

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS
WASHINGTON, D.C. 20555

January 9, 1989

NRC INFORMATION NOTICE No. 89-02: CRIMINAL PROSECUTION OF LICENSEE'S FORMER
PRESIDENT FOR INTENTIONAL SAFETY VIOLATIONS

Addressees:

All holders of a U.S. Nuclear Regulatory Commission specific license.

Purpose:

This information notice is issued to remind licensees and their employees of the penalties that could result from the intentional violation of regulatory requirements. In particular, both the licensee and individual employees could be subject to criminal prosecution by the U.S. Department of Justice as well as civil enforcement action by the NRC, if they intentionally violate regulatory requirements or commit any other type of regulatory-related wrongdoing. The particular case described below involves wrongdoing by former licensee employees, including the former President, at a large irradiator. However, the principles involved apply to all NRC licensees. It is expected that licensees will review this information notice, distribute it to management and staff involved with licensed activities, including responsible radiation safety staff, and consider actions, as appropriate, to avoid similar problems. This information notice does not constitute any new NRC requirements, and no written response is required.

Description of Circumstances:

Radiation Technology, Inc. (RTI) operates four irradiators, two in New Jersey, one in North Carolina and one in Arkansas. Irradiators use highly radioactive material to sterilize a variety of products, including medical supplies, spices and certain food products. During a 1984 inspection at RTI's Rockaway, NJ facility, an NRC inspector determined that safety interlocks, designed to prevent entry to the irradiator cell while the radioactive material was unshielded, had been deliberately bypassed at the facility. This action was apparently taken with the knowledge and approval of the former President, who was also the Radiation Safety Officer. A subsequent inspection at the Rockaway facility in 1986 revealed additional examples of operation of the facility without the required safety interlocks in place.

In addition, NRC investigators identified examples of the President and other company officials lying to NRC inspectors and investigators, as well as efforts to prevent NRC from learning about the violations of regulatory requirements; these efforts included holding a meeting to discuss what NRC investigators would be told and then creating false documents.

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As a result of these findings, NRC suspended the license in June 1986; in addition, NRC's investigation findings were referred to the United States Department of Justice for prosecutorial review. In August 1986, a condition for removal of the suspension and issuance of a renewed license by the NRC was that certain RTI individuals would be prohibited from being involved in licensed activities.

On March 18, 1988, the U.S. Grand Jury for the District of New Jersey returned a multiple count indictment against RTI, the former President, and two former Operations Managers. Seven counts were directed to the former President.

RTI pleaded guilty to two counts. The former Operations Managers pleaded guilty to one count each. The former President pleaded not guilty on all counts. On June 28, 1988, a jury in the U.S. District Court of New Jersey found him guilty on six out of seven criminal counts against Title 18 and Title 42 of the U.S. Code, including conspiracy to defraud the United States, lying to NRC investigators, and intentionally violating the Atomic Energy Act. As a result, on October 11, 1988, the former President was sentenced to serve two concurrent sentences of two years, and was assessed a \$50,000 fine. Radiation Technology, Inc. was fined a total of \$100,000. The two former Operations Managers were each sentenced to three years probation and assessed fines of \$10,000 and \$2,500, respectively.

Discussion:

Licensees are responsible for ensuring the safe performance of licensed activities in accordance with NRC regulations and the requirements of their licenses, and for providing complete and accurate information to NRC, relative to all licensed activities. In cases that involve the possession and use of large quantities of radioactivity, full compliance is critical, because the sources of radiation involved are capable of delivering life-threatening exposures. The operation of a large irradiator without safety interlocks, designed to prevent entry into the cell while the sources are exposed, compromises the safety of the operators and other employees. In addition, it is important to note that NRC will not accept administrative procedures as a substitute for the required engineered safety interlocks for irradiator operations.

The NRC expects licensee employees to be completely candid and cooperative with NRC personnel during the licensing and inspection process. The regulatory process functions on the premise that licensees will, at all times, provide accurate information to NRC in a timely manner. Violations of NRC requirements caused by intentional acts or efforts to impede the regulatory process may subject wrongdoers to criminal prosecution. As evidenced by the case described in this information notice, criminal sanctions may include a fine and/or imprisonment.

No written response is required by this information notice. If you have any questions about this matter, please call the technical contact listed below or the appropriate NRC regional office.



Richard E. Cunningham, Director
Division of Industrial and
Medical Nuclear Safety, NMSS

Technical Contact: Jack R. Metzger, NMSS
(301) 492-3424

Attachment:

1. List of Recently Issued NMSS Information Notices
2. List of all Recently Issued NRC Information Notices

LIST OF RECENTLY ISSUED
NMSS INFORMATION NOTICES

| Information Notice No. | Subject | Date of Issuance | Issued to |
|------------------------|--|------------------|---|
| 88-100 | Memorandum of understanding between NRC and OSHA relating to NRC-licensed facilities (53 FR 43950, October 31, 1988) | 12/23/88 | All major nuclear materials licensees and utilities holding CPs and OLs, |
| 88-93 | Teletherapy Events | 12/2/88 | All NRC medical licensees |
| 88-90 | Unauthorized removal of industrial nuclear gauges | 11/22/88 | All NRC licensees authorized to possess, use, manufacture, or distribute industrial nuclear gauges |
| 88-66 | Industrial radiography inspection and enforcement | 08/22/88 | All NRC industrial radiography licensees |
| 88-62 | Recent findings concerning implementation of quality assurance programs by suppliers of transport packages | 08/12/88 | All holders of NRC quality assurance program approvals for radioactive material packages |
| 88-33 | Recent problems involving the model Spec 2-T radiographic exposure device | 05/27/88 | All Agreement States and NRC licensees authorized to manufacture, distribute or operate radiographic exposure devices and source changers |
| 88-32 | Prompt reporting to NRC of significant incidents involving radioactive material | 05/25/88 | All NRC materials licensees |
| 88-26 | Falsified Pre-Employment Screening Records | 05/16/88 | All holders of OLs or CPs for nuclear power reactors and all major fuel facility licensees |

OL = Operating License
CP = Construction Permit

LIST OF RECENTLY ISSUED
 NRC INFORMATION NOTICES

| Information Notice No. | Subject | Date of Issuance | Issued to |
|------------------------|--|------------------|--|
| 88-23, Supp. 1 | Potential for Gas Binding of High-Pressure Safety Injection Pumps During a Loss-of-Coolant Accident | 1/5/89 | All holders of OLs or CPs for PWRs. |
| 89-01 | Valve Body Erosion | 1/4/89 | All holders of OLs or CPs for nuclear power reactors. |
| 88-46, Supp. 2 | Licensee Report of Defective Refurbished Circuit Breakers | 12/30/88 | All holders of OLs or CPs for nuclear power reactors. |
| 88-101 | Shipment of Contaminated Equipment between Nuclear Power Stations | 12/28/88 | All holders of OLs or CPs for nuclear power reactors. |
| 88-100 | Memorandum of Understanding between NRC and OSHA Relating to NRC-licensed Facilities (53 FR 43950, October 31, 1988) | 12/23/88 | All major nuclear materials licensees and utilities holding CPs and OLs. |
| 88-99 | Detection and Monitoring of Sudden and/or Rapidly Increasing Primary-to-Secondary Leakage | 12/20/88 | All holders of OLs or CPs for PWRs. |
| 88-98 | Electrical Relay Degradation Caused by Oxidation of Contact Surfaces | 12/19/88 | All holders of OLs or CPs for nuclear power reactors. |
| 88-97 | Potentially Substandard Valve Replacement Parts | 12/16/88 | All holders of OLs or CPs for nuclear power reactors. |
| 88-96 | Electrical Shock Fatalities at Nuclear Power Plants | 12/14/88 | All holders of OLs or CPs for nuclear power reactors. |
| 88-95 | Inadequate Procurement Requirements Imposed by Licensees on Vendors | 12/8/88 | All holders of OLs or CPs for nuclear power reactors. |

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Editor

EKraus 12/7/88*

See previous concurrence*

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| IMNS* | IMNS | NMSS* |
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| OFC:IMOB* | IMOB* | MOB* | IMAB* | OE* | OGC* | OI* | RI* |
| NAME:JMetzger | DCool | JHickey | JAustin | JLieberman | STreby | BHayes | JJoyner |
| DATE:11/14/88 | 12/15/88 | 12/14/88 | 12/16/88 | 12/20/88 | 12/27/88 | 11/14/88 | 12/7/88 |

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Editor
EKraus 12/7/88*

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[Handwritten signatures and initials]
GS Job Tom : RE Cunningham : RB Bernero
12/20/88 12/29/88 1/3/89

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| OFC:IMOB* | IMOB | MOB | YMAH | GPA | OE | OGC | OI* | RI* |
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Editor *EK*
EKraus *12/07/88*

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IMNS IMNS NMSS
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OFC:IMOB* IMOB MOB IMAB GPA OE OGC OI* RI *by telephone*
NAME:JMetzger DCool JHickey JAustin VMiller JLieberman STreby BHayes JByner *jm for*
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11/14/88

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