

In the Matter of
APPLIED HEALTH PHYSICS, INC.
Bethel Park, Pennsylvania

CONFIRMATORY ORDER
(EFFECTIVE IMMEDIATELY)

Applied Health Physics, Inc. (Licensee or AHP) is the holder of NRC License Nos. 37-14600-01 and 37-09135-01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30. The Licensee's facility is located on the Licensee's site in Bethel Park, Pennsylvania. License No. 37-14600-01 currently authorizes the receipt, possession, and storage of pre-packaged wastes. License No. 37-09135-01 currently authorizes leak tests services, analysis of samples, calibrations of instruments, and fixed gauge services. License No. 37-14600-01 initially was issued on September 4, 1975, and is due to expire on January 30, 1997. License No. 37-09135-01 was initially issued on February 19, 1963, and is due to expire on October 31, 2000.

AHP was issued a Confirmatory Order on March 29, 1996, (the Order) as a result of its storage of radioactive waste for more than 180 days, which is a repeat violation, possessing radioactive material which AHP was not authorized to possess, and NRC's concern about the financial status of the licensee and the possibility of abandoned radioactive material at the licensee's facility.

In letters dated May 2 and 16, 1996, AHP stated that it had complied with the Order and requested a relaxation of the Order which would authorize AHP to receive pre-packaged radioactive wastes at their Bethel Park facility. In particular, these letters described AHP's actions which included the disposal of certain specified waste and the establishment of an escrow account into which would be deposited revenues from customers whose waste is transferred to its Bethel Park, Pennsylvania facility. These revenues would be deposited into escrow within five business days and would include the revenues required to pay for the direct costs of transportation, permits, disposal, and a 10% contingency fee.

The NRC reviewed the AHP request and, based on the information provided in its letters cited above, the NRC found that AHP had satisfactorily complied with the requirements of the Order to be met to date and had made satisfactory progress toward completion of the remaining requirement, Paragraph IV.C of the Order, which is to be completed by December 31, 1996. In accordance with Section IV of the Order, Paragraph IV.A. of the Order was rescinded by letter dated May 31, 1996, so as to authorize AHP to receive prepackaged radioactive waste at its Bethel Park, Pennsylvania facility. The other requirements of the Order remained in effect.

Since that time, the NRC learned that the United States Internal Revenue Service seized AHP's bank accounts, thereby preventing disposal of radioactive waste located at AHP's Bethel Park, Pennsylvania facility. As a result, the NRC no longer has confidence that AHP will be able to dispose of the radioactive waste on-site. Accordingly, in AHP's facsimile dated September 3,

1996, AHP agreed to suspend all receipt of pre-packaged radioactive waste at your Bethel Park, Pennsylvania facility.

III

I find that the Licensee's commitments as set forth in its facsimile of September 3, 1996 are acceptable and necessary and conclude that with these commitments, the public health and safety are reasonably assured. In view of the foregoing, I have determined that the public health and safety require that the Licensee's commitments in its September 3, 1996 facsimile be confirmed by this Order. The Licensee has agreed to this action in a telephone call on September 12, 1996, between Francis M. Costello, Chief, Industrial Applications Branch, Division of Nuclear Materials Safety, U.S. NRC, Region I, and Daniel Haber, Assistant to the President, Applied Health Physics. In addition, during a telephone call on September 20, 1996, between Ms. Kathleen Dolce, Health Physicist, NRC Region I, and Mr. Robert Gallagher, President of AHP, the Licensee understood that, by consenting to issuance of this Order, it waived its rights to a hearing. Pursuant to 10 CFR 2.202, I also have determined, based on the Licensee's consent and on the significance of the underlying violation described above, that the public health and safety require this Order to be immediately effective.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 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 Part 30, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, that:

- A. Authorization for the receipt of pre-packaged radioactive waste at the Bethel Park facility is suspended.

The Regional Administrator, Region I, may relax or rescind, in writing, any of the above conditions upon a showing by the Licensee of good cause.

V

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, D.C. 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, D.C. 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406, and to the Licensee. If such a person 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

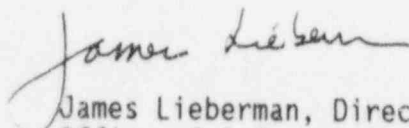
the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, 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 this Confirmatory Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), any person other than the Licensee adversely affected by this Order may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

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 20 days from the date of this Order 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. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION


James Lieberman, Director
Office of Enforcement

Dated at Rockville, Maryland
this 27th day of September 1996

Mr. Gallagher

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with D. Flack