



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
799 ROOSEVELT ROAD
GLEN ELLYN, ILLINOIS 60137-5927

June 8, 1993

Docket No. 99990003
General Licensee
EA 93-115

Steel Warehouse Company, Inc.
ATTN: David M. Dopp
Manager
Engineering and Maintenance
2722 West Tucker Drive
South Bend, IN 46624

Dear Mr. Dopp:

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL
PENALTY - \$250
NRC INSPECTION REPORT 99990003/93005

This refers to the inspection conducted from April 22-30, 1993, at the Steel Warehouse Company facility in South Bend, Indiana, to review the circumstances surrounding the unauthorized removal and transport of a nuclear gauge containing one curie of Am-241 without regard to proper shipping requirements. The report documenting this inspection was sent to you by letter dated May 21, 1993. Significant violations of NRC requirements were identified during the inspection, and on May 28, 1993, an enforcement conference was held in the Region III office. Attending the conference were you, Mr. Charles E. Norelius, Director, Division of Radiation Safety and Safeguards, and other members of our respective staffs.

On November 29, 1992, a foreman noticed damage to a fixed gauging device which contained one curie of Am-241. The foreman notified the electrical supervisor who, with help from an electrician, removed the gauge from the mill. The supervisor was not authorized to remove the gauge, but he was qualified because he had received training from the vendor (Data Measurement Corporation, DMC). In preparation for shipment of the gauge to DMC, the supervisor instructed the electrician to contact the vendor and obtain a return materials authorization. In doing so, the electrician stated that he was returning an x-ray source and did not mention that he was returning a radioactive source. The electrician wrapped the device in a cardboard box for shipping. It contained no labelling or marking to indicate it contained radioactive material. It also was not checked for contamination prior to shipment. The box was then shipped via United Parcel Service and

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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received undamaged by DMC the next day. DMC discovered that it contained radioactive material and notified you; you then notified the NRC.

The electrical supervisor did not contact DMC prior to removal of the gauge because he thought he recalled that Steel Warehouse had installed the device, and therefore he believed he should be able to remove it. The fact that Steel Warehouse installed the device was confirmed by DMC on April 27, 1993. The device had been shipped on December 29, 1989, but it had already been installed by you when DMC's representative arrived on site to install it. The device was required to be labelled by the manufacturer warning licensees not to remove or install it, but neither you nor the manufacturer could recall if this particular device was labelled at the time of the incident. The device's radiation safety manual, provided to licensees by the manufacturer, states that installation by licensees is permitted. The NRC acknowledges that this information is contradictory to our regulations which require that such devices be installed and removed only by authorized individuals. We are pursuing that issue separately with the vendor.

Four violations related to the transportation of the gauge were identified and are described in Section I of the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice). The violations are significant because they collectively reflect a potentially significant lack of attention toward licensed responsibilities. The violations reflect your failure to (1) provide proper shipping papers with the package; (2) ship the gauge in an approved shipping container; (3) mark the container with the words "Type A"; and (4) to provide any labelling as required. Proper shipping papers, containers, and labelling allow civil authorities, in case of an accident during transport, to properly identify the type, quantity, and form of material; allow the carrier and recipient to exercise adequate controls; and minimize the potential for overexposure, contamination, and improper transfer of material. Therefore, in accordance with the "Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy) 10 CFR Part 2, Appendix C, the violations are classified as a Severity Level III problem.

The root cause of the violations appeared to be a lack of training, understanding and knowledge by your staff. At the enforcement conference, the electrical supervisor and the electrician both stated that employees had a bad habit of calling all gauges "x-ray gauges" because the company has many of those but only 3 radioisotope gauges. The electrician stated that he did not know the difference between the two. He had shipped many x-ray gauges in the past and was aware that they weighed several hundred pounds. The Am-241 gauge weighed only about 40-50 pounds and he thought it was just a smaller x-ray gauge. Your representatives at the enforcement conference acknowledged this was not an uncommon belief

by employees.

We acknowledge your immediate and substantial corrective actions including (1) conducting a safety meeting with every employee and instructing them not to handle any radioactive material; (2) contracting with DMC to conduct a training session, videotaping that session, and making the tape required training for all new employees; (3) color coding all radioactive devices; (4) making a policy decision to not ship any more radioactive gauges but rather to contract with DMC to do so; (5) contrary to instructions from the vendor, you will not install any new devices but will require the vendor to do so; and (6) purchasing a survey instrument and training 6 electricians to use it. These actions should prevent future similar violations.

To emphasize the need for strict adherence to all NRC regulations and especially to those for the transportation of radioactive material, I have been authorized to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) in the amount of \$250. The base value of a civil penalty for a Severity Level III problem is \$500. The civil penalty adjustment factors in the Enforcement Policy were considered and the base civil penalty was mitigated 50% for your good corrective actions. The other factors were considered and no further adjustment to the base civil penalty was deemed appropriate.

Section II of the enclosed Notice describes two violations not assessed a civil penalty. The first violation pertains to your unauthorized removal of the gauge. While we recognize that the electrical supervisor was qualified to remove it, he was not authorized to do so. We also acknowledge that there appeared to be conflicting information from the vendor in that the instructions state that purchasers can install it, whereas the labelling requires a statement that only the vendor can install it. Nevertheless, NRC regulations are silent on vendor instructions but instead refer to the label of the device. In this case, the label clearly states that the device should only be installed and removed by an authorized person. The second violation pertains to your failure to report a damaged gauge. These violations are categorized at Severity Level IV in accordance with the NRC Enforcement Policy.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. After reviewing your response to this Notice, including your proposed corrective actions and the results of future inspections, the NRC will determine whether further NRC enforcement is necessary to ensure compliance with NRC regulatory requirements.

Steel Warehouse Company

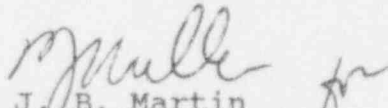
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In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be placed in the NRC Public Document Room.

The responses directed by this letter and the enclosed Notice are not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, Pub. L. No. 96-511.

Sincerely,


J. B. Martin
Regional Administrator

Enclosure:

Notice of Violation and Proposed Imposition
of Civil Penalty

June 8, 1993

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