



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-4005

January 7, 2008

Patrick Morrison, RSO
Smith-Emery Company
1940 Oakdale
San Francisco, California 94124

SUBJECT: NRC INSPECTION REPORT 030-20382/07-001 AND NOTICE OF VIOLATION

Dear Mr. Morrison:

This refers to the inspection conducted September 24, 2007, at your facility in San Francisco, California. This inspection was an examination of activities conducted under your license as they relate to safety and compliance with the Commission's rules and regulations and with the conditions of the license. Within these areas, the inspection consisted of selected examination of procedures and representative records and interviews with personnel. Preliminary inspection findings were discussed with you at the conclusion of the onsite portion of the inspection. A final exit briefing was conducted with you on January 7, 2008.

Based on the results of this inspection, the NRC has determined that a Severity Level IV violation of NRC requirements occurred. This violation was evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at Web site at www.nrc.gov/about-nrc/regulatory/enforcement.html. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in the subject Notice. The violation is being cited in the Notice because it was identified by the NRC, rather than being identified by the licensee.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. For your consideration and convenience, an excerpt from NRC Information Notice 96-28, "SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION," is enclosed. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

The inspector also determined that, since the last inspection, you had vacated and released the field station location listed on your license. The inspector reviewed with you the importance of requesting an amendment to remove this location from your license and waiting to receive the amended license deleting the vacated location prior to releasing the field station for unrestricted use.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response 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>. 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.

Should you have any questions concerning this inspection or the enclosed Notice, please contact Rick Muñoz at (817) 860-8220 or Vivian H. Campbell at (817) 860-8287.

Sincerely,

/RA/

Vivian H. Campbell, Chief
Nuclear Materials Safety Branch-A

Docket No.: 030-20382
License No.: 04-19467-02

Enclosures:

1. Notice of Violation
2. NRC Information Notice 96-28

cc w/Enclosure 1:
California Radiation Control Program Director

Smith-Emery Company

-3-

bcc w/enclosure (via ADAMS e-mail distribution):

LDWert

CLCain

VHCampbell

JEWhitten

RRMuñoz

KEGardin

NMSB-A

RIV Materials Docket File - 5th floor

SUNSI Review Completed: RRM

ADAMS: X Yes No Initials: RRM

Publicly Available Non-Publicly Available Sensitive Non-Sensitive

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RIV:DNMS:NMSB-A	C:NMSB-A
RRMuñoz	*VHCampbell
<u>/RA/</u>	<u>/RA/</u>
10/29/2007	11/17/07

OFFICIAL RECORD COPY

T=Telephone

E=E-mail

F=Fax

*Previous Concurrence

NOTICE OF VIOLATION

Smith-Emery Company
San Francisco, California

Docket No. 030-20382
License No. 04-19467-02

During an NRC inspection conducted September 24, 2007, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10 CFR 20.1501 requires that each licensee make or cause to be made surveys that may be necessary for the licensee to comply with the regulation in Part 20 and that are reasonable under the circumstances to evaluate the extent of radiation levels, concentrations or quantities of radioactive materials, and the potential radiological hazards that could be present.

Pursuant to 10 CFR 20.1003, survey means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of radioactive material or other sources of radiation.

Contrary to the above, as of September 24, 2007, the licensee did not make surveys to assure compliance with 10 CFR 20.1402, which limits radiation levels not exceeding 25 mrem per year to an average member of the critical group in areas released for unrestricted use. Specifically, the licensee vacated the authorized storage facility at Hunter's Point, Building 114, San Francisco, California, and released the facility for unrestricted use without conducting surveys to demonstrate compliance with 10 CFR 20.1402.

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

Pursuant to the provisions of 10 CFR 2.201, Smith-Emery Company is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, Region IV, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

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 20555-0001.

Because your response 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>, to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

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

Dated this 7th day of January 2008