

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
Nondestructive Inspection Service, Inc.) License No. 47-11883-01
P. O. Box 215) EA 81-06
Hurricane, West Virginia 25526)

ORDER IMPOSING CIVIL MONETARY PENALTIES

I

Nondestructive Inspection Service, Inc., P. O. Box 215, Hurricane, West Virginia, (the "licensee") is the holder of License No. 47-11883-01 (the "license") issued by the Nuclear Regulatory Commission (the "Commission"). License No. 47-11883-01 authorizes industrial radiographic operations and timely application for renewal was filed on November 30, 1980.

II

An investigation of the licensee's activities under the license was conducted on September 16-19, 1980, at the licensee's facility located in Hurricane, West Virginia. As a result of this investigation, it appears that the licensee has not conducted its activities in full compliance with the conditions of its license and with the requirements of NRC Regulations. A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the licensee by letter dated January 16, 1981, which stated the nature of the violations, the provisions of Nuclear Regulatory Commission regulations and license conditions which the licensee had violated, and the

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amount of civil penalties proposed for each violation. An answer dated January 27, 1981, to the Notice of Violation and Proposed Imposition of Civil Penalties was received from the licensee.

III

Upon consideration of the answers received and the statements of fact, explanation, and argument for deferral, compromise, mitigation, or cancellation contained therein as set forth in Appendix A to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalties proposed for the violations designated in the Notice of Violation should be imposed, except for Item F and part of Item H. Item F and its proposed civil penalty is withdrawn and remitted in its entirety, and the civil penalty for Item H is mitigated from Two Hundred Dollars to One Hundred Dollars. The Notice of Violation is modified accordingly.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282) and 10 CFR 2.205, IT IS HEREBY ORDERED THAT:

The licensee pay civil penalties in the total amount of Four Thousand Seven Hundred Dollars (\$4,700) within twenty-five days of the date of

this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement.

V

The licensee may, within twenty-five days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement, U.S.N.R.C., Washington, D.C. 20555. A copy of the hearing request shall also be sent to the Executive Legal Director, U.S.N.R.C., Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. Upon failure of the licensee to request a hearing within twenty-five days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

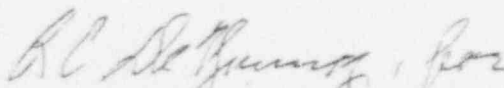
VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

- (a) whether the licensee violated NRC regulations and the conditions of its license as set forth in the modified Notice of Violation referenced in Section III above; and,

(b) whether, on the basis of such violations, this Order should be sustained.

FOR THE NUCLEAR REGULATORY COMMISSION



Victor Stello, Jr. Director
Office of Inspection and Enforcement

Dated this 26th day of March 1981
at Bethesda, Maryland

Attachment:
Appendix A, Evaluation
and Conclusion

APPENDIX A

EVALUATION AND CONCLUSION

Each violation and associated civil penalty identified in the Notice of Violation dated January 16, 1981, is restated and the Office of Inspection and Enforcement's evaluation and conclusion regarding the licensee's response to each item is presented.

Statement of Noncompliance

- A. 10 CFR 34.24 requires that radiation survey instruments be calibrated at intervals not to exceed three months.

Contrary to the above, for the period from 1/1/79 to 9/17/80, Gamma Industries Model 250B Survey Meter, Serial No. 0638 had been calibrated only on 11/27/79 and 4/14/80, and Serial No. 287 had been calibrated only on 6/6/79 and 8/24/79. Eberline Model E120G Survey Meter, Serial No. 376 was calibrated only on 1/10/80. The following survey meters, although labelled as being currently calibrated, have not been calibrated at the required intervals since 1/1/79: Gamma Industries Model 250B, Serial Numbers 0221, 0287 and 0638. Based on record reviews and interviews, it was determined that these survey instruments were being used when not calibrated at the required frequency.

This is a Severity Level III Violation (Supplement VII.C.6). (Civil Penalty - \$800).

Evaluation of Licensee Response

The licensee has stated that it was in noncompliance with this regulation and has therefore admitted the violation.

Conclusion

The item as stated is a violation. The information provided by the licensee does not provide a basis for remission or mitigation of the proposed penalty.

Statement of Noncompliance

- B. 10 CFR 34.43(a) requires that at least one calibrated and operable radiation survey instrument be available at the location of radiographic operations whenever radiographic operations are being performed.

Contrary to the above, on September 17, 1980, radiography was performed at a field site near Pinch, WV, with an inoperable survey meter. The survey meter was an Eberline E120G, Serial No. (illegible).

This is a Severity Level III Violation (Supplement VII.C.6.) (Civil Penalty - \$500).

Evaluation of Licensee Response

The licensee has stated that the survey meter, an Eberline E120G, Serial #263, was operating on the morning of September 17, 1980, and that the technician had no way of knowing when the batteries were going to fail. The licensee also stated that upon discovery of the failed batteries, the technician acted properly in that he ceased operation and asked the NRC inspector to use his survey meter in determining that the source had returned to a shielded position. Despite the licensee's contention, radiographic operations were performed with an inoperable survey meter.

Conclusion

The item as stated is a violation. The information provided by the licensee does not provide a basis for remission or mitigation of the proposed penalty.

Statement of Noncompliance

- C. 10 CFR 34.43(b) requires that a survey with a radiation survey meter be made after each radiographic exposure to determine that the sealed source has been returned to its shielded position. The entire circumference of the radiographic exposure device shall be surveyed. If the radiographic exposure device has a source guide tube, the survey shall include the guide tube.

Contrary to the above, the required survey of the exposure device and guide tube was not performed after two exposures at a field location near Pinch, WV on September 17, 1980.

This is a Severity Level III Violation (Supplement IV.C.4.) (Civil Penalty - \$500).

Evaluation of Licensee Response

The licensee has stated that the technician doing the exposures on the occasion of the violation had received both formal instruction and on-the-job training in proper techniques of using a survey meter to survey sealed sources after each radiographic exposure. The licensee has stated that it has emphasized to its employees the necessity of doing such surveys.

The licensee has not denied that a violation occurred. Proper training in survey techniques so as to assure compliance with NRC requirements is expected and thus, the licensee's emphasis on the training it has conducted is not a basis for remission or mitigation of the civil penalty. In addition, the emphasis the licensee has placed on training has apparently been ineffective in that the surveys required by 10 CFR 34.43(b) were in fact not made.

Conclusion

The item as stated is a violation. The information provided by the licensee does not provide a basis for remission or mitigation of the proposed penalty.

Statement of Noncompliance

- D. 10 CFR 20.201(b) requires each licensee to make or cause to be made such surveys as may be necessary to comply with the regulations in Part 20. In addition, Condition 16 of your license incorporates procedures contained in your letter dated October 9, 1975. One of these procedures requires that surveys be performed to verify that radiation levels at the boundary of the restricted area do not exceed 2 mr/hr.

Contrary to the above, surveys were not performed as necessary to assure compliance with 10 CFR 20.105(b) "Permissible levels of radiation in unrestricted areas." Specifically, surveys were not made on September 17, 1980, to verify that radiation levels in unrestricted areas near Pinch, WV did not exceed 2 mr/hr.

This is a Severity Level III Violation (Supplement IV.C.4.) (Civil Penalty - \$500).

Evaluation of Licensee Response

The licensee has again stressed the training it has given its employees on the necessity of doing surveys to verify that the 2 mr/hr limit has not been exceeded. Such training is expected and does not serve as a basis for reducing the civil penalty.

Conclusion

The item as stated is a violation. The information provided by the licensee does not provide a basis for remission or mitigation of the proposed penalty.

Statement of Noncompliance

- E Condition 16 of your license requires that licensed material be used in accordance with statements, representations and procedures contained in your letter dated October 9, 1975, as listed below:

1. Upon satisfactory completion of a formal training program and examination, all applicants will be required to work with experienced radiographers for a period of not less than two months.

Contrary to the above, three employees have been permitted to work as radiographers without the required two months supervised training. Specifically, one employee joined NIS, Inc., on 8/23/79 and began work as a radiographer on 9/13/79; another joined NIS, Inc., on 6/21/80 and began work as a radiographer on 6/26/80; another employee who joined NIS, Inc., on 5/12/80 began work as a radiographer on 6/16/80.

This is a Severity Level III Violation (Supplement VII.C.4.) (Civil Penalty - \$800).

2. The immediate area where a radiographic test is to be made shall be restricted by a rope or similar barricade and all entrances to a radiation area shall be posted with signs displaying the words: "Danger - Radiation Area."

Contrary to the above, restricted areas at a field site near Pinch, WV, on September 17, 1980, were not roped off or barricaded, nor were all entrances to the radiation areas posted with appropriate signs.

This is a Severity Level III Violation (Supplement VII.C.1.) (Civil Penalty - \$400).

3. A truck survey shall be completed before a vehicle carrying a radiographic device leaves the yard.

Contrary to the above, a survey was not performed on the truck used to transport a radiographic device to Pinch, WV on September 17, 1980.

This is a Severity Level III Violation (Supplement VII.C.4.) (Civil Penalty - \$200).

4. A survey shall be performed each time the radiographic device is removed and returned to a temporary storage area.

Contrary to the above, surveys were not routinely performed each time the radiographic device was removed and returned to a temporary storage area.

This is a Severity Level III Violation (Supplement IV.C.4.) (Civil Penalty - \$200).

5. A lead-lined storage container shall be mounted at the entrance to each portable darkroom.

Contrary to the above, vehicles used to transport radiographic devices are not equipped with a lead-lined storage container.

This is a Severity Level III Violation (Supplement VII.C.6.) (Civil Penalty - \$200).

6. Certain records shall be maintained on a daily basis. These records include Utilization Logs, Vehicle Surveys, Camera and Source Storage Surveys, and Inspection and Maintenance Logs.

Contrary to the above, records reviewed on September 17, 1980 indicated that one radiographer pre-dated Utilization Logs, Vehicle Surveys, Camera and Source Storage Surveys, and Inspection and Maintenance Logs for September 18, 19 and 20, 1980. Records of surveys were not maintained on trucks used to transport radiographic devices to Pinch, WV on September 10, 11, 12, 13 and 15. A record of a truck survey was not maintained for a vehicle transporting a radiographic device to Catlettsburg, KY on August 9, 1980.

This is a Severity Level III Violation (Supplement VII.C.6.) (Civil Penalty - \$300).

Evaluation of Licensee Response

With respect to items E1, E3, E4, and E6, the licensee has again emphasized that its employees had received proper formal and on-the-job training so as to assure compliance with the requirements described in these four items. Again, such training is expected and is not an appropriate basis for reducing the civil penalty.

With respect to item E2, the licensee has admitted that signs should have been posted, but has stated that no rope was available. The fact that no rope was available is not a basis to reduce the civil penalty. The licensee is required to have some means available that will enable it to restrict entry to the area where it is conducting radiographic operations.

With respect to item E5, the licensee has stated that it removed the lead-lined storage containers but did so because rusting of the containers and attached bolts presented a safety hazard. In addition, the licensee has stated that it will seek to amend its license in the future so as to remove the requirement for such containers. Nevertheless, the licensee is required by its present license to have such containers. When removing the containers, the licensee should have replaced them so as to remain in compliance with its license.

Conclusion

The items as stated are violations. The information provided by the licensee does not provide a basis for remission or mitigation of the proposed penalties.

Statement of Noncompliance

- F. 10 CFR 34.31(c) requires that records of field examinations required by 10 CFR 34.31(a) and (b) be maintained for three years.

Contrary to the above, records of the required field examinations were not maintained.

This is a Severity Level III Violation (Supplement VII.C.6.) (Civil Penalty - \$200).

Evaluation of Licensee Response

The licensee has denied this violation on the basis that "records are here and have been all the time". In view of the fact that the Radiation Safety Officer maintains these records and was not present when these records were requested, the NRC is withdrawing this violation.

Conclusion

The licensee has provided reasonable information that, had the request for these records been made to the Radiation Safety Officer, they would have been provided; the violation and its proposed civil penalty are withdrawn.

Statement of Noncompliance

- G. 10 CFR 34.33(a) and (b) require, respectively, that pocket dosimeters be re-charged at the start of each shift and that exposures shall be recorded daily.

Contrary to the above, pocket dosimeters were not routinely re-charged at the start of each shift; pocket dosimeters were often not re-charged for periods of time up to a week. Additionally, pocket dosimeter readings were not recorded for June 5, August 9, September 10, 11, 12, 13 and 15, 1980.

This is a Severity Level III Violation (Supplement VII.C.6.) (Civil Penalty - \$300).

Evaluation of Licensee Response

The licensee has stated that its employees have been instructed as to the necessity of recharging pocket dosimeters. Such instructions are expected and do not serve as the basis for reducing the civil penalty.

Conclusion

The item as stated is a violation. The information provided by the licensee does not provide a basis for remission or mitigation of the proposed penalty.

Statement of Noncompliance

- H. 10 CFR 34.28(a) and (b) require that the licensee check for obvious defects in radiographic exposure devices prior to use each day the equipment is used. Also, the licensee shall conduct a program for inspection and maintenance of radiographic exposure devices, storage containers and source changers at intervals not to exceed three months or prior to the first use thereafter to assure proper functioning of components important to safety. Records of these inspections and maintenance shall be kept for two years.

Contrary to the above, the required checks of radiographic exposure devices were not performed prior to use each day. Rather, the required checks are performed at the end of the work day when the exposure devices are returned to the shop. In addition, on September 19, 1980, records of the required quarterly inspection and maintenance program were not maintained.

This is a Severity Level III Violation (Supplement VII.C.6.) (Civil Penalty - \$200).

Evaluation of Licensee Response

The licensee has responded that it completes certain records on a daily basis. 10 CFR 34.28(b) requires the licensee to conduct a program for inspection and maintenance of radiographic exposure devices, storage containers, and source changers at intervals not to exceed three months or prior to the first use thereafter. Records of this inspection and maintenance program are to be kept by the licensee for two years. The daily records referenced by the licensee in its response are not the same records that are required to be kept by 10 CFR 34.28(b).

As to the daily checks of radiographic exposure devices required by 10 CFR 34.28(a), it appears that the licensee has performed the required checks prior to use, although not on the day the equipment was used. Accordingly, the civil penalty for this violation is being mitigated by \$100.

Conclusion

As discussed in the evaluation above, sufficient cause has been provided to justify mitigation of one-half of the civil penalty assessed for this item. Accordingly, the civil penalty for this violation is mitigated from \$200 to \$100.