



Fields of Opportunities

# STATE OF IOWA

THOMAS J. VILSACK  
GOVERNOR

SALLY J. PEDERSON  
LT. GOVERNOR

DEPARTMENT OF PUBLIC HEALTH  
STEPHEN C. GLEASON, D.O., DIRECTOR

## ORDER TO CEASE AND DESIST

April 24, 2002

Robert Gould  
R. G. and Associates  
9191 Ogden Street, Suite 100  
Omaha, NE 68134

*Certified Mail*

Dear Mr. Gould:

The Iowa Department of Public Health (IDPH) Bureau of Radiological Health has received an allegation concerning the use of an X-Ray Fluorescent Analyzer (XRF) in Iowa. The device is allegedly licensed to the Douglas County Health Department under the State of Nebraska Radioactive Materials License Number 01-45-01. The allegation was partially substantiated by two reports submitted to the IDPH Lead Program, which document tests conducted at 901 North 8<sup>th</sup> Street and 2550 Avenue A in Council Bluffs, Iowa on January 5, 2002 and February 21, 2002 respectively. Your signature appears on those documents person conducting those tests.

641-39.4(90) of the Iowa Administrative Code states, in part, that:

Any person who holds a specific license from the U.S. Nuclear Regulatory Commission or an agreement state, and issued by the agency having jurisdiction where the licensee maintains an office for directing the licensed activity and at which radiation safety records are normally maintained, is hereby granted a general license to conduct the activities authorized in such licensing document within this state for a period not in excess of 180 days in a one-year period.

The out-of-state licensee shall notify the agency in writing at least three days prior to engaging in activities in the state. Such notification shall indicate the location, period, and type of proposed possession and use within the state, and shall be accompanied by a copy of the pertinent licensing document initially.

The out-of-state licensee shall comply with all applicable rules of the agency and with all the terms and conditions of the licensing document, except any such terms and conditions which may be inconsistent with applicable rules of the agency.

401 SW 7<sup>th</sup> STREET, SUITE D / DES MOINES, IOWA 50309-4611

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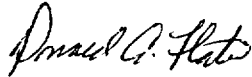
APR 30 2002

Based on April 19, 2002 conversations with representatives of the Nebraska Radioactive Materials Program, the IDPH has learned that you or your company, (R. G. and Associates), does not have a license to own or operate an XRF in Nebraska per state requirements. It would appear that on at least the two occasions indicated above, you used an XRF (possibly the one owned by the Douglas County Nebraska Health Department's) in Iowa. IDPH did not grant you, your company, or Douglas County Nebraska Health Department reciprocal recognition authorizing use of an XRF in Iowa, receive notification of entry as required by Iowa Administrative Code, or did we receive the appropriate the reciprocity fee (\$1,200.00).

Therefore, you are hereby ordered to immediately cease and desist all uses of radioactive material in the State of Iowa until such time as the State of Nebraska has investigated your potential non compliance with their rules regarding the possession and uses of Radioactive Material and IDPH rescinds in writing this Order to Cease and Desist.

Issuance of this Order does not preclude the issuance of an Order imposing civil penalties.

Sincerely,



Donald A. Flater, Chief  
Bureau of Radiological Health  
(515) 281-3478  
[dflater@idph.state.ia.us](mailto:dflater@idph.state.ia.us)

cc: Heather Adams, Assistant Attorney General

Rita Gergley, IDPH Lead Program

Julia Schmitt, Program Manager  
Radioactive Materials Program  
Nebraska Department of Health and Human Services  
P.O. Box 95007  
Lincoln, NE 68509-5007

James Lynch, Regional State Agreements Officer  
Region III  
US Nuclear Regulatory Commission  
801 Warrenville Road  
Lisle, IL 60532-4351

Douglas Clark, Interim Director  
Douglas County Health Department  
1819 Farnam Street  
Omaha, NE 68183



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DEPARTMENT OF PUBLIC HEALTH  
STEPHEN C. GLEASON, D.O., DIRECTOR

April 24, 2002

Julia Schmitt, Program Manager  
Radioactive Materials Program  
Nebraska Department of Health and Human Services  
P.O. Box 95007  
Lincoln, NE 68509-5007

Dear Ms. Schmitt:

The Iowa Department of Public Health (IDPH) Bureau of Radiological Health has received an allegation concerning the use of an X-Ray Fluorescent Analyzer (XRF) in Iowa. The device is allegedly licensed to the Douglas County Health Department under the State of Nebraska Radioactive Materials License Number 01-45-01. The allegation was partially substantiated by two reports submitted to the IDPH Lead Program, which document tests conducted at 901 North 8<sup>th</sup> Street and 2550 Avenue A in Council Bluffs, Iowa on January 5, 2002 and February 21, 2002 respectively. The signature that appears on those documents is Robert Gould who is an employee of Douglas County Nebraska Health Department.

IDPH did not grant Mr. Gould, his company, or Douglas County Nebraska Health Department reciprocal recognition for the use of an XRF in Iowa; receive notification of entry of the XRF in Iowa; and did not receive the reciprocity fee (\$1,200.00). Based upon conversations with your staff, it appears that neither Mr. Gould nor his company, (R. G. and Associates) have a radioactive materials license in Nebraska.

IDPH is forwarding this information as an allegation of unauthorized use. Your department's attention to this matter would be appreciated. Please provide a summary of the findings when they become available.

Sincerely,

Donald A. Flater, Chief  
Bureau of Radiological Health  
(515) 281-3478  
[dflater@idph.state.ia.us](mailto:dflater@idph.state.ia.us)

cc: Heather Adams, Assistant Attorney General

Rita Gergley, IDPH Lead Program

James Lynch, Regional State Agreements Officer  
Region III  
US Nuclear Regulatory Commission  
801 Warrenville Road  
Lisle, IL 60532-4351

Douglas Clark, Interim Director  
Douglas County Health Department  
1819 Farnam Street  
Omaha, NE 68183

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STEPHEN C. GLEASON, D.O., DIRECTOR

April 24, 2002

Douglas Clark, Interim Director  
Douglas County Health Department  
1819 Farnam Street  
Omaha, NE 68183

*Certified Mail*

Dear Mr. Clark:

Attached is a copy of our Order to Cease and Desist use of Radioactive Materials in Iowa, which was sent to Mr. Robert Gould, an employee of the Douglas Department of Health. As the letter indicates, Mr. Gould conducted tests at 901 North 8<sup>th</sup> Street and 2550 Avenue A in Council Bluffs, Iowa on January 5, 2002 and February 21, 2002 respectively. It would appear that the device that was used is licensed to the Douglas County Health Department by the State of Nebraska.

Assuming that the XRF was used without the knowledge or permission of the Douglas County Health Department, it would appear that the device was not secured from unauthorized access or removal. However, if the device was authorized to be used by your department, IDPH expects the payment of the reciprocity fee, which is \$1,200.00.

IDPH is forwarding a copy of this letter to the State of Nebraska Department of Health and Human Services Regulation and Licensure as an allegation of unauthorized use. Until the State of Nebraska has concluded its investigation and IDPH provides authorization in writing to rescind the Cease and Desist Order, no further use in Iowa is permitted. In addition, all rules concerning reciprocal recognition of your Nebraska Radioactive Materials License Number 01-45-01 must be properly addressed so that IDPH has confidence that this issue will not recur in the future.

Sincerely,

Donald A. Flater, Chief  
Bureau of Radiological Health  
(515) 281-3478  
[dflater@idph.state.ia.us](mailto:dflater@idph.state.ia.us)

cc: Heather Adams, Assistant Attorney General

Rita Gerley, IDPH Lead Program

Julia Schmitt, Program Manager  
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