

Signed at Washington, D.C., this 20th day of May, 1996.

Ivan Strasfeld,

*Director of Exemption Determinations,
Pension and Welfare Benefits Administration,
U.S. Department of Labor.*

[FR Doc. 97-13672 Filed 5-22-97; 8:45 am]

BILLING CODE 4510-29-P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting

Notice of Change in Subject of Meeting

The National Credit Union Administration Board determine that its business requires the addition of the following item, which is closed to public observation, to the previously announced closed meeting (**Federal Register**, Vol. 62, No. 95, pages 27072-27073, Friday, May 16, 1997) scheduled for Thursday, May 22, 1997.

4. Request from a Corporate Credit Union for an Extension under Part 704, NCUA's Rules and Regulations. Closed pursuant to exemption (8).

The Board voted unanimously that agency business requires that this item be considered with less than the usual seven days notice, that it be closed to the public, and that no earlier announcement of this change was possible.

The previously announced items are:

1. Approval of Minutes of Previous Closed Meeting.
2. Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).

3. Personnel Action(s). Closed pursuant to exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT:
Becky Baker, Secretary of the Board,
Telephone (703) 518-6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 97-13843 Filed 5-21-97; 3:09 pm]

BILLING CODE 7535-01-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Submission for OMB Review; Comment Request

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has submitted the following public information collection request (ICR) to the Office of

Management and Budget (OMB) for review and approval as required by the provisions of the Paperwork Reduction Act of 1995 (P.L. 104-13, 44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the National Endowment for the Humanities, Assistant Director, Grants Office, Susan G. Daisey (202-606-8494) or may be requested by email to sdaisey@neh.fed.us. Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the National Endowment for the Humanities, Office of management and Budget, Room 10235, Washington, DC 20503 (202-395-7316), within 30 days from the date of this publication in the **Federal Register**.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Agency: National Endowment for the Humanities.

Title of Proposal: Generic Clearance Authority for the National Endowment for the Humanities.

OMB Number: 3136-0134.

Frequency of Collection: On occasion.

Affected Public: Applicants of NEH grant programs, reviewers of NEH grant applications, and NEH grantees.

Number of Respondents: 14,097.

Estimated Time per Respondent: varied according to type of information collection.

Estimated Total Burden Hours: 107,888 hours.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: This submission requests approval from OMB for a three year extension of NEH's currently approved

generic clearance authority for all NEH information collections other than one-time evaluations, questionnaires and surveys. Generic clearance authority would include approval of forms and instructions for application to NEH grant programs, reporting forms for NEH grantees, panelists and reviewers and for program evaluation purposes.

FOR FURTHER INFORMATION CONTACT:
Ms. Susan G. Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, N.W., Room 311, Washington, D.C. 20506, or by email to: sdaisey@neh.fed.us. Telephone 202-606-8494.

Juan Mestas,

Deputy Chairman.

[FR Doc. 97-13602 Filed 5-22-97; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 030-33244, License No. 07-30056-01 EA 97-202]

**Capital Engineering Services, Inc.
Dover, Delaware; Order Revoking
License**

I

Capital Engineering Services, Inc., (Licensee) is the holder of Byproduct Nuclear Material License No. 07-30056-01 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30. The License authorizes possession and use of moisture/density gauges containing sealed sources. The License was originally issued on September 14, 1993, and is due to expire on September 30, 1998.

On February 12, 1996, the License was suspended by an NRC Order for nonpayment of fees. However, on May 17, 1996, the NRC issued a Conditional Order Extending Time that granted the Licensee's request to pay the delinquent fees in twelve monthly installment payments and extended the effective date of the February 12, 1996 Order to March 15, 1997. In addition, the Conditional Order stated that, in the event the Licensee fails to pay an installment during the 12-month period, each and every term and condition set forth in the February 12, 1996 Order will become immediately effective without further notice. The Licensee failed to make the first installment due June 15, 1996, after the Conditional Order was issued. Accordingly, on June 16, 1996, the terms of the February 12, 1996 "Order Suspending License" again became effective.

II

On October 30, 1996, November 19, 1996, February 20, 1997, and March 5, 1997, the NRC conducted an inspection at the Licensee's facility in Dover, Delaware. During the inspection, the inspector determined that the Licensee had continued to use licensed radioactive material after issuance of the NRC Order Suspending the License on February 12, 1996. Specifically, the Licensee used licensed material on numerous occasions between February 12, 1996, and May 16, 1996, before the Conditional Order Extending Time was granted, a violation of Condition A of the February 12, 1996 Order and 10 CFR 30.3.

Additionally, the Licensee continued to use the gauges on numerous occasions after June 16, 1996, the date on which the Order Suspending License once again became effective because of the Licensee's failure to pay the first fee installment required by the May 17, 1996 Order Extending Time, a violation of Condition A of the February 12, 1996 Order and 10 CFR 30.3.

On October 2, 1996, the NRC issued to the Licensee a letter reiterating that, given the Licensee's failure to abide by the installment plan, the License had been suspended as specified in the February 12, 1996 Order Suspending License. During an NRC inspection on October 30, 1996, the Licensee informed the NRC inspector that it continued to use licensed material because it had not received the October 2, 1996 letter until October 28, 1996.

As a result, the NRC issued a Confirmatory Action Letter (CAL) to the Licensee on November 1, 1996, which confirmed the Licensee's commitments to cease use and/or receipt of licensed material. The CAL references a telephone conversation between Mr. David Johns, the Licensee's President, and Mr. Frank Costello, NRC Region I, that took place on October 31, 1996, in which Mr. Johns agreed to the terms of the CAL.

Concurrently with NRC inspection, the NRC Office of Investigations (OI) conducted an investigation of these matters. During the investigation, the Licensee's President stated that he recalled the October 31, 1996 telephone conversation, but he understood that once he fully paid the outstanding debt, he could use the gauges. The Licensee, however, did not pay the outstanding debt¹ and, yet, continued to use licensed material on numerous occasions from October 29 to, at least,

November 19, 1996, a violation of Condition A of the February 12, 1996 Order and 10 CFR 30.3. In addition, based on the OI investigation and inspection findings, the NRC determined that the Licensee failed to test sealed sources for leakage and/or contamination, a violation of License Condition 13.

On April 10, 1997, an enforcement conference was scheduled with the Licensee. However, the Licensee failed to appear for the enforcement conference. In a subsequent telephone conversation between Mr. David Johns, the Licensee President/Owner and Mr. R. Blough, Director, Division of Nuclear Materials Safety, NRC Region I, Mr. Johns indicated that he was not planning to attend the conference. During that telephone conversation, Mr. Johns was also informed that the NRC would proceed with appropriate enforcement action.

III

Based on the above, the NRC has concluded that the Licensee deliberately violated NRC requirements by continuing to use licensed material, a violation of 10 CFR 30.10(a)(1), Condition A of the February 12, 1996 Order, and 10 CFR 30.3. This conclusion is: (1) Based on the Licensee's continued use of licensed material in violation of NRC requirements despite the Licensee receiving numerous written communications that specifically informed the Licensee of the License suspension; and (2) supported by the fact that the Licensee requested from the NRC that an installment plan be established to remove the suspension of the License; the Licensee's President recalled the October 31, 1996 telephone conversation in which he was specifically informed that the License was suspended and in which he agreed not to use licensed material; and the Licensee did not pay the outstanding debt and, yet, continued to use licensed material. Furthermore, the NRC has concluded that the Licensee failed to perform leak testing of sources, a violation of License Condition 13.

The NRC must be able to rely on its Licensees to comply with NRC requirements. It is important that licensed material be used in accordance with the applicable NRC requirements. The Licensee's continued deliberate violation demonstrates that the Licensee is either unwilling or unable to comply with NRC requirements. Given the deliberate nature of the violation, as well as the additional violations of other NRC requirements, as set forth in this section, the NRC no longer has

reasonable assurance that public health and safety will be protected.

Consequently, I lack the requisite reasonable assurance that the Licensee is willing and able to conduct operations under License No. 07-30056-01 in compliance with the Commission's requirements, and that the health and safety of the public will be protected. Therefore, the public health, safety and interest require that License No. 07-30056-01 be revoked based on violations set forth above.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 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* That license No. 07-30056-01 is revoked.

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 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, 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: Rulemaking and Adjudications Staff, Washington, D.C. 20555. Copies of the hearing request also should 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 the hearing request is by a person other than the Licensee. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this

¹ By Check No. 2054 dated November 20, 1996, the Licensee paid \$531.16. However, the check did not clear due to insufficient funds.

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.

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.

Dated at Rockville, Maryland this 15th day of May 1997.

For the Nuclear Regulatory Commission.

Edward L. Jordan,

Deputy Executive Director for Regulatory Effectiveness, Program Oversight, Investigations and Enforcement.

[FR Doc. 97-13599 Filed 5-22-97; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[IA 97-026]

David F. Johns, P.E., Dover, Delaware; Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)

I

David F. Johns, P.E., is the Owner/President, and Radiation Safety Officer at Capital Engineering Services, Inc. (Licensee), an NRC licensee who is the holder of Byproduct Nuclear Material License No. 07-30056-01 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30. The License authorizes possession and use of moisture/density gauges containing sealed sources. The License was originally issued on September 14, 1993, and is due to expire on September 30, 1998.

On February 12, 1996, the License was suspended by an NRC Order for nonpayment of fees. However, on May 17, 1996, the NRC issued a Conditional Order Extending Time that granted the Licensee's request to pay the delinquent fees in twelve monthly installment payments and extended the effective date of the February 12, 1996 Order to March 15, 1997. In addition, the

Conditional Order stated that, in the event the Licensee fails to pay an installment during the 12-month period, each and every term and condition set forth in the February 12, 1996 Order will become immediately effective without further notice. The Licensee failed to make the first installment due June 15, 1996, after the Conditional Order was issued. Accordingly, on June 16, 1996, the terms of the February 12, 1996 "Order Suspending License" again became effective.

II

On October 30, 1996, November 19, 1996, February 20, 1997, and March 5, 1997, the NRC conducted an inspection at the Licensee's facility in Dover, Delaware. During the inspection, the inspector determined that the Licensee had continued to use licensed radioactive material after issuance of the NRC Order Suspending the License on February 12, 1996. Specifically, the Licensee used licensed material on numerous occasions between February 12, 1996, and May 16, 1996, before the Conditional Order Extending Time was granted, a violation of Condition A of the February 12, 1996 Order and 10 CFR 30.3.

Additionally, the Licensee continued to use the gauges on numerous occasions after June 16, 1996, the date on which the Order Suspending License once again became effective because of the licensee's failure to pay the first fee installment required by the May 17, 1996 Order Extending Time, a violation of Condition A of the February 12, 1996 Order and 10 CFR 30.3.

On October 2, 1996, the NRC issued to the Licensee a letter reiterating that, given the Licensee's failure to abide by the installment plan, the License had been suspended as specified in the February 12, 1996 Order Suspending License. During an NRC inspection on October 30, 1996, the Licensee informed the NRC inspector that it continued to use licensed material because it had not received the October 2, 1996 letter until October 28, 1996.

As a result, the NRC issued a Confirmatory Action Letter (CAL) to the Licensee on November 1, 1996, which confirmed the Licensee's commitments to cease use and/or receipt of licensed material. The CAL references a telephone conversation between Mr. David Johns, the Licensee's President, and Mr. Frank Costello, NRC Region I, that took place on October 31, 1996, in which Mr. Johns agreed to the terms of the CAL.

Concurrently with NRC inspection, the NRC Office of Investigations (OI) conducted an investigation of these

matters. During the investigation, Mr. Johns stated that he did not recall receiving by mail, or being informed of, the February 12, 1996 Order. However, Mr. Johns recalled requesting from the NRC that an installment plan be established for payment of the delinquent inspection and annual fees.

When questioned as to why the Licensee continued to use licensed material after Mr. Johns failed to make the installment due June 15, 1996, Mr. Johns stated that he forgot about the language in the May 17, 1996 Conditional Order (i.e., should the Licensee fail to pay an installment during the 12-month period, each and every term and condition set forth in the February 12, 1996 Order will become immediately effective without further notice).

As to his agreement to the terms of the CAL, Mr. Johns stated that he recalled the October 31, 1996 telephone conversation, but he understood that once he fully paid the outstanding debt, he could use the gauges. Mr. Johns, however, did not pay the outstanding debt¹ and, yet, allowed continued use of licensed material on numerous occasions from October 29 to, at least, November 19, 1996, a violation of Condition A of the February 12, 1996 Order and 10 CFR 30.3. In addition, based on the OI investigation and inspection findings, the NRC determined that the Licensee failed to test sealed sources for leakage and/or contamination, a violation of License Condition 13.

On April 10, 1997, an enforcement conference was scheduled with the Licensee. However, the Licensee failed to appear for the enforcement conference. In a subsequent telephone conversation between Mr. Johns and Mr. R. Blough, Director, Division of Nuclear Materials Safety, NRC Region I, Mr. Johns indicated that he was not planning to attend the conference. During that telephone conversation, Mr. Johns was also informed that the NRC would proceed with appropriate enforcement action.

III

Based on the above, the NRC has concluded that Mr. Johns engaged in deliberate misconduct, a violation of 10 CFR 30.10(a)(1), by causing the Licensee to be in violation of Condition A of the February 12, 1996 Order and 10 CFR 30.3. This conclusion is: (1) based on the Licensee's continued use of licensed material in violation of NRC

¹ By Check No. 2054 dated November 20, 1996, the Licensee paid \$531.16. However, the check did not clear due to insufficient funds.