

limited in scope and direction. As a result of the NRC inspections conducted between June 1992 and August 1995, 22 violations were identified and two civil penalties totaling \$32,500 were proposed and paid.

This Order is being issued because of significant deficiencies in the Licensee's ability to manage its licensed activities, to ensure compliance with NRC requirements, and to promptly correct problems identified through its own internal audits. Based upon results of the December 9, 1996, through March 6, 1997, NRC inspection, NRC has concluded that continued programmatic defects exist, such as extensive loss of control of licensed material and poor communication between the Rock Island radiation protection officer (RPO) and other Department of Defense installations. By its own self-assessment, which was conducted in December 1995, the Licensee identified a major program weakness in that many of the RPOs responsible for licensed activities are unfamiliar with the license conditions. As of February 1997, this weakness had not been corrected. Furthermore, based upon the NRC inspection findings, the Rock Island radiation safety officer did not provide adequate oversight of licensed activities, including ensuring that corrective actions for identified deficiencies either at Rock Island or at the other installations were fully implemented. Therefore, information is needed to determine how TACOM-ACALA, based on its placement in the overall Army organizational structure, intends to control licensed activities being performed at other Licensee installations and at other Department of Defense installations.

The purpose of this Order is to confirm commitments made by the Licensee as described in Section IV.

III

By letter dated February 14, 1997, the NRC described to the Licensee the NRC's understanding of the commitments the Licensee plans to implement. The Licensee subsequently consented to the issuance of this Order in accordance with the conditions described in Section IV below, by a waiver signed on February 28, 1997. The Licensee agreed that this Order is to be effective upon issuance and to waive its right to a hearing in the matter of this Order only. Implementation of these commitments will provide enhanced assurance that sufficient resources will be applied to the radiation safety program, and that the program will be conducted safely and in accordance with NRC requirements. The content of this Order is applicable only to License Nos. 12-00722-06, 12-00722-13, and 12-00722-14.

I find that the Licensee's commitments as set forth in Section IV are acceptable and necessary and conclude that with these commitments public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above and the Licensee's consent, this Order is immediately effective upon issuance.

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 LICENSE NOS. 12-00722-06, 12-00722-13, AND 12-00722-14 ARE MODIFIED AS FOLLOWS:

- A. The Army shall retain the services of an independent individual or organization (consultant) to perform a full assessment (audit) of the Army's radiation safety program conducted under License Nos. 12-00722-06, 12-00722-13, and 12-00722-14. The consultant shall be independent of the Army's organization and shall be experienced, or qualified, in evaluating the effectiveness of the management and implementation of a radiation safety program, specifically including the program for material control and accountability. The audit shall determine the Army's compliance with all NRC requirements, and the status of completion of all commitments to which the Army committed in response to NRC enforcement actions issued since January 1, 1992.
- B. Within 30 days of the date of the Order, the Army shall:
 - 1. submit to NRC Region III the audit plan for NRC review and approval prior to implementation; and

2. provide in writing answers to the following specific questions concerning implementation of the Army's NRC-licensed activities:
 - a. How will the Army ensure that each local and installation Radiation Protection Officer for licensed activities maintains an awareness of, and compliance with, all NRC requirements that are applicable to that locale or organization?
 - b. How will the Army ensure that effective training of all users of licensed material is provided prior to the individuals' use of licensed material?
 - c. How will the Army ensure that notifications and reports are made to ACALA and subsequently to the NRC as required by NRC requirements or license conditions?
 - d. How will inspectors from ACALA gain access to bases or facilities possessing licensed material to conduct unannounced inspections of base or facility implementation of regulatory requirements?
- C. Within 60 days of the date of NRC's approval of the audit plan, the army shall:

1. complete the audit of NRC requirements and the review of Army commitments; and
 2. ensure that the consultant submits to NRC Region III the results of the audit and the review, including the deficiencies identified, at the same time the consultant provides the results to the Army.
- D. Within 90 days of the date of NRC's approval of the audit plan, the Army shall:
1. contact other service branches or organizational units that use byproduct material licensed to the Army, including the Marine Corps, National Guard, Reserve units, and Navy to ensure that all events reportable to the NRC are identified;
 2. perform a complete root cause analysis for those known events that were reportable to the NRC that occurred since January 1, 1995, to determine the root cause of the events and to identify corrective action to prevent recurrence of such events at any locale or installation for which the licenses are valid; and
 3. provide to NRC Region III a report of the results of Provisions D.1 and D.2 above.

E. Within 150 days of the date of NRC's approval of the audit plan, the Army shall:

1. develop, and submit to the NRC for approval, a schedule to implement corrective action for each deficiency identified as a result of completing Provisions C and D above;
2. in cases where the audit concludes that the Army is currently unable to meet certain commitments or requirements, provide the reason for such current inability, a description of the corrective action planned to ensure that the commitments or requirements will be met, a schedule for completion of the corrective action, and a basis as to why the NRC should not take further enforcement action for the continued failure to comply with NRC requirements; and
3. in cases where deficiencies are not scheduled for correction, explain why you disagree with each deficiency or otherwise are not taking corrective action.

F. Within 30 days of the date of completion of all corrective actions, provide to the NRC a report describing all deficiencies and corrective actions taken to prevent recurrence.

G. For the purpose of the Order, the Army shall send the audit scope, results of the audit, its program for implementing corrective actions, and the response to the questions in Provision B.2, to Mr. A. B. Beach,

Regional Administrator, at NRC Region III, 801 Warrenville Road, Lisle, Illinois, 60532-4351.

- H. If, for any reason, a date specified in the above conditions cannot be met, the Army will contact, in writing, Mr. Roy Caniano at the address in Provision G above.

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

V

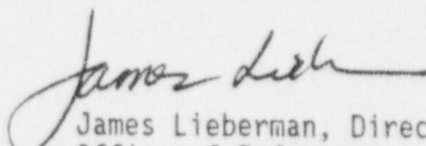
Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, 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 III, 801 Warrenville Road, Lisle, Illinois 60532-4351, 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.

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 26th day of March 1997

Jimmy C. Morgan

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