

August 23, 2004

EA 04-140

Joe W. Harden
President
Worthington Steel
Worthington Industries, Inc.
200 Old Wilson Bridge Road
Columbus, OH 43085

SUBJECT: NOTICE OF VIOLATION (NRC Inspection Report No. 99990001/2003-006)

Dear Mr. Harden:

This refers to the NRC inspection conducted between October 31, 2003 and March 23, 2004, concerning your former facility located in Malvern, Pennsylvania, and the activities authorized by your NRC general license. During the inspection, the NRC learned that you (1) possessed generally licensed gauges and tritium exit signs at the Malvern facility, but sold and transferred ownership of the gauges to another company, Truelove and MacLean, and (2) disposed of six tritium exit signs by transfer to SRB Technologies, an Agreement State licensee.

Based on this inspection, the NRC also identified three violations related to the transfer of these materials. The violations involved: (1) the sale and transfer of ownership of the two generally licensed gauges (containing approximately 1.0 curie each of americium-241) without providing the new owner with the safety documents identified in the label on the device; (2) the failure to notify the NRC within 30 days regarding the transfer of ownership of the generally licensed gauges to another general licensee; and (3) the failure to notify the NRC within 30 days regarding the transfer of six generally licensed exit signs containing tritium to SRB Technologies. In a telephone conversation between Mr. John Mertler of your company and Ms. Elizabeth Ullrich of NRC, Region I, on July 28, 2004, Mr. Mertler indicated that Worthington Steel declined the opportunity to discuss these issues in a predecisional enforcement conference or to submit a written response.

The violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in detail in the subject inspection report. The most significant violation involved the inappropriate transfer of ownership of the two gauges to another general licensee, Truelove & MacLean, in July 2003, without providing that company the appropriate safety documents at the time of the transfer. Without the safety documents, Truelove &

MacLean was not made aware of the appropriate requirements regarding removal and transfer of the gauges. Although the gauges initially remained in place at your former facility in Malvern after the transfer, Truelove & MacLean subsequently removed and transferred the gauges from that Malvern facility to another location in Downingtown, Pennsylvania. Removal and transfer of the gauges without knowledge of appropriate safety requirements created the potential for damage to the gauges and unnecessary exposure to radiation, as well as the potential for loss of the gauges or the radioactive sources contained therein. Therefore, this violation involving your failure to provide Truelove & MacLean with the safety documents at the time of transfer of ownership is categorized at Severity Level III in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$3,000 is considered for a Severity Level 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 is warranted because your corrective actions were considered prompt and comprehensive. These corrective actions included, but were not limited to: (1) subsequently providing the appropriate safety documents to Truelove & MacLean; (2) providing the notification to the NRC regarding the transfer of the two gauges; and (3) providing notification to the NRC regarding the transfer of the six exit signs containing tritium.

Therefore, to encourage prompt and comprehensive correction of violations, I have been authorized after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, you should be aware that if you are involved in NRC-licensed activities in the future, either via a specific or general license, any significant violations could result in a civil penalty.

The two other aforementioned violations, involving the failures to notify the NRC within 30 days regarding the transfers of the the gauge and the tritium exit signs, are classified at Severity Level IV.

The NRC has concluded that information regarding your corrective actions taken and planned to correct the violations and prevent recurrence have been described as documented in this letter. Therefore, you are not required to respond to this letter unless the description therein 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. We appreciate your cooperation with us in this matter.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response (if you choose to provide one) will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly

Worthington Steel

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Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/pdr.html> (the Public Electronic Reading Room). The NRC also includes significant enforcement actions on its Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Significant Enforcement Actions**.

Sincerely,

/RA/ James T. Wiggins Acting For

Samuel J. Collins
Regional Administrator

Docket No. 99990001
License No. General License

Enclosure:

1. Notice of Violation
2. (NRC Inspection Report No. 99990001/2003-006)

cc w/encl:
Commonwealth of Pennsylvania
State of Maryland
State of Ohio
State of North Carolina

Worthington Steel

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ENCLOSURE

NOTICE OF VIOLATION

Worthington Steel
Malvern, Pennsylvania

Docket No. 99990001
License No. General License
EA 04-140

During an NRC inspection conducted on October 31, 2003 through March 22, 2004, three violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy), NUREG-1600, the violations are set forth below:

- A. 10 CFR 31.5 (c)(9) requires, in part, that a general licensee transfer a device to another general licensee only if the device remains in use at a particular location, and that the transferor gives the transferee a copy of this section as well as a copy of §§31.2, 30.51, 20.2201, and 20.2202 of this chapter.

Contrary to the above, on July 1, 2003, Worthington Steel, an NRC general licensee located in Malvern, Pennsylvania, sold two generally licensed Model 5310 gauges to Truelove and MacLean (T&M), another general licensee, and the gauges remained in place at the Malvern, Pennsylvania facility. Worthington Steel did not give the transferee (T&M) the required safety documents identified in the label of the device. Specifically, a copy of 10 CFR 31.5, as well as a copy of §§31.2, 30.51, 20.2201, and 20.2202 of this chapter, were not sent to the transferee (T&M) until October 28, 2003. Also, the information sent on October 28, 2003 was in error in that the activity of each gauge was stated to be 1 millicurie rather than 1 curie, and was not corrected until another letter was sent to T&M on February 13, 2004.

This is a Severity Level III violation (Supplement VI).

- B. 10 CFR 31.5 (c)(9) requires, in part, that a general licensee transfer a device to another general licensee only if the device remains in use at a particular location, and within 30 days of the transfer, the transferor shall report to the Director of Nuclear Materials Safety and Safeguards, ATTN: GLTS, U.S. Nuclear Regulatory Commission, Washington, D.C.20555-0001
- A. the manufacturer's (or initial transferor's) name;
 - B. the model number and serial number of the device transferred;
 - C. the transferee's name and mailing address for its place of use; and
 - D. the name, title and phone number of the responsible individual identified by the transferee in accordance with paragraph (c)(12) of this section to have knowledge of and authority to take actions to ensure compliance with the appropriate regulations and requirements

Contrary to the above, on July 1, 2003, Worthington Steel, a general licensee located in Malvern, Pennsylvania, sold and transferred two generally licensed devices to Truelove and MacLean (T&M), another general licensee, and although the gauges remained in place at the Malvern, Pennsylvania location, Worthington Steel did not report the transfer to the Director of Nuclear Materials Safety and Safeguards, ATTN: GLTS, U.S. Nuclear Regulatory Commission (NRC), Washington, D.C.20555-0001, with the required information within 30 days of the transfer. Specifically, a report was not sent until October 28, 2003, a period greater than 30 days after the transfer. In addition, this report was in error in that the activity of each gauge was stated to be 1 millicurie rather than 1 curie, and was not corrected until another letter was sent to the NRC on February 13, 2004.

This is a Severity Level IV violation (Supplement VI).

- C. 10 CFR 31.5(c)(8)(i) and (ii) requires, in part that, a general licensee transfer or dispose of a device containing byproduct material only to a person authorized to receive that device by a specific license issued under parts 30 and 32 of this chapter, or equivalent regulations of an Agreement State, and furnish a report to the Director of Nuclear Materials Safety and Safeguards, ATTN: GLTS, U.S. Nuclear Regulatory Commission, Washington, D.C.20555-0001 within 30 days after the transfer of a device to a specific licensee.

Contrary to the above, on December 19, 2003, Worthington Steel disposed of six generally licensed tritium exit signs by transfer to SRB Technologies, an Agreement State licensee located in Winston-Salem, North Carolina, and Worthington Steel did not make a report to the NRC within 30 days of the transfer. Specifically, the report was not sent to the NRC until March 16, 2004.

This is a Severity Level IV violation (Supplement VI).

The NRC has concluded that information regarding the reason for the violations, and the corrective actions taken and planned to correct the violations and prevent recurrence are already adequately addressed on the docket in the NRC letter transmitting this Notice. Therefore, no response to this Notice is required. 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, EA 04-140" and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 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, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555.

If you choose to respond, your response will be placed in the NRC Public Document Room (PDR). Therefore, to the extent possible, the response should not include any personal privacy

Notice of Violation**3**

or proprietary information so that it can be placed in the PDR without redaction. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/pdr.html> (the Public Electronic Reading Room).

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

Dated this 23rd day of August 2004

U.S. NUCLEAR REGULATORY COMMISSION
REGION I

INSPECTION REPORT

Inspection No. 99990001/2003006
Docket No. 99990001
License No. General
Licensee: Worthington Steel Company
Address: 200 Old Wilson Bridge Road
Columbus, OH 43085
Location: 45 Morehall Road
Malvern, PA 19355
Inspection Dates: October 31, 2003 to March 23, 2004

Inspector: /RA/ 8/13/04

Jenny Johansen
Health Physicist date

/RA/ 8/13/04
Approved By: _____
John D. Kinneman, Chief
Nuclear Materials Safety Branch 2
Division of Nuclear Materials Safety date

EXECUTIVE SUMMARY

Worthington Steel Company
NRC Inspection Report No. 99990001/2003006

On October 20, 2003, Region I was notified that Worthington Steel, Malvern, PA (Worthington-Malvern), had sold two generally licensed gauges to a holding company, Truelove & MacLean, which relocated the gauges from the Worthington Steel, Malvern, PA, site. Region I initiated an inspection limited to the review of the transfer of all generally license devices identified in the Worthington-Malvern, PA, General License Registration dated May 29, 2002 to determine if authorized transfers had occurred. The inspection included discussions with representatives of Worthington-Malvern, Worthington Steel Company, Columbus, OH (Worthington-Columbus), Thermo Electron Corporation, and Truelove & MacLean.

On July 1, 2003, Worthington-Malvern sold two Lockheed Martin Model 5310 fixed gauges, each containing a 1,000 millicurie (mCi) sealed source of americium-241 (Am-241), to Truelove & MacLean. This transfer from one general licensee to another, where the generally licensed devices remain in place at the location, is authorized by 10 CFR 31.5(c)(9). However, Worthington-Malvern did not comply with requirements to provide certain documents to the transferee or to report this transfer to the NRC. In addition, on December 19, 2003, Worthington-Malvern disposed of six EXIT signs containing tritium to a specific licensee in accordance with 10 CFR 31.5(c)(8) but did not report this transfer to the NRC as required.

Three apparent violations were identified: (1) failure of the transferor to give the transferee a copy of 10 CFR 31.5, a copy of §§31.2, 30.51, 20.2201, and 20.2202 of this chapter, and any safety documents identified in the label of the device [10 CFR 31.5(c)(9)(i)]; (2) failure to report the transfer from one general licensee to another general licensee to the NRC within 30 days; the report was not sent until October 28, 2003 [10 CFR 31.5(c)(9)(i)]; (3) failure to report the disposal of six generally licensed tritium exit signs on December 19, 2003, within 30 days; the report was not sent until March 16, 2004 [10 CFR 31.5(c)(8)].

REPORT DETAILS

I. Material Transfer

a. Inspection Scope

On October 20, 2003, Region I was notified that Worthington Steel, Malvern, PA (Worthington-Malvern), had sold two generally licensed gauges to a holding company sometime between July and October 2003. The inspection was limited to the review of the transfer of these and other generally license devices removed from the Worthington-Malvern site.

b. Observations and Findings

According to the May 29, 2002, General License Registration Form for Worthington Steel, Malvern, PA (ADAMS Accession No. ML021620210), Worthington-Malvern possessed two generally licensed gauges at 45 Morehall Road in Malvern, PA. The gauges were Lockheed Martin Model 5310 fixed gauges, each containing a 1,000 millicurie (mCi) sealed source of americium-241 (Am-241), with Serial Nos. 35660-1 and 48751-1, received in November 1987 and November 1990, respectively. The letter accompanying the registration form indicated that the Worthington-Malvern facility would shut down sometime in June 2002 and provided contact information for Worthington Steel representatives in Columbus, Ohio (Worthington-Columbus) and Baltimore, MD (Worthington-Baltimore).

According to the May 29, 2002, registration form, in addition to the two gauges which were required to be registered with the NRC, Worthington-Malvern still possessed at the site six Self-Powered Lighting Model 710 tritium exit signs, each containing 25 curies of tritium (Hydrogen-3 gas) as of November 15, 1987. Worthington-Malvern also reported that they had transferred, sometime between November 15, 1995 and May 29, 2002, one Model 5310 gauge containing Am-241, Serial No. 1959LQ, to Worthington Steel Company, Slitting Department, 8911 Kelso Drive, Baltimore, MD (Worthington-Baltimore).

Sometime after June 2002 and prior to December 5, 2003, the Worthington-Malvern site at 45 Morehall Road, Malvern, PA, was sold to O'Neill Properties. However, Worthington Steel still had access to the site for removing equipment. Worthington-Malvern ceased to exist about this time, and subsequent actions were overseen by Worthington-Columbus or Worthington-Baltimore representatives. Sometime between May 29, 2002 and July 2003, Worthington-Malvern sold the two gauges to a holding company, Truelove & MacLean of 984 Waterville Street, Waterbury, CT. According to Truelove & MacLean, the gauges were purchased on July 1, 2003. The gauges remained at the Worthington-Malvern site for a time after the sale. Truelove & MacLean moved the gauges from the Worthington-Malvern site sometime between July 2003 and October 15, 2003. The relocation of these gauges by Truelove and MacClean is discussed in NRC Inspection Report No. 99990001/2003-005.

Worthington representatives stated that they believed it was the buyer's responsibility to properly remove the gauges from the Worthington-Malvern site and to report the transfer to the NRC. Truelove & MacLean contracted with Thermo Electron Corporation (an Agreement State licensee authorized to service generally licensed devices), to check the gauges. In October 2003 a Thermo Electron Corporation service representative contacted Worthington to let them know they needed to report the transfer, and also contacted the NRC to inform them that they gauges had been relocated. Subsequently, Worthington-Columbus informed the NRC of the transfer in a report dated October 28, 2003.

Worthington Steel did not provide to Truelove & MacLean, as required, a copy of 10 CFR 31.5, 31.2, 30.51, 20.2201 and 20.2202 or any safety documents identified in the label of the gauging device at the time of the sale. Worthington Steel provided to Truelove & MacLean a copy of 10 CFR 31.5, 31.2, 30.51, 20.2201 and 20.2202 on October 28, 2003, but still have not provided them with any safety documents identified in the label of the gauging device such as the Gauge Operating Manual.

10 CFR 31.5(c)(9)(i) states that a general licensee (the transferor) shall transfer a device to another general licensee (the transferee) only if the device remains in use at a particular location. In addition, the transferor is required to give the transferee a copy of 10 CFR 31.5, a copy of §§31.2, 30.51, 20.2201, and 20.2202, and any safety documents identified in the label of the device. It further requires that, within 30 days of the transfer, the transferor shall report information specified in 31.5(c)(9)(i)(A through D) to the U.S. Nuclear Regulatory Commission.

Based on this inspection, on July 1, 2003, Worthington-Malvern, a general licensee who is the transferor, sold two generally licensed devices to Truelove & MacLean, a general licensee who is the transferee, in that the gauges remained in place at Malvern, PA. However, Worthington-Malvern failed to give the transferee a copy of 10 CFR 31.5, a copy of §§31.2, 30.51, 20.2201, and 20.2202 until October 28, 2003, and failed to provide any safety documents identified in the label of the device. In addition, Worthington-Malvern failed to report the transfer to the U.S. Nuclear Regulatory Commission within 30 days of the transfer.

Worthington-Columbus confirmed on February 13, 2004, that the six Self-Powered Lighting Model 710 tritium exit signs were collected from the Worthington-Malvern site and sent for disposal to SRB Technologies in Winston-Salem, NC, an Agreement State specific licensee authorized to receive the licensed material. During a March 11, 2004 telephone conversation, the inspector reminded the Worthington-Columbus representative of the 30-day reporting requirement for generally licensed material in 10 CFR 31.5(c)(8)(ii). The report of transfer sent to the NRC dated March 16, 2004 indicated that the exit signs had been transferred on December 19, 2003.

10 CFR 31.5(c)(8)(i) and (ii) requires, in part that, a general licensee transfer or dispose of a device containing byproduct material only to a person authorized to receive that device by a specific license issued under parts 30 and 32 of this chapter or equivalent regulations of an Agreement State and furnish a report to the U.S. Nuclear Regulatory

Commission, Washington, D.C.20555-0001 within 30 days after the transfer of a device to a specific licensee.

Based on this inspection, Worthington Steel disposed of six generally licensed tritium exit signs on December 19, 2003, by transfer to SRB Technologies, but failed to report the disposal with 30 days as required, providing the report in a letter dated March 16, 2004.

c. Conclusions

Three apparent violations were identified: failure to provide copies of documents to the transferee; and, failure to report the transfer of generally licensed devices from one general licensee to another within 30 days to the NRC as required by 10 CFR 31.5(c)(9); and failure to report the disposal of generally licensed devices within 30 days as required by 10 CFR 31.5(c)(8).

II. Exit Meeting

The results of the inspection were discussed with Mr. John Mertler, Worthington Steel Columbus, Ohio, via telephone on March 23, 2004.

PARTIAL LIST OF PERSONS CONTACTED

Licensee

Christopher Burnett, Thermo Electron Corporation, via telephone
Peter Freda, Worthington Steel. Malvern, PA, via telephone
* John Mertler, Worthington Steel Columbus, Ohio., via telephone
Rod Roessler, CorusGroup, Consultant to Truelove & MacLean, via telephone
Harold Langerbiens, Truelove & MacLean, via telephone
Jeff Knorr, Maintenance Manager, Truelove & MacLean, via telephone
Ray Manley, State of Maryland via Telephone

*Contacted at exit