

Dated at Rockville, Maryland, this 16th day of September 1996.

For the Nuclear Regulatory Commission.

Robert G. Schaaf,

*Project Manager, Project Directorate III-1,
Division of Reactor Projects—III/IV, Office of
Nuclear Reactor Regulation.*

[FR Doc. 96-24132 Filed 8-19-96; 8:45 am]

BILLING CODE 7590-01-P

[EA 96-302]

GRD Steel Corporation (GRD); Order Suspending License (Immediately Effective) and Requiring Transfer of Licensed Material

I

GRD Steel Corporation, (Licensee) is the holder of NRC License No. 37-30147-01 issued by the Nuclear Regulatory Commission (NRC or Commission) on February 6, 1995 pursuant to 10 CFR Part 30. License No. 37-30147-01 authorizes the possession and use of up to 10 millicuries of cobalt-60 in sealed sources (with a maximum activity per source of 3.3 millicuries). The license is due to expire on February 28, 2005. GRD was engaged in the manufacturing of carbon steel.

II

On December 22, 1995, the NRC issued a Notice of Violation to GRD for two violations of NRC requirements. GRD responded to the Notice of Violation on December 29, 1995. Since the NRC had questions concerning the adequacy of the GRD response regarding locking of the sources, the NRC Region I staff contacted GRD's Radiation Safety Officer (RSO) (Mr. Mauro Coruzzi) on March 28, 1996, by telephone. The RSO indicated that GRD's operations had ceased and he was no longer working for GRD; the employment of all GRD employees was either terminated or transferred to another steel company (Commercial Steel Corporation (Commercial Steel)); and the owner of the building that housed the GRD operation was the Monongahela Industrial Development Association (MIDA) which now held title to GRD's Mid Mound Center facility and to both gauges as a result of its purchase at a sheriff's foreclosure sale of the property of GRD, and which was controlling access to the building via the posting of guards. MIDA is not licensed by the NRC to possess radioactive material.

On April 10, 1996, Region I contacted Mr. Coruzzi by telephone because GRD had not made a formal declaration of bankruptcy or requested the NRC to assent to a change of ownership. The RSO indicated that GRD was not in

bankruptcy nor had there been a change of ownership. However, he did indicate that MIDA had taken control of the facility because of GRD's apparent abandonment of the facility. He also indicated that the two gauges located at the facility, each containing approximately 3.3 millicuries of cobalt-60, were locked and not in use, nor could the gauges be accessed by unauthorized personnel because he was the only person in possession of the key used to unlock the gauges.

During the April 10, 1996 conversation, Region I requested that GRD promptly document the information received verbally from the RSO. Since such documentation was not promptly received by the NRC, the NRC sent GRD a letter, dated April 23, 1996, advising the company to notify the NRC if it decided to change ownership, terminate licensed activities, or declare bankruptcy. GRD did not reply to that letter. As a result, on June 18, 1996, Mr. Coruzzi was again contacted by telephone by NRC, Region I. At that time, Mr. Coruzzi informed the NRC that the GRD President, Mr. Pradip K. Ghosh, was working for Commercial Steel, Glassport, Pennsylvania.

Shortly thereafter, on June 19, 1996, NRC Region I telephoned Mr. Ghosh, because of NRC concerns that (1) the gauges were in the possession of MIDA, and that GRD had transferred material to MIDA, an unlicensed entity, in violation of the requirements of 10 CFR 30.3 and 10 CFR 30.41, and (2) there might have been a transfer of control of the license without first obtaining the Commission's consent in writing as required by 10 CFR 30.34(b). During that conversation, Mr. Ghosh made a number of commitments to the NRC, including the commitment to contact APGEE/Berthold, the manufacturer of the gauges, by July 15, 1996, to arrange for return of the gauges to the manufacturer. Mr. Ghosh also committed to provide a completed Certificate of Disposition (NRC Form 314) to the NRC, and request that its license be terminated, by July 31, 1996. The NRC issued a Confirmatory Action Letter (CAL) to confirm these commitments on June 20, 1996. A copy of this CAL was also sent to MIDA.

On June 24, 1996, GRD sent the NRC Region I office a facsimile which stated that it was not correct to state that GRD had sold the property to MIDA and therefore it was not correct to conclude that GRD had transferred the license. GRD also stated that it did not want to terminate the license, and that it was working to gain additional financial backing in order to restart the operation, and requested that the gauges be kept in

place to facilitate restarting the operation.

On June 26, 1996, Supplement 1 to the CAL was issued to GRD and a copy was sent to MIDA. The CAL replaced the statement that GRD would request termination of its license by July 31, 1996, with the statement that GRD would maintain its license until a final determination was made with regard to the future of the company.

On August 6, 1996, NRC Region I learned that the facility had been broken into approximately two to three weeks earlier. Subsequently on August 6, 1996, NRC Region I telephoned Ms. Lue Ann Pawlick, the General Manager of MIDA, about the apparent break-in at the facility. The General Manager described the materials taken from the facility, and indicated that the gauges were not affected by the break-in, all materials had been recovered, the perpetrators had been apprehended, and additional local police patrols and daily walk-throughs by a local president of the steel workers union were being performed.

On August 6, 1996, NRC Region I attempted to contact the President of GRD. At that time, the NRC learned that the President would be out of the country until early September and could not be reached.

On August 12, 1996, the NRC issued a Confirmatory Order to MIDA to assure that MIDA maintains control of the NRC-licensed gauges and that the gauges will remain locked at all times; that MIDA request additional patrols from the local police in the area, until such time as the gauges are transferred to an authorized recipient; that MIDA perform daily walk-throughs of the plant to ensure that the gauges had not been tampered with; that MIDA either obtain a license from the NRC to possess the material or to transfer the material to a specific NRC or Agreement State licensee authorized to possess such material, and, in the absence of obtaining a license from the NRC to possess the gauges, transfer the gauges within 90 days from the date of this Order, either back to the manufacturer, or to another authorized recipient; and that MIDA inform the NRC by August 19, 1996 under oath or affirmation regarding the specific actions MIDA will take to comply with these conditions.

The NRC has also received information from the Pennsylvania Corporation Bureau that indicated that there was some similarity in corporate officers of GRD Steel and Commercial Steel. The NRC has determined that the President and Radiation Safety Officer (RSO) of GRD Steel are currently employed by Commercial Steel, and that telephone calls to GRD are answered by

Commercial Steel, and that the address of both companies is the same.

III

Based on the above, it appears that GRD Steel, its employees, including the President and the Radiation Safety Officer, have willfully permitted the licensed gauges to be transferred to MIDA, an entity known by GRD not to have an NRC license to possess radioactive material. GRD Steel, as the licensee, remains responsible for assuring that the licensed material is possessed and controlled by a licensee of the Commission or an Agreement State and, therefore, is jointly and severally responsible with MIDA for the proper transfer of that licensed material now possessed by MIDA. Further, the actions of GRD Steel, including the failure to reply to NRC inquiries and to reply completely to the Notice of Violation issued in December 1995 in a timely manner, indicate that GRD Steel is not able to conduct its program in accordance with all NRC requirements.

Consequently, I lack the requisite reasonable assurance that the Licensee's activities can be conducted under License No. 37-30147-01 in compliance with the Commission's requirements and that the health and safety of the public, including the Licensee's employees, will be protected. Therefore, public health, safety, and interest require that License No. 37-30147-01 be suspended. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of the violation described above is such that public health, safety, and interest require that this Order 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. GRD's authority under License No. 37-30147-01 to receive, possess, and use radioactive material is suspended. GRD may only possess material for the purpose of transferring it to an authorized recipient under condition B below;

B. GRD will transfer, in cooperation with MIDA, all NRC-regulated material to an authorized recipient within 60 days of receipt of this Order. If GRD believes it does not have sufficient funds to complete the transfer, it must provide, within 30 days of this Order, evidence supporting such a claim by submitting to the Director, Office of

Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, in writing under an oath or affirmation:

(1) An estimate of the cost of the transfer and the basis for the estimate, including the license number and identity of the entity that would perform the transfer;

(2) Written statements from at least two banks stating that GRD could not qualify for a loan to pay for the transfer;

(3) Copies of the Federal income tax return for the years ending 1994 and 1995 for GRD Steel Corporation and its officers;

(4) Copies of profit and loss statements from GRD Steel Corporation for these same years;

C. GRD shall notify NRC Region I at least two working days prior to the date of the transfer so that NRC may, if it elects, observe the transfer of this material to an authorized recipient;

D. GRD, within seven days following the completion of the transfer, shall provide to the Regional Administrator, Region I:

(1) Confirmation in writing (NRC Form 314) that the radioactive material has been transferred; and

(2) A copy of the certification from the authorized recipient that the material has been received.

E. The provisions of Section IV of this Order do not relieve MIDA of any requirement imposed by the Confirmatory Order dated August 12, 1996, identified in Section II of this Order.

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

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, and may request a hearing 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, D.C. 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 set forth the matters of fact and law on which the Licensee 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, 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, 19406-1415, 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 the Licensee 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.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee, or any other person 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.

Dated at Rockville, Maryland this 13th day of September 1996.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

[FR Doc. 96-24133 Filed 9-19-96; 8:45 am]

BILLING CODE 7590-01-P