or separately, to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, D. C. 20555, within the timeframe specified below, a statement in writing, under oath or affirmation, on the following information:

1. Within 10 days of the date of this Order and DFI, inform the NRC, by letter, how each intends to comply with NRC requirements; in particular, how you intend to maintain safe control over the byproduct material prior to the transfer of the material to an authorized recipient.
2. Within 15 days of the date of this Order and DFI, Messrs. Tarr and Hamilton shall provide a decommissioning plan for NRC review and approval, which will meet the applicable requirements of 10 CFR 30.36.
3. Within seven days following transfer of the radioactive material, Messrs. Tarr and Hamilton shall provide: (1) confirmation that the cobalt-60 and the krypton-85 have been transferred; and (2) a copy of the certification from the authorized recipient that the byproduct material has been received.

4. At least two working days prior to the date of the transfer of the byproduct material, Mr. Tarr or Mr. Hamilton shall notify Dr. Ronald Bellamy, Chief, Nuclear Materials Safety Branch, NRC, Region I, by telephone (610-337-5200) so that the NRC may, if it elects, observe the transfer of the material to the authorized recipient.

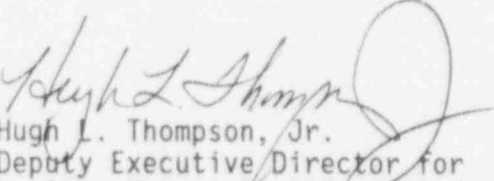
5. Within 30 days of the date of this Order and DFI, if Messrs. Tarr and Mr. Hamilton believe they do not have sufficient funds to complete the transfer and decommissioning, they must provide specific evidence supporting such a claim by submitting: (1) an estimate of the cost of the transfer and decommissioning, and the basis for the estimate, including the license number and identity of the person who would perform the transfer and decommissioning; (2) written statements from at least two banks stating that Messrs. Tarr and Hamilton could not qualify for a loan to pay for the transfer of the byproduct materials and decommissioning of the facility; (3) copies of Federal income tax returns for the years ending 1993, 1992, 1991, and 1990, for both Messrs. Tarr and Hamilton; (4) copies of all Bankruptcy Court submittals for the Licensee, RCM Corporation and Cherokee Electronics Corporation; copies of all Bankruptcy Court decisions related to the above corporations; and copies of all correspondence between these corporations and the NRC related to the bankruptcy proceedings; and (5) a signed agreement to allow the NRC to receive Messrs. Tarr and Hamilton's credit information from a credit agency. A SUBMITTAL OF EVIDENCE SUPPORTING THE LACK OF SUFFICIENT FUNDS DOES NOT EXCUSE NONCOMPLIANCE WITH THIS ORDER.

6. Within 30 days of the date of this Order and DFI provide:
- a. A list of all NRC licensees for whom Messrs. Tarr and Hamilton perform licensed activities, or with whom they are associated in any other capacity;
 - b. A statement as to why the NRC should have confidence that Messrs. Tarr and Hamilton would comply with NRC requirements in the event that they perform licensed activities under another NRC license.
 - c. A statement as to why, in light of the facts set forth above, the NRC should not issue an Order to both Messrs. Tarr and Hamilton, as individuals, prohibiting them from engaging in NRC-licensed activities.

This information is needed in light of the continued violations of Commission requirements. Copies of the response to this Demand for Information also shall be sent to the Regional Administrator, Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406, and to the Assistant General Counsel for Hearings and Enforcement, U. S. Nuclear Regulatory Commission, Washington, D. C. 20555.

After reviewing your response, the NRC will determine whether further action is necessary to ensure compliance with NRC requirements.

FOR THE NUCLEAR REGULATORY COMMISSION


Hugh L. Thompson, Jr.
Deputy Executive Director for
Nuclear Materials Safety, Safeguards,
and Operations Support

Dated at Rockville, Maryland
this 2nd day of August 1994

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