



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

September 10, 1997

EA 97-285

Ms. Barbara B. Guibord, Esquire
Pneumo Abex (Abex Corporation)
c/o Zernik, Horton, Guibord, and McGovern
77 West Wacker Drive, 33rd Floor
Chicago, Illinois 60601

SUBJECT: NOTICE OF VIOLATION
(NRC Inspection Report No. 99990001/97-07)

Dear Ms. Guibord:

This refers to the NRC inspection conducted from May 12 through 23, 1997 to review the circumstances associated with an event which occurred in Union, New Jersey in May 1997. The event involved the removal of generally licensed "EXIT" signs containing curie quantities of tritium (a radioactive material regulated by the NRC) from property located at 1200 Commerce Avenue, in Union, New Jersey. You owned and occupied this property until you sold it to Selrite Milworks Corporation (Selrite) in 1987. The three "EXIT" signs were removed from the site by a teenager and friends during demolition of the building on the property, and were taken home by the teenager. One of the signs was broken which resulted in contamination of the teenager and his friends, as well as the home of the teenager.

As described in the NRC inspection report sent to you on June 18, 1997, an apparent violation of NRC requirements was identified during the inspection. The apparent violation involved your failure, when you sold the building to Selrite in 1987, to provide Selrite a copy of the NRC regulations applicable to the possession of these "EXIT" signs, as well as your failure to inform the NRC of the transfer. Subsequently, when Selrite sold the facility to Carco Construction Company (Carco) in February 1997, Selrite, apparently unaware that the signs contained NRC generally licensed material, did not provide Carco a copy of the NRC regulations applicable to the possession of these "EXIT" signs, and did not inform the NRC of the transfer. Afterwards, Carco, also apparently unaware that the signs contained NRC generally licensed material, did not remove the devices for proper disposal when the building at the site was being demolished.

On July 10, 1997, a Predecisional Enforcement Conference was conducted with you, as well as staff from Selrite and Carco, to discuss the violation, its causes, and corrective actions. Based on the information developed during the inspection, and the information provided during the conference, the NRC has determined that you violated NRC regulations. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding the violation are described in detail in the subject inspection report. The violation involves your transfer of these devices to Selrite in 1987 without providing Selrite a copy of 10 CFR Part 31, and without informing the NRC of the manufacturer's name and model number of the device transferred, the name and address of the transferee, and the name and/or position of the

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individual who might constitute a point of contact between the NRC and the transferee. This violation represents a significant NRC concern because it ultimately contributed to the failure to appropriately dispose of the signs, and the resultant contamination of members of the public. Specifically, in May 1997, a teenager took the signs from that location to his home and removed tubes from the signs, including the damaged one, while he was eating. This resulted in contamination of his home and an uptake of tritium by the teenager and other members of the public. Therefore, the violation is classified at Severity Level III in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600.

During the enforcement conference, you committed to take responsibility for disposal of the signs, and also committed to perform an extensive review of documentation to determine if any other properties owned by Abex, either formerly or presently, might contain the same type of signs. Nevertheless, the failure to properly transfer generally licensed material according to the regulations in 10 CFR Part 31 normally would result in a civil penalty. However, in view of the fact that this violation occurred in 1987, which exceeds the statute of limitations period of five years for assessing civil penalties (28 USC 2462), a civil penalty is not being assessed.

In your response dated July 29, 1997, you specifically describe the results of your efforts to determine what occurred when you sold the Union, New Jersey property and whether any other Abex properties, both in the past, or current, might possess this type of "EXIT" sign. Based on the information contained in that response, you are not required to respond to this letter as per the provisions of 10 CFR 2.201 unless the description in your July 29, 1997 response does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your letter of July 29, 1997, will be placed in the NRC Public Document Room (PDR). Your cooperation with us is appreciated.

Sincerely,


Hubert J. Miller
Regional Administrator

Docket No. 99990001
General License

Abex Corporation

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Enclosures:

- 1. Notice of Violation**
- 2. Letter to Selrite Milworks Corporation**
- 3. Letter to Carco Corporation**

cc w/encls:

State of New Jersey
State of Illinois

ENCLOSURE 1

NOTICE OF VIOLATION

Abex Corporation
Chicago, Illinois

Docket No. 999-90001
General License
EA 97-285

During an NRC inspection conducted between May 12, 1997 and May 23, 1997, at the location of a former Abex Corporation facility in Union, New Jersey, as well at a private residence in that city, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy), NUREG 1600, the violation is set forth below:

10 CFR 31.5(c)(9) requires, in part, that any person who acquires, receives, possesses, uses or transfers byproduct material in a device pursuant to the general license in 10 CFR 31.5(a) shall transfer the device to another general licensee only where the device remains in use at a particular location. In such cases, the transferor shall give the transferee a copy of 10 CFR Part 31, and, within 30 days of the transfer, report to the Director of the Office of Nuclear Materials Safety and Safeguards, US NRC, the manufacturer's name and model number of the device transferred, the name and address of the transferee, and the name and/or position of an individual who may constitute a point of contact between the NRC and the transferee.

Contrary to the above, in 1987, Abex Corporation (Abex), a general licensee, sold its facility at 1200 Commerce Avenue in Union, New Jersey, to Selrite Milworks Corporation (Selrite), and in so doing, transferred to Selrite three "EXIT" signs (containing between 10 and 25 curies of tritium gas), which are devices generally licensed by the NRC. However, although the signs remained in use at that location, Abex did not give Selrite a copy of 10 CFR Part 31, and, did not inform the NRC of the manufacturer's name and model number of the device transferred, the name and address of the transferee, and the name and/or position of an individual who would constitute a point of contact between the NRC and the transferee. (01013)

This violation is classified at Severity Level III. (Supplement VI).

The NRC has concluded that information regarding the reason for this violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved is adequately addressed on the docket in a Letter from Abex Corporation dated July 29, 1997. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation" 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.

Dated at King of Prussia, Pennsylvania
this 10th day of September 1997

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