

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of

Centro de Medicina Nuclear  
Santurce, Puerto Rico

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Docket No. 03031963  
License No. 52-25127-01

EA-13-059

ORDER IMPOSING CIVIL MONETARY PENALTY

I

Centro de Medicina Nuclear (Licensee) is the former holder of Materials License 52-25127-01, issued by the U.S. Nuclear Regulatory Commission (NRC) on November 30, 1990. The license had authorized the Licensee to possess and use unsealed byproduct material for medical uses and sealed sources for instrument calibration in accordance with the conditions specified therein. The Licensee was issued an NRC Order Revoking License on August 7, 2012, for non-payment of the NRC annual license fee. The Order specified that if the fee was not paid within 20 days, the license was to be revoked and the Licensee was to perform a number of actions. Because the Licensee did not pay the fee within the allotted timeframe, the license was, in fact, revoked on August 28, 2012.

II

The Licensee was required to either pay the fee or respond to the Order by August 28, 2012, and to perform specified actions toward initiating site decommissioning which included:

(1) arranging for disposal or transfer of any licensed material possessed under the license; (2) within 5 days after disposal, providing the NRC written reports describing how, where, and when such disposition took place; (3) within 60 days from the date of revocation, initiating site decommissioning; and (4) no later than the date of revocation, submitting to the NRC a written report that includes: (a) a listing of all licensed materials disposed of, transferred, or still in possession; (b) a description of the conditions of storage of retained materials and actions being taken to control access to the material; and (c) for any licensed material not disposed of or transferred, a description of the actions taken to attempt to dispose of or transfer the licensed material and why those actions were unsuccessful.

After the Licensee did not respond to the Order, an NRC inspector visited the site on January 17, 2013, and confirmed that the Licensee's radioactive sources were secure. During that visit, the Licensee representative informed the inspector that the Licensee had no specific timeframes planned to take the actions required by the Order. In a May 16, 2013, letter, the NRC documented the observations from the January site visit, and provided the Licensee 30 additional days to take the actions required by the Order (initiating site decommissioning and submitting a written report with the status of CDM's licensed materials and actions taken to dispose of or transfer the materials). Based on the Licensee's subsequent failure to respond to either the NRC letter or to telephone messages left by NRC staff, the NRC concluded that the Licensee continued to be in violation of NRC requirements.

### III

The NRC served a written Notice of Violation and Proposed Imposition of Civil Penalty (Notice), stating the violation and the amount of the civil penalty proposed for the violation upon

the Licensee by letter dated November 5, 2013. A response to the Notice was required within 60 days of the date of the letter transmitting the Notice (i.e., by January 4, 2014). However, the NRC also informed the Licensee that if it transferred or disposed of its licensed material within those 60 days, the NRC would forgo imposition of any civil penalty.

After the Licensee did not respond to the Notice, an NRC inspector visited the facility on January 29, 2014, and again ascertained that the licensed material inventory was unchanged and verified that the material was properly secured. NRC staff also participated in a telephone conversation with a Licensee representative on January 29, 2014, during which the Licensee representative stated that he had been granted power of attorney over the affairs of the Licensee owner, and had only recently been made aware of the NRC enforcement action. The Licensee representative agreed to obtain cost estimates for disposal of the licensed material. During subsequent conversations on February 24, 2014, the Licensee informed the NRC that it had not disposed of the licensed material because CDM did not have sufficient funds to do so.

The Licensee remained in possession of the licensed material after January 4, 2014, and has also not paid the civil penalty. Accordingly, the NRC staff has determined that the proposed penalty for the violation designated in the Notice should be imposed, in the amount of \$7000.

#### **IV**

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, IT IS HEREBY ORDERED THAT:

The Licensee pay a civil penalty in the amount of \$7000 within 30 days of the date of this Order, in accordance with NUREG/BR-0254. In addition, at the time payment is made, the Licensee

shall submit a statement indicating when and by what method payment was made, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738.

## V

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order within 30 days of the date of this Order. In addition, the Licensee may demand a hearing on all or part of this Order. Any other person adversely affected by this Order may request a hearing on this Order within 30 days of the date of the Order. 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, 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, as amended by 77 FR 46562; August 3, 2012), codified in pertinent part at 10 CFR Part 2, Subpart C. 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 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.

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 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 available from the NRC's Electronic Information Exchange (EIE) system. In order to serve documents through EIE, 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 through

the EIE. 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 (ET) 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, any others who wish to participate in the proceeding (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 NRC'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's public 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., ET, 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's 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 would constitute a Fair Use application.

If a person other than the Licensee 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) and (f).

If a hearing is requested by a Licensee or an adversely affected person that meets the criteria above, 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 a 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 the date of 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. If payment has not been made by the time specified above, the matter may be referred to the Attorney General for further action, including collection.

Dated at Rockville, Maryland, this 8<sup>th</sup> day of April 2014

For the Nuclear Regulatory Commission

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Roy P. Zimmerman, Director  
Office of Enforcement