

UNITED STATES  
NUCLEAR REGULATORY COMMISSION

In the Matter of

AMERICAN TESTING AND INSPECTION, INC.  
Joliet, Illinois

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}  
}

General Licensee  
10 CFR 150.20  
EA 88-290

ORDER MODIFYING LICENSE

I

American Testing and Inspection, Inc. (ATI or licensee) is the holder of a Byproduct Materials License issued by the State of Illinois on January 8, 1988, which authorizes ATI to possess and use licensed byproduct materials to perform industrial radiography within the State of Illinois. In accordance with 10 CFR 150.20 and its Illinois license, ATI is authorized to possess and use licensed byproduct materials to perform industrial radiography in non-Agreement States. ATI's Illinois License No. IL-01085-01 is due to expire on August 31, 1992, at which time ATI's authorization under the Nuclear Regulatory Commission's (Commission or NRC) regulations would also terminate.

II

On February 27, 1989, the Commission issued to ATI an Order to Show Cause Why the General License Should Not Be Revoked and Order Suspending License (Effective Immediately). The basis for that Order, as described therein, was a group of violations committed by ATI while a licensee of the Commission prior to the transfer to the State of Illinois of the Commission's jurisdiction over Illinois holders of specific materials licenses. The Order suspended ATI's general license to perform radiography pursuant to 10 CFR 150.20 in non-Agreement States and required the licensee to show cause why the general license should not be revoked because the NRC lacked reasonable

assurance that ATI would conduct radiography in accordance with regulatory requirements. The suspension was immediately effective, pursuant to 10 CFR 2.202(f), because of the willful nature of the violations and because the public health, safety, and interest so required.

III

By letter dated April 5, 1989, the licensee responded to the Order. ATI admitted that several of the violations occurred as stated in the Order. However, the licensee denied that those violations were made knowingly or willfully on the part of its President. ATI also denied several of the violations. While not availing itself of an opportunity to request a hearing, ATI did request that the NRC vacate the Order.

After consideration of the licensee's response and statements of fact, explanations, and arguments for vacation of the Order contained therein, the staff has concluded, as set forth in the Appendix to this Order, that: (1) the violations occurred as stated, (2) the licensee willfully violated the Commission's requirements because it exhibited at least careless disregard, if not **deliberateness**, in violating its license requirements, and (3) the **President, as the chief executive officer and radiation safety officer (RSO)** of ATI, is responsible either directly or indirectly for the actions of ATI's employees in the performance of licensed activities and therefore has responsibility for the violations that occurred. Consequently, the staff lacks reasonable assurance that this licensee will comply with the Commission's requirements without significant additional actions.

The licensee has taken corrective action in response to the violations, including replacing those persons it employed during the time when the violations occurred with more experienced and mature individuals and restructuring its management to assure that its employees complete their utilization logs on time. Therefore, revocation of the general license is not now warranted. The President's continued control over licensed activities and continued responsibilities as RSO, however, render the licensee's corrective action, while necessary to assure the safety of the license's future operations, insufficient to warrant unconditionally lifting the suspension of the general license. Accordingly, modification of the license is necessary to give the staff reasonable assurance that ATI and its President will conduct future licensed activities in non-Agreement States in accordance with NRC requirements under the general license of 10 CFR 150.20. If the licensee complies with the conditions set forth in Sections IV and V of this Order, then the suspension of the general license will be lifted.

On the basis of the above information and the staff's evaluation as stated in the Appendix, I am prepared to lift the suspension of ATI's license if the President of ATI and other persons responsible for the supervision of licensed activities will comply with NRC requirements, including this Order, in the future. Accordingly, I have determined to modify the February 27, 1989, Order to permit continuation of licensed activities in non-Agreement States where the NRC has jurisdiction upon the licensee's satisfaction of the conditions given in Section IV, below.



IV

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended (Act) and the Commission's regulations in 10 CFR Parts 2, 30, 34 and 150, IT IS HEREBY ORDERED THAT THE GENERAL LICENSE PROVIDED BY 10 CFR 150.20 IS MODIFIED AS FOLLOWS:

- A. With respect to activities under NRC jurisdiction: 1) the licensee shall replace Mr. Ronald Preston as RSO with an individual whose qualifications have been evaluated and approved by the NRC; 2) Mr. Ronald Preston shall certify in writing, under oath or affirmation, to the Regional Administrator that (a) he has reviewed the Commission's requirements for radiography including his license and procedures, (b) he fully understands these requirements, (c) he is committed also to comply with these requirements and (d) he, to the best of his ability, will assure that his employees also comply with these requirements.
- B. At least 7 days prior to engaging in licensed activities at locations that are under NRC jurisdiction, the licensee shall give notice to the NRC by filing 4 copies of NRC Form 241, "Report of Proposed Activities in non-Agreement States," with the Regional Administrator, U.S. Nuclear Regulatory Commission, Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137;
- C. The licensee shall engage the services of a qualified independent consultant or organization (organization) that is capable of auditing and

evaluating the licensee's radiography program and, if needed, making recommendations for corrective actions. The licensee shall submit the name and qualifications of the independent organization, together with the organization's plan for accomplishing the tasks listed below, to the Regional Administrator, Region III, for review and approval. The organization shall be approved by the NRC prior to ATI resuming licensed activities in non-Agreement States. After being approved by the Regional Administrator, USNRC, Region III, the organization shall:

At intervals not to exceed 3 months, beginning with the date of resumption of activities in non-Agreement States, observe all ATI radiographers and conduct an audit of the ATI radiation safety program for work performed in non-Agreement States to ensure compliance with NRC regulatory requirements;

- D. Within 30 days after completing its observations and audits of ATI's radiographic activities in non-Agreement States, as described in Section IV.C. above, the organization shall submit written reports of its findings and recommendations for corrective action directly to the Regional Administrator, Region III, as well as to the licensee;
- E. Within 30 days after receiving the organization's report, the licensee shall notify the Regional Administrator, Region III, of its corrective actions in response to the observations and recommendations in the report. For those recommendations not implemented, the licensee shall describe in writing why such actions were not taken;

V

Upon completion of the action required by Section IV.A and the receipt of approvals required by Section IV.C, the suspension ordered by the February 27, 1989 Order is lifted and the licensee may resume operations in accordance with the general license provided under 10 CFR 150.20 as modified by the conditions of Section IV of this Order.


The Regional Administrator, Region III, may for good cause shown, relax, modify, or rescind any of the above requirements upon written request of the licensee.

VI

The licensee or any other person adversely affected by this Order may request a hearing within twenty days of the date of this Order. Any answer to this Order or request for hearing shall be submitted to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555. Copies shall also be sent to the Assistant General Counsel for Hearings and Enforcement, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to the Regional Administrator, Region III, 799 Roosevelt Road, Glen Ellyn, IL 60137. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). Upon the failure of the licensee to answer or request a hearing within the specified time, this Order shall be final without further proceedings.

If a hearing is requested, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

FOR THE NUCLEAR REGULATORY COMMISSION



Hugh L. Thompson, Jr.  
Deputy Executive Director for  
Nuclear Materials Safety, Safeguards,  
and Operations Support

Dated at Rockville, Maryland  
this 30<sup>th</sup> day of November 1989



## APPENDIX

### EVALUATIONS AND CONCLUSIONS

On February 27, 1989, an Order to Show Cause Why License Should Not Be Revoked and Order Suspending License (Effective Immediately) was issued to American Testing and Inspection, Inc. (ATI) based upon violations identified during NRC inspections and an investigation from March 1987-January 1989. The Order described the violations and stated that portions of the violations involved willfulness on the part of the licensee's staff and the licensee's President, who is also the Radiation Safety Officer (RSO). The licensee responded to the Order in a letter dated April 5, 1989. In its response, the licensee admits some of the violations occurred as referenced but denies that these violations were made knowingly or willfully on the part of its President and RSO. The licensee requests that NRC vacate the Order based upon cause submitted. Provided below are (1) the violations as presented in the Order; (2) the licensee's response to the violations; (3) the NRC's evaluation of the licensee's response; (4) the licensee's basis for withdrawal of the Order; and (5) the NRC's conclusions. The NRC evaluation has been organized to correspond to the licensee's April 5, 1989 response.

#### 1. Violation No. 1

"It was concluded that ATI willfully used unqualified radiographers in violation of 10 CFR 34.31 on at least three occasions....

- a. An ATI employee who had not completed the required radiographer's training performed radiography on July 1, 1986, at the direction of the President (who is also the Radiation Safety Officer (RSO)) of ATI...."

#### Summary of Licensee's Response

The licensee admits that the employee, Mr. Jump, had not completed the training program to become a radiographer. However, the licensee contends that Mr. Jump was working with an experienced radiographer, Mr. Anderson, during field training on July 1, 1986. The licensee contends Mr. Jump inappropriately signed documentation indicating he was the radiographer for the job performed on July 1, 1986.

In regard to the President's involvement, the licensee contends that he did not direct Mr. Jump to perform unauthorized radiography since he (the President) was on vacation and assignment of employees to perform radiography was made by the lead radiographer, Mr. Jobbe. The licensee also contends that the President first gained knowledge of this event after returning from vacation.

#### NRC's Evaluation of ATI's Response

The NRC recognizes that two individuals, Messrs. Jump and Anderson, were both at the jobsite on July 1, 1986. Mr. Anderson, in sworn statements, told NRC investigators that Mr. Jump performed the entire



job, including setting up the radiography camera, making exposures with the radioactive source and securing the source in the shielded camera upon completing the job. Mr. Jump also stated, in sworn statements, that he set up all the shots to be taken with the radiography sources; however, he states that Mr. Anderson actually did the moving of the source in and out of the camera. The activities performed by Mr. Jump are required by ATI's license to be performed by a radiographer or assistant who has completed the training specified in 10 CFR Part 34. Mr. Jump had not completed the training to function as a radiographer or assistant radiographer in training; therefore, the NRC maintains Mr. Jump was unqualified to perform the radiographic activities that occurred on July 1, 1986. Therefore, the NRC concludes that Mr. Jump, an unqualified individual, performed radiography activities.

The NRC agrees the President was out of town on July 1, 1986. The NRC does not agree that the President had no prior knowledge of Mr. Jump being involved in radiography work. Although the President stated to investigators that Mr. Jobbe made all work assignments on July 1, 1986, Mr. Jobbe stated, in a sworn statement, that he did not assign Mr. Jump to that job, but rather the President made assignments at that time. In addition, the NRC has a sworn statement from Mr. Anderson that prior to July 1, 1986, the President directed him (Mr. Anderson) to accompany and observe Mr. Jump performing radiography. The statements of the President and Mr. Jobbe contradict each other. Based upon the statement by Mr. Anderson, however, the NRC concludes that the President knew or should have been aware that Mr. Jump would be performing radiography and that he was not fully trained or authorized to do so.

- b. "...another ATI employee who was not trained as a radiographer performed radiography on February 3, 1987...."

#### Summary of ATI's Response

The licensee admits that a violation occurred when an unqualified individual performed radiography on February 3, 1987. The licensee contends that the President was not aware of the violation until he was told by the lead radiographer, Mr. Jobbe. The licensee also states that the President was not aware of the violation prior to its occurrence, nor was he in the State of Illinois when the violation occurred. The licensee submits documentation to support that during February 2 through 6, 1987, the President was out of town working with Mr. S. A. Turner, President of Corrosion Monitoring Services, in Indianapolis, Indiana.

#### NRC's Evaluation of ATI's Response

The licensee does not contest the violation but denies that the President knowingly and willfully violated NRC requirements, since he was out of town at the time. Based upon statements made to NRC staff by the lead radiographer (Mr. Jobbe), the unqualified individual

(Mr. Elliott), and a Clark Oil inspector during the 1987 and 1988 NRC inspection and investigation, the NRC agrees with the licensee's assessment that the President was out of town and did not knowingly or willfully permit this violation to occur. The NRC order, however, does not single out the President as knowingly and willfully permitting this violation to occur. The Order refers to the licensee as an entity in regard to willfulness. Other licensee employees (i.e., Messrs. Jobbe and Elliot) were aware that Mr. Elliot was left at the Clark Oil site to perform radiography. The licensee's response also indicates that Mr. Elliot was left to perform radiography (i.e., crank the source back into its shielded container). Based upon these facts, the NRC concludes that the licensee's employees and, thus, the licensee willfully allowed an unqualified radiographer to perform radiography on February 3, 1987.

- c. "...another ATI employee who was not trained as a radiographer performed radiography on...March 13, 1987."

#### Summary of ATI's Response

The licensee admits that a violation occurred in that radiography was performed by an unqualified individual, Mr. Elliot, on March 13, 1987. The licensee denies that this violation occurred at the direction or with the prior knowledge of the licensee's President. The licensee supports this statement by submitting a locator sheet showing that the President was scheduled out of town on March 13, 1987 and he left early that day. The licensee admits Mr. Elliot was assigned to perform work on March 13, 1987 without the presence of an authorized radiographer. However, the licensee contends that its staff did not know radiography would be performed at the site.

#### NRC's Evaluation of ATI's Response

The licensee admits that a violation occurred in that an unqualified individual performed radiography. With respect to the President's knowledge of this, the licensee provides a locator sheet to show that the President was out of town and could not be aware of the assignment of this unqualified individual. The NRC, however, has a sworn statement from the unqualified radiographer that the President did, in fact, ask Mr. Elliot to go to the jobsite prior to March 13, 1987. The NRC also has a sworn statement from Mr. Jobbe that the President assigned Mr. Elliot to do the radiography job on March 13, 1987; however, Mr. Jobbe's statement contradicts those he told NRC inspectors during the inspection. During the inspection, Mr. Jobbe told NRC inspectors that he (Mr. Jobbe) assigned Mr. Elliot to perform radiography on March 13, 1987.

The licensee also contends its staff did not know Mr. Elliot would perform radiography. However, the licensee permitted Mr. Elliot to go to the jobsite with radioactive materials that could be used to perform radiography.



The NRC Order stated that the licensee willfully permitted an unqualified individual to perform radiography. The Order did not single out the President. The NRC maintains that the licensee, whether by Mr. Jobbe or the President, permitted this to occur since the licensee sent Mr. Elliot to the jobsite with radioactive materials he was not qualified to use. The licensee did not restrict him from using the materials to perform radiography and he performed licensed activities.

## 2. Violation No. 2

- a. "...employees willfully failed to complete and maintain current utilization logs in violation of 10 CFR 34.27.... (This failure) ...violated the record keeping requirements of 10 CFR 34.28, 34.33 and 34.43...."

### Summary of ATI's Response

The licensee admits that prior to the 1987 NRC inspection utilization logs were not maintained as required, but denies having knowledge of willful intent on the part of its employees.

The licensee insists that its employees were trained in the requirements of maintaining current utilization logs. Further, the licensee points out that past NRC inspections (1983-1986) never resulted in a violation related to utilization logs.

### NRC's Evaluation of ATI's Response

The NRC agrees that employees (i.e., radiographers) were trained in the requirements of maintaining logs as stated in the licensee's response. In addition, NRC's inspection and investigation showed that employees knew the logs were required to be completed and were not completed on time (i.e., utilization logs were anywhere from a month to a year delinquent). Some radiographers said that the logs were only requested just prior to the NRC inspection, which the licensee knew was conducted normally every 12 months. The President admitted to NRC inspectors and investigators that he had been "lax" about keeping up with his staff's logs. NRC concludes that with the President's knowledge, specific radiographers (Anderson and Small) failed to complete utilization logs when they knew the logs were required to be completed (i.e., willful failure).

- b. "Further evidence revealed that the RSO personally failed to complete utilization logs between January 1986 and March 1987, even though he had regularly performed radiography during that time."

### Summary of ATI's Response

The licensee admits that the President did not personally maintain utilization logs during the period in question. However, the licensee notes that the President did not regularly perform radiography. In



in addition, when he was involved in radiographic operations, the utilization logs were generated by one of the other radiographers on the job with him. The licensee furnished three examples of this practice in its response.

#### NRC Evaluation of ATI's Response

The President knew there was a requirement for utilization logs as shown by (1) training of licensee employees, including the President, in the requirement for maintaining utilization logs (see licensee's response to Violation 2.a, page 5); (2) the President providing logs for NRC inspections; and (3) the President admitting to the NRC inspectors and investigators that he was "lax" in keeping up with his staff's logs.

The President admitted to NRC inspectors and investigators that he failed to complete utilization logs of work he performed from January 1986 to March 1987. The licensee contends, however, that in most cases, logs were generated by other radiographers. The information submitted by the licensee does not demonstrate that logs were generated in most cases. The licensee only produced three examples where logs were maintained, yet, the President participated in at least 29 radiography procedures during the period in question. Such records were not available during the inspection. In addition, record reviews indicate that the President performed radiography in the absence of other radiographers on at least 5 occasions during the period in question, and no utilization logs were maintained.

- c. "...utilization logs were not completed until months after the jobs were completed.... It was determined that when utilization logs were completed late, employees fabricated lost information in the backtitled logs."

#### Summary of ATI's Response

The licensee admits knowing that some utilization logs were generated some time after the specific jobs were performed. The licensee denies having directed any of its employees to fabricate utilization logs, however, and further denies knowledge of such fabrication on the part of any individual employed by the licensee. As corrective action, the licensee states that in April 1987 it instituted a "No Logs-No Pay" policy to ensure that logs would be completed on a timely basis.

#### NRC's Evaluation of ATI's Response

The licensee responds to this violation by stating that it did not direct any employee to fabricate logs and it had no knowledge of such fabrication. The NRC did not state the licensee directed employees to fabricate logs, but that the employees in fact fabricated the records.

The licensee employees admitted to NRC inspectors and investigators that utilization logs were commonly generated long after the specific jobs were performed. ATI contends that it understood these logs contained legitimate information recalled by its employees or readily available from other documents. The NRC agrees that some of the information required was available; however, other information such as camera serial numbers, dosimeter results and survey measurements were not available on any other record. Sworn statements by the licensee's radiographers (Anderson, Baker and Bednarowicz) made to the NRC investigators substantiate that this type of information could not be accurately recalled by employees after the periods of time involved here had elapsed. The NRC confirmed that Anderson fabricated information in his utilization logs. The licensee has not presented any information to change NRC's conclusion that records were fabricated.

3. Violation No. 3

- a. "It was determined that one ATI employee had not been field audited for the fourth quarter of 1986...."

Summary of ATI's Response

The licensee assumed that this particular violation was in reference to a former employee, Mr. Small. The licensee states that an audit was not performed due to Mr. Small having terminated employment in November 1986 and thus not being available during the time the fourth quarter audits were performed.

NRC's Evaluation of ATI's Response

The NRC does not refute the licensee's statements about Mr. Small. However, Mr. Small was not the individual referred to in the NRC's Order. The individual in question was Mr. Jobbe, an ATI radiographer, employed at least until June 1987. The President indicated to the investigators that his failure to audit Mr. Jobbe would have been an oversight. During the NRC inspection, the President also acknowledged that he failed to audit Mr. Jobbe during the fourth quarter of 1986. Accordingly, this violation is valid.

- b. "It was determined that...another employee had not been field audited for the third and fourth quarters of 1986."

Summary of ATI's Response

The licensee contends that field audits for this radiographer were performed in July 1986 during his first independent radiographic operation. The licensee states that it was unable to audit this radiographer further because he terminated his employment prior to the end of the third quarter of 1986 (i.e., August 1986). It stated this individual was allowed to perform "free-lance" radiography on four occasions during the fourth quarter primarily to earn spending money while in college; however, he was not audited by ATI during this quarter, since he was not considered a regular employee of ATI.



NRC's Evaluation of ATI's Response

The NRC investigation did not produce evidence to refute the licensee's statement that the radiographer was audited in July 1986, other than statements from the radiographer that he did not recall being audited. Therefore, the NRC accepts the licensee's assertion that the July 1986 audit was performed as stated in the licensee's response.

The licensee's response indicates that no other audit was performed during the period July-November 1986 and contends this was due to the radiographer not being regularly employed. The licensee contends the radiographer was not subject to audits, since he was not a regular employee during this time. This individual, however, performed radiography in November 1986 and was not audited from July 1986 to November 1986, an interval exceeding three months. Thus, the licensee is in violation of the requirement in the license and 10 CFR 34.11(d)(1). The NRC disagrees with the licensee's contention that the radiographer was not subject to the requirement for audits due to irregular employment. The requirements for audits in the license and 10 CFR 34.11(d)(1) do not excuse licensees from auditing irregularly employed individuals. It may be particularly important to audit irregularly employed employees due to their lack of regular experience.

- c. "The RSO stated that the latter employee (Mr. Jump) has not been audited because he was not working as a radiographer in the third and fourth quarters of 1986. This was subsequently determined to be a false statement as evidence revealed the individual had performed radiography in those two quarters."

Summary of ATI's Response

The licensee admits the President made the statement about Mr. Jump not working as a radiographer. The licensee contends this was made because the President considered Mr. Jump not employed during the months of August 18-September 1986 in the third quarter of 1986 and October-December 1986 in the fourth quarter of 1986.

NRC's Evaluation of ATI's Response

During the inspection, the President told NRC inspectors that Mr. Jump was not audited because he did not perform radiography during the scheduled audit months of August 1986 and November 1986. This statement was later proven false because NRC review of the licensee's records showed that Mr. Jump did perform radiography in August 1986 and November 1986. The licensee's response also admits that Mr. Jump performed radiography in August and November 1986.

Subsequently, during sworn statements to the investigators, the President admitted Mr. Jump worked in August 1986, but "was not employed here in the winter after that because he was back in school." The licensee's response also admits that Mr. Jump worked in October



and November 1986. However, the licensee claims this was not "employment" since Mr. Jump was hired as a "free lance" radiographer. The regulation, however, is not limited to individuals who are employed full-time to perform radiography, but applies to any person who acts as a radiographer under the authority of the license. Because Mr. Jump performed work for ATI under its NRC license, the regulation required the licensee to audit his performance.

- d. "It was also determined that on August 27, 1986 the RSO willfully falsified documentation of a field audit for an ATI radiographer. Evidence revealed that the radiographer was not at the job site on the date that the RSO had documented the field audit."

#### Summary of ATI's Response

The licensee denies that its President willfully falsified documentation of the August 27, 1986 field audit. The licensee admits the audit form was completed by the President. The licensee contends the documentation was for a field audit of Mr. Anderson performed by the President on August 27, 1986 at a job site in Troy Grove, Illinois. The licensee contends that the President had time to perform the audit on August 27, 1986 after performing radiography in Bloomington, Illinois. The licensee contends that the audit report is true and accurate, with the exception of the billing company.

#### NRC's Evaluation of ATI's Response

During the investigation, the President provided sworn testimony that the audit was of Mr. Anderson, but at Phillips in Kankakee, Illinois, the only error being that the form was misdated. The licensee now maintains in its response that the audit was done at Ni-Gas, Troy Grove, Illinois, and that Phillips was incorrectly indicated on the form. The licensee's response statements are inconsistent with the President's sworn testimony.

During the investigation, Mr. Anderson, the radiographer who the President allegedly audited, provided a sworn statement that the President did not appear in Troy Grove on August 27, 1986. Yet, the licensee states in its response that the President completed the audit form. Based upon all of the available information, the NRC concludes that Mr. Anderson was not audited on August 27, 1986 as indicated; therefore, the audit form is not accurate.

#### 4. Violation No. 4

"On January 5, 1989, ...the NRC inspector identified that on 55 occasions from January 13 to December 20, 1988, ATI violated the provisions of reciprocity as stated in 10 CFR 150.20(b)(1). Specifically, ATI failed to notify the Regional Administrator of USNRC Region III, either by telephone or by filing copies of Form-241 at least three days before engaging in licensed activities...in Indiana, a non-Agreement State."

### Summary of ATI's Response

The licensee admits that it failed to submit copies of Form-241 prior to working in Indiana between January 13 and December 20, 1988, in violation of the regulations. The licensee claims it was unaware that an Illinois license does not authorize radiographic operations outside the State of Illinois. The licensee also claims it was not aware of the general license requirements for NRC notification when performing licensed activities outside Illinois.

### NRC's Evaluation of ATI's Response

The NRC received a letter, dated November 3, 1986, from the licensee's President which indicates he was aware of the NRC notification requirements in 10 CFR 150.20. In that letter, the President states "I request that my above referenced NRC license be 'split' when Illinois becomes an Agreement State, whereby I may retain an NRC license for our services to temporary job sites outside of Illinois jurisdiction. I realize that reciprocity requests can be made of the NRC, federal facilities and other Agreement States to recognize the Illinois license, but retaining an NRC license seems to be a method to reduce paperwork that would otherwise be required for performing services to federal facilities in Illinois and in NRC jurisdictions outside of Illinois." This demonstrates that the President was aware at one time of the requirements for filing the notifications with the NRC. Licensees are charged with the knowledge of Commission requirements. Moreover, the failure to be aware of the limitations of the Illinois license raises substantial questions of the capability of the President to be a RSO.

### 5. ATI's Arguments to Show Why Order Should Be Vacated

The licensee sets forth the following reasons as a basis why its general license under the provisions of 10 CFR 150.20 should not remain suspended and should not be revoked:

- a. ATI has documented that the violations identified during the inspection conducted were not made knowingly or willfully on the part of its President.
- b. ATI identified several problems within its organization attributable to specific individuals and no longer employs these individuals.
- c. ATI presently employs an entirely new crew of radiographers who are mature and experienced.
- d. ATI established the position of Office Manager and a new policy to ensure utilization logs are completed and compliance is aggressively assured.
- e. ATI's inspection history has been very good, except for the period 1986 through March 1987.



- f. ATI has been in full compliance with reciprocity requirements since January 1989, when its staff was made aware of, and fully understood, the requirements.

NRC's Evaluation of ATI's Arguments for Vacation of Order and Conclusion

The NRC concludes that the licensee's President was responsible either directly or indirectly for violations of NRC requirements, and he remains in control of ATI's licensed activities. In addition, licensee employees knowingly violated NRC requirements and these employees were under the supervision of the President. While the termination of all radiographers, radiographer assistants and helpers employed by ATI prior to the 1987 special inspection and the hiring of new experienced radiographers provide some assurance of future compliance, the licensee's response did not propose adequate methods or steps to assure that the President or other persons responsible for supervision of licensed activities will, in view of past supervisory failures, comply with NRC requirements in the future. Therefore, after carefully reviewing all of the relevant circumstances, the NRC staff has concluded that, while revocation of the licensee's general license may not be warranted, the information in the licensee's response does not provide an adequate basis for lifting the suspension Order at this time without additional requirements to provide adequate assurance that the President of ATI or other persons responsible for the supervision of licensed activities will comply with NRC requirements in the future.



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*No. legal  
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