

this final decision in the **Federal Register**.

Signed in Washington, DC this 9th day of May, 2005.

**Jonathan L. Snare,**

*Acting Assistant Secretary.*

[FR Doc. 05-9869 Filed 5-17-05; 8:45 am]

BILLING CODE 4510-26-P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (05-090)]

### Notice of Prospective Patent License

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of prospective patent license.

**SUMMARY:** NASA hereby gives notice that Turfgrass Management, Inc., a Nevada corporation, has applied for a partially exclusive license to practice the inventions described and claimed in U.S. Patent Numbers 5,433,766 ("Slow-Release Fertilizer") and 5,451,242 ("Active Synthetic Soil"). These patents are assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to the Johnson Space Center.

**DATES:** Responses to this Notice must be received within 15 days from date of publication in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Theodore Ro, Patent Attorney, NASA Johnson Space Center, Mail Stop AL, Houston, TX 77058-8452; telephone (281) 244-7148.

Dated: May 5, 2005.

**Keith T. Sefton,**

*Deputy General Counsel, Administration and Management.*

[FR Doc. 05-9937 Filed 5-17-05; 8:45 am]

BILLING CODE 7510-13-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. 030-33802, License No. 50-23220-02, and EA-05-023]

### In the Matter of R&M Engineering Consultants, Fairbanks, AK; Confirmatory Order Modifying License (Effective Immediately)

R&M Engineering Consultants (R&M or Licensee) is the holder of NRC License No. 50-23220-02 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part

30. The license authorizes the Licensee to possess portable nuclear density gauges containing sealed sources of byproduct material and maintain them in storage until termination of the license. The possession and storage-only license was originally issued March 24, 1995, was last modified on September 21, 1999, with an expiration date of February 28, 2005.

An inspection conducted by NRC Region IV in June 2004 identified an apparent failure on the part of R&M to leak-test two portable nuclear density gauges in accordance with the conditions of the license. License Condition 12.D. requires, in part, that no sealed source or detector cell shall be stored for a period of more than three (3) years without being tested for leakage and/or contamination. This requirement was proposed by R&M in information submitted to the NRC with the 1995 license amendment request to modify the license to possess and store byproduct material. In addition, the inspection identified an apparent failure on the part of R&M to provide accurate information to the NRC in accordance with the requirements of 10 CFR 30.9.

Specifically, Mr. James Wellman, R&M's President, informed the NRC in a September 17, 2002, e-mail that he had performed leak tests of the gauges and had sent swabs to Radiation Detection Company in Sunnyvale, California for evaluation. The inspection found no evidence that R&M's portable nuclear gauges had been leak-tested since the possession and storage-only license was issued in 1995. A follow-up investigation by the NRC's Office of Investigations (OI) concluded in December 2004 that Mr. Wellman willfully failed to leak-test the portable gauges in accordance with the requirements of the license. In addition, based on a review of the information in the investigation report, it appears that Mr. Wellman willfully failed to provide NRC accurate information in his September 2002 e-mail.

On February 8, 2005, representatives of NRC Region IV contacted Mr. Wellman by telephone to discuss the results of the inspection and investigation. NRC Region IV informed Mr. Wellman that the NRC was considering escalated enforcement action, including possible monetary civil penalties for the apparent violations described above. Mr. Wellman has previously stated his intent to transfer the gauges and terminate the license. During the telephonic discussion, NRC Region IV asked Mr. Wellman if he would agree to take prompt action to transfer the gauges and request termination of R&M's NRC

license in lieu of NRC pursuing escalated enforcement action. Mr. Wellman agreed to these actions during the telephone call, and subsequently consented to these actions in response to a letter and a copy of the Confirmatory Order containing the proposed conditions that the NRC sent to Mr. Wellman on February 25, 2005.

In a consent form signed on March 16, 2005, R&M Engineering Consultants agreed to all of the commitments described in Section IV below. The Licensee further agreed that this Order would be effective upon issuance and that R&M waived its right to a hearing on this Order. Implementation of these commitments will ensure that licensed material is appropriately handled and disposed of.

I find that the Licensee's commitments as described in Section IV below are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that the public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above and Licensee's consent, this Order is immediately effective upon issuance. Accordingly, pursuant to Sections 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 No. 50-23220-02 is modified as follows:

1. Within 30 days of the date of the Confirmatory Order, leak test and obtain the results of leak tests for all sealed sources contained in portable nuclear gauging devices possessed under the authority of License No. 50-23220-02.

2. Within 35 days of the date of the Confirmatory Order, provide the Director, Division of Nuclear Materials Safety, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, with a copy of the results of the leak tests.

3. Within 45 days of the date of the Confirmatory Order, complete the transfer of all portable nuclear gauging devices possessed under the authority of License No. 50-23220-02 to an authorized recipient.

4. Within 50 days of the date of the Confirmatory Order, provide the Director, Division of Nuclear Materials Safety, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, with copies of documents demonstrating that the transfer has taken place.

5. Within 60 days of the date of the Confirmatory Order, submit to the