

June 29, 2007

EA-07-091, 07-093, 07-094

CAPT Lino Fragoso, Ph.D.
Executive Secretary, Radiation Safety Committee
Chief of Naval Operations
Environmental Readiness Division (N45)
Radiological Controls and Health Branch
2000 Navy Pentagon (NCI Suite #2000)
Washington, DC 20350-2000

SUBJECT: NOTICE OF VIOLATION (NRC Inspection Report No. 03029462/2005-001 and 03029462/2006-001)

Dear CAPT Fragoso:

This refers to the Nuclear Regulatory Commission (NRC) inspection conducted between January 24, 2005 and April 17, 2007, to evaluate the Navy's reportable events, and the Navy's application of its escalated enforcement policy for 2004-2006. During the inspection, three apparent violations of NRC requirements were identified. The inspection findings were previously discussed with you and/or members of your staff during an initial debrief on December 14, 2006, as well as during a final exit on April 17, 2007. During the exit meeting, on April 17, 2007, Ms. Marie Miller of the Region I staff provided you an opportunity to attend a predecisional enforcement conference (PEC) or submit a written response. You declined to attend a PEC or submit a written response.

The apparent violations of NRC requirements were documented in Inspection Report 03029462/2005-001, 0302962/2006-001, sent to you in a letter dated June 14, 2007. We concluded that two of the apparent violations should be addressed through NRC escalated enforcement action. The third apparent violation, involving licensed material reported as lost or unaccounted for, was previously dispositioned in our letter dated June 14, 2007.

The first violation involved a radiography device containing a quantity of Iridium-192 that was mistakenly shipped to, and stored at, the USS FRANK CABLE "T-shed" in Guam for a period of 12 days before it was discovered and recovered by Radiological Controls personnel during a routine survey. In assessing the significance of this violation, the NRC considered that potential access to the uncontrolled radiography source was limited to a relatively small number of Navy personnel. However, these personnel were not trained or qualified to control access to the source. Although this source was properly shielded, and it was unlikely that a member of the general public could gain access to the source, significant radiation exposures could have occurred if the source had been improperly handled, transferred or removed from the facility, or if the source was removed from its shielding. Therefore, the violation has been classified at Severity Level (SL) III in accordance with the Enforcement Policy.

The second violation involved a radiographer exposing a Cobalt-60 source before ensuring that the high radiation area was cleared. This failure resulted in radiation doses to the crew that exceeded expected exposures. In assessing the significance of this violation, the NRC considered that although members of a Navy radiography crew received relatively low exposures while conducting radiographic operations, the failure to clear the high radiation area before conducting operations created a potential for the exposures to have been in excess of regulatory limits. Therefore, the violation has been classified at SL III in accordance with the Enforcement Policy.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$6,500 is considered for each SL III violation. Because your facility has not been the subject of escalated enforcement action within the last two years or two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. Credit for prompt and comprehensive corrective action is warranted for the first violation because actions taken to address the violation included: (1) generating separate requisition numbers for each ordered radiography source; (2) providing training to personnel on identifying and handling radioactive material; (3) developing a memorandum of understanding with the Defense Distribution Depot to address safe handling of radioactive material; and, (4) advising all Navy permit holders to review their procedures to ensure proper control of radioactive material. Credit for prompt and comprehensive corrective action is also warranted for the second violation because actions taken to address the violation included: (1) performing a comprehensive audit of the radiography program; (2) disqualifying all radiography personnel until they had successfully completed a revised radiation safety and radiography training program; (3) developing and implementing step-by-step technical procedures; (4) performing a dry-run of radiographic operations prior to the first exposure; (5) having staff from other commands come to Norfolk to conduct radiographic operations and assist with the training; and, (6) sending Norfolk Naval Shipyard staff to other commands to observe training.

Based on the above information, I have been authorized, after consultation with the Director, Office of Enforcement, to issue the enclosed Notice of Violation without a civil penalty for the two SL III violations. However, you should be aware that significant violations in the future could result in a civil penalty. In addition, issuance of this Notice constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding the reasons for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed in this letter and in the inspection report transmitted with our letter dated June 14, 2007. Therefore, you are not required to provide a response to the Notice of Violation (Notice). If you choose to provide additional information, you should follow the instructions specified in the enclosed Notice. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

CAPT Lino Fragoso, Ph.D.

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In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov>.

Sincerely,

/RA/ Marc L. Dapas Acting For

Samuel J. Collins
Regional Administrator

Docket No. 030-29462
License No. 45-23645-01NA

Enclosure: Notice of Violation

cc:
State of Virginia
State of Georgia

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cc:
State of Virginia
State of Georgia

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NOTICE OF VIOLATION

Department of the Navy, Master Materials License
Marine Corps Logistics Base, Albany GA
Norfolk Naval Shipyard, Portsmouth, Virginia

Docket No. 030-29462
License No. 45-23645-01NA
EA-07-091, 07-093, 07-094

During an NRC inspection conducted between January 24, 2005 and December 14, 2006, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 20.1801 requires that the licensee secure from unauthorized removal or access licensed materials that are stored in controlled or unrestricted areas. 10 CFR 20.1802 requires that the licensee control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area, and that is not in storage. As defined in 10 CFR 20.1003, *controlled area* means an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee for any reason; and *unrestricted area* means an area, access to which is neither limited nor controlled by the licensee.

Contrary to the above, from March 2 -14, 2005, the licensee failed to secure from unauthorized removal or access licensed materials that were stored in controlled or unrestricted areas, and the licensee failed to control and maintain constant surveillance of licensed material that was not in storage. Specifically, an Ir-192 radiography source was received, improperly stored, and controlled at the USS FRANK CABLE Supply "T-shed" in Guam, and the device was not secured from unauthorized removal and/or maintained under constant surveillance.

This is a SL III Violation (Supplement IV).

- B. 10 CFR 34.51 requires, in part, that during each radiographic operation, the radiographer, or the other individual present, as required by 10 CFR 34.41, shall maintain continuous direct visual surveillance of the operation to protect against unauthorized entry into a high radiation area.

Contrary to the above, a radiographer, or his assistant, did not maintain continuous direct visual surveillance during a radiographic operation to protect against unauthorized entry into a high radiation area. Specifically, on January 29, 2006, a radiographer for the Norfolk Naval Shipyard, working aboard the USS GEORGIA submarine, exposed a Cobalt-60 sealed source in an area of the hull that was occupied by three individuals, creating a high radiation area within the hull, without first clearing the area to protect against unauthorized entry into a high radiation area, and without providing visual surveillance of the area.

This is a SL III Violation (Supplement VI).

The NRC has concluded that the reasons for the violations, the corrective actions taken to correct the violations and prevent recurrence, and the date when full compliance was achieved, are adequately addressed in the letter transmitting this Notice and in the inspection report transmitted with our letter dated June 14, 2007. Therefore, no response to this Notice is

required. If the description therein does not accurately reflect your corrective actions or your position, and you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-07-091, 07-093, 07-094" and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator, Region I, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, any response which contests an enforcement action shall be submitted under oath or affirmation.

If you choose to respond, your response will be exempt from public disclosure in accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," and will not be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> because disclosure to unauthorized individuals could present a security vulnerability. Should you choose to respond, please mark your entire response "Exempt from Public Disclosure in Accordance with 10 CFR 2.390."

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this the 29th day of June 2007.