

knew at the time that he should not have done the radiography at this location because it was not a location authorized for radiography on the NRC license.

3. Knowingly transported a radiography camera from Tinton Falls, New Jersey, to Baltimore, Maryland, without an end cap. The end cap is required during transport in accordance with 10 CFR 34.20(c)(3). Mr. Hinman admitted to the NRC, during interviews with OI, that he transported (and used) the radiography camera during the week of September 24–28, 2001, and at the time, the camera did not have a required end cap in place, and he knew he could not use or transport the equipment without the end cap.

### III

The NRC's requirements in 10 CFR 30.10(a)(1) prohibit an individual from engaging in deliberate misconduct that causes or, but for detection, would have caused, a licensee to be in violation of any rule, regulation, or order, or any term, condition, or limitation of any license, issued by the Commission. Based on the above, the NRC has concluded that Mr. Hinman, as the Operations Manager for the Licensee, violated 10 CFR 30.10. The violations are significant because during the conduct of radiography, there is potential to cause serious harm or injury if unqualified persons are involved in the performance of radiography.

### IV

The NRC must be able to rely on the Licensee, and Licensee employees, to comply with NRC requirements, including the requirement to maintain information that is complete and accurate in all material respects. Although the NRC has not found evidence that Mr. Hinman, who was also a radiographer, had deliberately violated any requirements while performing licensed activities as a radiographer, Mr. Hinman's deliberate violation of Commission regulations as the Operations Manager raises serious questions as to whether he can be relied upon to manage, supervise, or oversee any licensed activities to assure compliance with NRC requirements, including the requirement to maintain complete and accurate information.

Consequently, I lack the requisite reasonable assurance that the management, oversight, or supervision of licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public would be protected if Mr. Hinman were permitted at this time to be involved in the management,

oversight, or supervision of NRC-licensed activities. Therefore, the NRC has determined that the public health, safety and interest require that Mr. Hinman be prohibited from any management, oversight, or supervision of persons involved in NRC-licensed activities for a period of one year from the date of this Order. If Mr. Hinman is currently involved in the management, oversight, or supervision of NRC-licensed activities at any NRC licensed facility, Mr. Hinman must immediately cease such activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer.

### V

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, 10 CFR 30.10, and 10 CFR 150.20, *it is hereby ordered that:*

1. Donald Hinman is prohibited from managing, overseeing, or supervising NRC-licensed activities or individuals while they are engaged in licensed activities, including (but not limited to) the duties of a Radiation Safety Officer, for one (1) year effective from the issuance of this Order, except that Mr. Hinman may supervise an assistant radiographer when acting as a radiographer engaging in NRC licensed activities. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

2. If Donald Hinman is currently involved in the management, oversight, or supervision of NRC-licensed activities, Mr. Hinman must immediately cease such activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Hinman of good cause.

### VI

In accordance with 10 CFR 2.202, Donald Hinman must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. 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, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order, and shall set forth the matters of fact and law on which Mr. Hinman or other person adversely affected relies, and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region I, U.S. Nuclear Regulatory, 475 Allendale Road, King of Prussia, Pennsylvania 19406, and to Mr. Hinman if the answer or hearing request is by a person other than Mr. Hinman. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that answers 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) and also to the Assistant General Counsel either by means of facsimile transmission to 301–415–3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). If a person other than Mr. Hinman 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).<sup>1</sup>

If a hearing is requested by Mr. Hinman or 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 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 V above shall be final twenty

<sup>1</sup> The most recent version of title 10 of the Code of Federal Regulations, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.714(d) and paragraphs (d)(1) and (d)(2) regarding petitions to intervene and contentions. For the complete, corrected text of 10 CFR 2.714(d), please see 67 FR 20884; April 29, 2002.