



UNPROTECTED/NON PROTÉGÉ

ORIGINAL/ORIGINAL

CMD: 22-H102

Date signed/Signé le : 25 MARCH 2022

A Licence Revocation

Une révocation de permis

**Wright Instruments
Limited**

**Wright Instruments
Limited**

Hearing in writing based solely on
written submissions

Audience fondée uniquement sur des
mémoires

Scheduled for:
April 2022

Prévue pour :
Avril 2022

Submitted by:
CNSC Staff

Soumise par :
Le personnel de la CCSN

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Summary

This CMD presents information about the following matters of regulatory interest with respect to Wright Instruments Limited, licence number 11940-2-25.0:

- The licensee's sole owner and applicant authority passed away in September 2020.
- The licensee is unable to appoint an applicant authority. There is no executor for the owner's estate, hence, no person can take ownership or make decisions for the company. The licensee is unable to appoint an applicant authority to act for them in their dealings with the CNSC and ensure the safety and security of licensed activities authorized by the license. The licensee no longer carries on the licensed activity
- The licensee is unable to meet their financial obligations.
- The licensee is no longer in possession of nuclear substances and radioactive waste.

CNSC staff recommend the Commission take the following actions:

- Revoke licence No. 11940-2-25.0 issued to Wright Instruments Limited.

The following items are attached:

- list of documents and correspondence

Résumé

Le présent CMD présente de l'information sur un ensemble de questions d'ordre réglementaire concernant Wright Instruments Limited, ayant comme numéro de permis le 11940-2-25.0 :

- Le propriétaire et mandataire du demandeur de permis est décédé en septembre 2020.
- Le titulaire de permis ne peut désigner un nouveau mandataire du demandeur. En l'absence d'un exécuteur testamentaire pour la succession du propriétaire, personne ne peut prendre des décisions pour l'entreprise. En ne pouvant pas nommer un mandataire du demandeur pour agir en son nom dans ses relations avec la CCSN et assurer la sûreté et la sécurité des activités autorisées par le permis et le titulaire ne conduit plus les activités autorisées.
- Le titulaire de permis est incapable de respecter ses obligations financières.
- Le titulaire du permis ne possède plus de substances nucléaires ni de déchets radioactifs.

La Commission pourrait considérer prendre les mesures suivantes :

- Révoquer le permis n° 11940-2-25.0 délivré à Wright Instruments Limited.

Les pièces suivantes sont jointes :

- liste de documents et correspondances

Signed/signé le

25 March 2022



Karen Owen-Whitred

Director General

Directorate of Nuclear Substances Regulations

Directrice générale de la

Règlementation des substances nucléaires

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TABLE OF CONTENTS

EXECUTIVE SUMMARY	7
1.1 Background	8
1.2 CNSC Staff Actions	8
1.3 Application of the Financial Guarantee Program	9
1.4 Basis for the Recommendation	10
1.5 Conclusion	11
1.6 Recommendations.....	11
REFERENCES	12

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EXECUTIVE SUMMARY

We would like to acknowledge that the Wright Instruments Limited facility in Brampton, ON is in the traditional territory of the Haudenosaunee, Huron-Wendat and Anishnaabeg peoples. This territory is covered by the Upper Canada Treaties, and is within the lands protected by the "Dish With One Spoon" wampum agreement.

A CNSC Designated Officer issued licence No. 11940-2-25.0 to Wright Instruments Limited on July 1, 2020 for a period of five years. The licence authorizes the possession, use, storage and transfer of unsealed Ra-226 and sealed sources containing uranium-235. This licenced activity is considered as low risk under the CNSC risk categorization/rankings of licence activities as it involves cleaning and opening of components containing radium in the form of radioactive luminous compounds.

In March 2021, the radiation safety officer (RSO) contacted the CNSC by phone to inform CNSC staff that the owner of Wright Instruments Limited had passed away and that the company did not have sufficient funds to dispose of the radioactive waste remaining on-site. In order to safely secure this remaining inventory, CNSC staff contracted the services of a third party to dispose of the waste. The third party, which holds a CNSC license for this activity, removed all material from the site in November 2021.

Given Wright Instruments Limited's sole owner and applicant authority passed away, there is at present no executor for the estate, hence, no person that can deal with the property of the estate, including the company and its assets. As such, there is no one able to appoint an applicant authority to act for them in their dealings with the CNSC and be responsible for ensuring the safety and security of licensed activities authorized by licence No. 11940-2-25.0.

Therefore, CNSC staff are recommending that the Commission, on its own motion under section 25 of the Act and pursuant paragraphs 8(2)(a), 8(2)(c), 8(2)(f) and 8(2)(g) of *the General Nuclear Safety and Control Regulations*, revoke licence No. 11940-2-25.0 issued to Wright Instruments Limited.

The revocation is also warranted for failure to comply with the Act and the regulations made under the Act (by failing to name an applicant authority) and for not paying the licence fee prescribed by the *Cost Recovery Fee Regulations*. Revoking the licence will also prevent the licensee from acquiring nuclear substances in the future, and from continuing to accumulate unpaid licensing fees. Since CNSC staff are not authorized to revoke a licence on their own motion, CNSC staff are requesting that the Commission revoke this licence.

OVERVIEW

1.1 Background

CNSC licence No. 11940-2-25.0 was issued to Wright Instruments Limited by a CNSC Designated Officer on July 1, 2020 for a period of five years, expiring June 30, 2025. The licence authorizes the possession, use, storage and transfer of unsealed Ra-226 and sealed sources containing uranium-235. The licensee has maintained an active licence since 1994. When in operation, Wright Instruments Limited received aircraft instruments containing radium paint (Ra-226) on their dials from the Department of National Defense (DND) and removed the radium paint in a fume hood before returning the instruments to DND. The waste generated as part of the licenced activity was collected in a 45-gallon steel drum destined for a licensed waste management facility once full. The licensee has operated at 3 Brewster Road in Brampton ON since July 2017. This licenced activity is considered as low risk under the CNSC risk categorization/rankings of licence activities as it involves cleaning and opening of components containing radium in the form of radioactive luminous compounds.

In March 2021, the radiation safety officer (RSO) contacted the CNSC by phone to inform CNSC staff that the owner of Wright Instruments Limited had passed away and that the company did not have sufficient funds to dispose of the radioactive waste remaining on-site. At the time of writing of this CMD, there is still no executor for his estate and no other person who can act on behalf of the corporation or take ownership of the business has yet been identified. As such, the licensee cannot demonstrate its qualifications to carry out the licensed activity.

1.2 CNSC Staff Actions

Following the March 2021 notification from the RSO, CNSC staff immediately began an assessment of the status of operations of the company and communicated with the office manager and the RSO, who confirmed that the licensee was in possession of radioactive waste (Ra-226 and decay products) contained in a 45-gallon steel drum and a 20-gallon plastic pail and that the work area had been cleaned as they were no longer conducting any licensed activities. The office manager also indicated that the estate did not have an executor and that documents related to the estate had been filed in court by an “interested party” and that the matter had to be assessed by a judge.

CNSC Legal Services undertook several searches of court proceedings in Toronto, Mississauga, and Brampton (the locations of the deceased’s residence, place of business, and the area in between), over the course of approximately four months. These searches did not find any court documents or proceedings related to the Wright estate.

In addition, the office manager and RSO clarified that: the lease agreement for the building housing the licensee’s operation expires in 2022; the lease was paid until

March 31, 2021; and that they were able to keep up with the rent and utilities until the end of July 2021. It was also confirmed that the company paid a security deposit to the landlord and that the RSO would continue to visit the location until the removal of the radioactive waste on site.

The CNSC requested contact information for the property owner and communicated with the property management company to confirm lease agreement and period of validity. CNSC staff also discussed the current situation of the licensee and requested confirmation that the property manager would immediately inform the CNSC of any change in the status of the rent for Wright Instruments Limited.

As there was no immediate health and safety risk, and the RSO and office managers were maintaining the safety and security of the nuclear substances, CNSC staff decided to monitor the situation regarding the settlement of the owner's estate before taking any further action.

On October 6, 2021, the property management company informed CNSC staff that they wished to move forward with terminating the lease, given Wright Instruments Limited was two months behind on rent. If the property owner exercised its rights, the situation would have led to controlled nuclear substances coming into possession of a person not licensed for the possession of these nuclear substances. Since the licensee did not have the resources to dispose of its radioactive waste, the CNSC contracted the services of a third party to dispose of the licensee's material in accordance with the normal process. The contract was in the amount of approximately \$67, 000.00. This included \$42,000.00 for the collection of the waste and verification that there was no contamination on site and \$25,000.00 for the disposal of the material to a waste management facility.

On November 10, 2021, CNSC inspectors were on site with the contractor who took possession of the nuclear substances for disposal to a licensed waste management facility. In addition to the swipe taken by the contractor, the CNSC inspector took swipes that were sent to the CNSC laboratory as an independent verification to confirm that there was no loose contamination on site following the removal of the material. All results – swipes taken by the contractor and swipes taken by CNSC inspectors – indicated that there was no contamination remaining on site and the property manager was informed that all the material had been removed from the site on November 22, 2021.

1.3 Application of the Financial Guarantee Program

For Nuclear Substances and Radiation Devices Licensees, the financial guarantee is in the form of an insurance where the CNSC is solely the insured party. This insurance is in place to cover for costs incurred by the CNSC in providing safe termination of licensed activities in case of licensee default due to financial impairment or CNSC regulatory action.

The cost of the premium is paid by fee paying licensees on a yearly basis using a formula that accounts for the type and quantity of nuclear substances in possession of the licensee.

Since the licensee does not have sufficient resources, CNSC staff are pursuing the possibility of using the CNSC's Financial Guarantee Program to cover for the disposal cost associated with the removal of the waste on site.

As Wright Instruments Limited did not declare bankruptcy, or specifically meet one of the criteria listed in the policy for cases where the CNSC would be covered, the cost of related to the removal and safe disposal has been covered under the CNSC's operational budget and CNSC staff will be submitting a claim to the insurance company once the material has been transferred from the third party to a waste management facility. If the insurance company does not accept the claim, the cost incurred will remain under our operational budget.

1.4 Basis for the Recommendation

Section 25 of the *Nuclear Safety and Control Act* grants the Commission the power to “on its own motion, renew, suspend in whole or in part, amend, revoke or replace a licence under the prescribed conditions.”

The *General Nuclear Safety and Control Regulations* set out the conditions under which the Commission may revoke a licence on its own motion. Among those conditions is Paragraph 8(a), “the licensee is not qualified to carry out the licensed activity”. There is still no executor for the licensee's estate and no other person who can act on behalf of the corporation or take ownership of the business has yet been identified. The licensee has thus failed to name an authority to deal with the CNSC on its behalf, contrary to section 15 of the *General Nuclear Safety and Control Regulations*. As such, the licensee cannot demonstrate its qualifications to carry out the licensed activity.

In addition, the following conditions are also relevant:

- Paragraph 8(f), the licensee no longer carries on the licensed activity – Wright Instruments Limited is no longer operating, though it has not yet declared bankruptcy
- Paragraph 8(g), the licensee has not paid the licence fee prescribed by the *Cost Recovery Fees Regulations* – Wright Instruments Limited did not pay their annual fees for 2021/22
- Paragraph 8(c), the licensee has failed to comply with the Act, the regulations made under the Act or the licence – as demonstrated, Wright Instruments Limited is in non-compliance with paragraphs 8(a), (f) and (g) of the *General Nuclear Safety and Control Regulations*.

The revocation is also supported by the lack of financial resources, which led the licensee to default on their lease agreement with the property owner and its licensing fees for this year. Revoking the licence would prevent the licensee from acquiring new nuclear substances and adding any additional unpaid fees as the current licence will remain in effect until June 30, 2025.

CNSC staff therefore recommend that the Commission **revoke the current licence**, pursuant to section 25 of the *Nuclear Safety and Control Act*, and

paragraphs 8(2)(a), (c), (f), and (g) of the *General Nuclear Safety and Control Regulations* as the licensee demonstrated that it can no longer meets all of its obligations under the *Nuclear Safety and Control Act* and associated regulations.

1.5 Conclusion

Wright Instruments Limited is unable to appoint a person having the authority to act for them in their dealings with the CNSC and ensure the safety and security of licensed activities authorized by licence No. 11940-2-25.0 and is no longer carrying on the licensed activities.

As of the writing of this CMD, Wright Instruments Limited has exhausted all financial resources. The CNSC contracted a third-party service provider to remove the radioactive waste from the licensed location. This was completed on November 10, 2021.

CNSC staff is of the opinion that revocation of the licence will eliminate any unreasonable risk to the environment, the health and safety of persons since the licensee is no longer able to meet its obligations. Revocation is also warranted for failure to comply with the Act, the regulations made under the Act and for not paying the licence fee prescribed by the *Cost Recovery Fee Regulations*. Revoking the licence will also prevent the licensee from acquiring nuclear substances in the future as well as adding any additional unpaid fees against the licence.

1.6 Recommendations

CNSC staff are recommending that the Commission, on its own motion under section 25 of the Act and pursuant paragraph 8(2)(a), 8(2)(c), 8(2)(f) and 8(2)(g) of the *General Nuclear Safety and Control Regulations*, revoke licence No. 11940-2-25.0 issued to Wright Instruments Limited.

REFERENCES

1. Copy of licence issued to Wright Instruments Limited Document e-Doc 6330896
2. Email from Chris Nero to CNSC, Status of the company with respect to bankruptcy, applicant authority, landlord, executor, Document e-Doc 6563253
3. Email from Chris Nero to CNSC, Details of court action and plans for leased location, Document e-Doc 6570247
4. Email from David Harris to CNSC, Confirmation of RSO duties continuing, Document e-Doc 6618943
5. Letter to David Harris, Wright Instruments Limited from Sylvain Faille, Document
6. e-Doc 6619611
7. Email from Chris Nero to CNSC, Update on status of Applicant Authority, Document
8. e-Doc 6621812
9. Email from Stuart Hunt & Associates to CNSC, Results of the radioactive material removal and decommissioning report, Document e-Doc 6683252
10. Memorandum from D. Schmidt: Transfer of Radioactive Material from Wright Instruments Limited to Stuart Hunt and Associates, Document e-Doc 6694376