



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION V  
1990 N. CALIFORNIA BOULEVARD  
SUITE 202, WALNUT CREEK PLAZA  
WALNUT CREEK, CALIFORNIA 94596

TIC

September 7, 1979

Docket No. 50-228

Aerotest Operations, Inc.  
3455 Fostoria Way  
San Ramon, California 94583

Attention: R. L. Newacheck  
President

Gentlemen:

This Information Notice is being reissued to correct a word omission and a punctuation error that, when taken together, completely changed the intent of a statement. The changed statement is underlined in the text of the Information Notice.

It is requested that the facility licensee provide copies of this Information Notice to all NRC licensed individuals at the facility. No specific response is requested at this time. If you have questions regarding this matter, please contact the Director of the appropriate NRC Regional Office.

Sincerely,

R. H. Engelken  
Director

Enclosure:  
IE Information Notice  
No. 79-20, Revision 1

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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
OFFICE OF INSPECTION AND ENFORCEMENT  
WASHINGTON, D.C. 20555

September 7, 1979

IE Information Notice No. 79-20 Rev. 1

NRC ENFORCEMENT POLICY - NRC LICENSED INDIVIDUALS

Background:

In the past, NRC licensed individuals have been cited by the NRC for failure to comply with the conditions of their licenses. These items of noncompliance can generally be characterized as serious or repeated failures to follow reactor operating procedures. Two recent events involving the radiation overexposure of NRC licensed individuals through their violation of utility procedures, facility Technical Specifications and the Code of Federal Regulations have raised questions about the exercise of their responsibilities.

The purpose of this Information Notice is two-fold:

- (1) To remind the NRC licensed individuals of their responsibilities, not only in the proper operation of the facility controls, but in compliance with the facility administrative procedures, and
- (2) To summarize the enforcement sanctions available to the NRC for use against licensed individuals.

Description of Circumstances:

1. Responsibilities

Facility licensees are charged with the responsibility to design, construct and operate their plants in accordance with NRC requirements to assure that public health and safety are protected. The role of NRC licensed individuals is no less important in the overall Regulatory scheme. The NRC recognizes that timely actions by NRC licensed individuals are an important part of safety. Reliance on these actions is a part of the defense-in-depth concept. Specifically, the NRC requires that:

- (1) Only licensed operators are permitted to manipulate the controls that directly affect reactivity (10 CFR 50.54 (i))
- (2) Licensed operators are required to be present at the controls at all times during the operation of the facility (10 CFR 50.54 (k))

- (3) Operation of mechanisms and apparatus other than controls which may indirectly affect the power level or reactivity of a reactor shall only be accomplished with the knowledge and consent of an operator licensed in accordance with Part 55 (10 CFR 50.54 (j))
- (4) Licensed senior operators are required to be present at the facility during specified conditions, and available or on call at other times during operation (10 CFR 50.54 (m))
- (5) The NRC licensed individual shall observe all applicable rules, regulations and orders of the Commission, whether or not stated in the license (10 CFR 55.31(d))

The above requires the NRC licensed individual to comply with the requirements pertaining to the operation of the facility and manipulation of its controls and to comply with radiation safety procedures implementing 10 CFR 20.

NRC policy for the responsibility for safe operation of NRC licensed facilities continues to be as follows:

- (1) The facility licensee is responsible for assuring that the facility is operated within the requirements of the license, Technical Specifications, rules, regulations, and Orders of the NRC and for the actions of their employees.
- (2) NRC licensed individuals are responsible for taking timely and proper actions so as not to create or cause a hazard to "safe operation of the facility" (i.e. actions or activities, including failure to take action, related to the facility which could have an adverse affect on the health and safety of the public, plant workers or the individuals).

## 2. Enforcement Sanctions

On December 31, 1974, the then AEC sent a letter to all facility licensees containing the criteria for determining enforcement action and the categories of noncompliance with AEC regulatory requirements. Those criteria and categories are applicable to NRC licensed individuals as well as facility licensees.

Paragraph 55.40(b) of Title 10 of the Code of Federal Regulations prescribes that NRC issued operator licenses may be revoked, suspended or modified for failure to observe any terms or conditions of any rule, regulation or Order of the Commission, or any conduct determined to be a hazard to safe operation of the facility. These would generally involve serious items of noncompliance where: (1) the individuals' action clearly demonstrate inattention to duties or disregard for requirements including technical specifications and operating procedures; (2) the NRC licensed individual fails to take a required action or takes an independent action that results in significant actual or potential safety consequences; or (3) there is repetitive noncompliance with regulatory requirements.

Examples of situations which could result in violations include:

- (1) Noting a serious violation of procedural requirements and not taking corrective action.
- (2) Unauthorized bypassing of required reactor safety systems
- (3) Defeating alarms which have serious safety significance
- (4) Unauthorized abandoning of reactor controls
- (5) Knowingly taking actions that violate TS Limiting Conditions for Operation

The examples listed above involve the failure of an NRC licensed individual to follow procedures and adhere to controls. These are violations of NRC requirements. In the past the NRC has issued Notices of Violation, as provided for in 10 CFR 2.201, and suspended, modified or revoked the license, as provided for in 10 CFR 55.40 (b), of NRC licensed individuals. The issuance of civil monetary penalties, as provided for in 10 CFR 2.205 and 10 CFR 55.50, or criminal charges, as provided for in 10 CFR 55.50, have not been previously used against NRC licensed individuals but may be used if the circumstances warrant such action.

The Commission will continue to monitor the performance of NRC licensed individuals and will continue to take the appropriate enforcement action against NRC licensed individuals.

No written response to this Information Notice is required. If you have questions regarding this matter, please contact the Director of the appropriate NRC Regional Office.