

significant hazards consideration, the Commission may issue the amendments and make them immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's PDR, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike, Rockville, Maryland, by the above date. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov). A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). A copy of the request for hearing and petition for leave to intervene should also be sent to Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005-3502, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated February 24, 2003, which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike, Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents

Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC web site <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated in Rockville, Maryland, this 28th day of February, 2003.

For the Nuclear Regulatory Commission.

**Thomas W. Alexion,**

*Project Manager, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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## **NUCLEAR REGULATORY COMMISSION**

**[IA 02-049]**

### **In the Matter of Mr. Donald Hinman; Order Prohibiting Involvement in NRC- Licensed Activities**

#### **I**

Mr. Donald Hinman (Mr. Hinman) was formerly Operations Manager of United Evaluation Services (UES) (Licensee), also previously known as Accurate Technologies Incorporated. UES was the holder of Byproduct Nuclear Material License No. 29-28358-02 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 30. The license authorized UES to possess and use sealed sources for use in industrial radiography and depleted uranium for shielding material. The license, which was issued on November 16, 2001, was due to expire on November 30, 2011, but was subsequently terminated on January 6, 2003.

#### **II**

On September 25, 2001, an event occurred at the McShane facility in Baltimore, Maryland, involving a radiation injury to one of the Licensee's radiographers. This event was discussed with the Licensee on October 4, 2001. During the discussions, the NRC learned that the radiographer received a very significant radiation exposure to his hands in excess of regulatory limits (at a minimum, approximately 250-300 rem) while performing radiography at that facility. Since the facility was located in Maryland, an NRC Agreement State, the activities related to that

exposure were within the jurisdiction of the State of Maryland.

Although this event occurred while the radiographer was performing activities in an NRC Agreement State, the same equipment was possessed and used pursuant to an NRC license. Therefore, NRC inspections were conducted at the Licensee's facilities in New Jersey during October 2001. Subsequent inspections were also conducted in November 2001 and in May 2002. In addition, the NRC Office of Investigations conducted an investigation, between October 31, 2001, and August 14, 2002, of the Licensee's activities. Based on the inspection and investigation, the NRC has determined, among other things, that Mr. Hinman participated in the creation of false records, allowed an uncertified radiographer to conduct radiography without the presence of a certified radiographer, deliberately conducted radiography at an unauthorized location, and knowingly transported a radiography device without an end cap cover. Specifically, Mr. Hinman:

1. Participated in the creation of a false radiographer annual refresher training examination, dated September 1, 2001 (later changed to September 4, 2001). The examination, which was required to be maintained in accordance with 10 CFR 34.79, was inaccurate because it was not completed by the radiographer whose name was on the examination and it was not completed on the date indicated on the examination. Mr. Hinman's actions in causing this violation were deliberate because he directed an individual to take the exam for the radiographer. Mr. Hinman testified to the NRC, during an enforcement conference conducted on November 19, 2002, that he asked an assistant radiographer to take a refresher training examination for the radiographer on or about October 9, 2001. In addition, that assistant radiographer testified to the NRC, during an enforcement conference conducted on December 12, 2002, that Mr. Hinman asked him to take the test for the radiographer on or about October 9, 2001.

2. Deliberately conducted radiography at a non-licensed location (the licensee's facility located in Beachwood, New Jersey) on at least one occasion (January 18, 2002). The licensee's Beachwood facility was not an approved location to conduct radiography in accordance with 10 CFR 34.41(b). Mr. Hinman admitted to the NRC, during an enforcement conference conducted on November 19, 2002, that he performed radiography at that non-licensed location in Beachwood, New Jersey, and that he