

ENCLOSURE
NOTICE OF VIOLATION

Kermit Butcher
Elkins, West Virginia

Docket No. 030-12965
License No. 47-17564-01

During an NRC inspection conducted January 25, 1994, violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR Part 2, Appendix C, the violations are listed below:

- A. Condition 12 of Amendment No. 3 to License No. 47-17564-01 dated May 28, 1993, requires, in part, that licensed material be used by, or under the supervision and in the physical presence of the Radiation Safety Officer or individuals who have been trained in the licensee's operating and emergency procedures and have satisfactorily completed an approved training course as specified in the license.

Contrary to the above, on numerous occasion between approximately May 1993 until October 1993, one individual employed by the licensee used Troxler gauge Serial No. 866 and had not attended an approved training course or had been under direct supervision and in the physical presence of the Radiation Safety Officer.

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

- B. Condition 16 of Amendment No. 3 to License No. 47-17564-01 dated May 28, 1993, requires, in part, that the licensee conduct a physical inventory every 6 months to account for all sources and/or devices received and possessed under this license.

Contrary to the above, from April 22, 1993 until the date of the inspection, Troxler gauge Serial No. 866 had not been inventoried every 6 months.

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

- C. 10 CFR 19.11(a) and (b) require, in part, that the licensee post current copies of Part 19, Part 20, the license, license conditions, documents incorporated into the license, license amendments and operating procedures; or that the licensee post a notice describing these documents and where they may be examined. 10 CFR 19.11(c) requires that a licensee post Form NRC-3, "Notice to Employees."

Contrary to the above, on January 24, 1994, the licensee did not post copies of Part 19, Part 20, the license, license conditions, documents incorporated into the license, license amendments and operating procedures or a notice describing these documents and where they may be examined.

This is a repeat Severity Level V violation (Supplement IV).

- D. Condition 14 A(1) of Amendment No. 3 to License No. 47-17564-01 dated May 28, 1993 requires, in part, that sources specified in the license be tested for leakage and/or contamination at intervals not to exceed 6 months.

Contrary to the above, Troxler gauge Serial No. 866 was not tested for leakage and/or contamination between May 14, 1990 and June 16, 1992, and Troxler gauge Serial No. 4935 was not tested between December 17, 1990 and October 15, 1991 or between October 15, 1991 and December 23, 1992.

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

- E. Condition 19 of Amendment No. 3 to License No. 47-17564-01 dated May 28, 1993, requires, in part, that each nuclear gauge or container must be locked when in transport, storage and when not under the direct surveillance of an authorized user.

Contrary to the above, on January 25, 1994, Troxler gauge Serial No. 4935 containing approximately 8 millicuries of cesium-137 and 40 millicuries of americium-241 was in storage and neither the gauge or its container were locked.

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

- F. 10 CFR 71.5(a) requires that a licensee who transports licensed material outside of the confines of its plant or other place of use, or who delivers licensed material to a carrier for transport, comply with the applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation (DOT) in 49 CFR Parts 170 through 189.

49 CFR 177.817(e) requires, in part, that the driver of a motor vehicle containing hazardous material ensure that the shipping paper is readily available to, and recognizable by, authorities in the event of accident or inspection. Specifically, (i) when the driver is at the vehicle's controls, the shipping paper shall be: (A) within his immediate reach while he is restrained by the lap belt; and (B) either readily visible to a person entering the driver's compartment or in a holder which is mounted to the inside of the door on the driver's side of the vehicle; (ii) when the driver is not at the vehicle's controls, the shipping paper shall be: (A) in a holder which is mounted to the side of the door on the driver's side of the vehicle; or (B) on the driver's seat in the vehicle.

Pursuant to 49 CFR 172.101, radioactive material is classified as a hazardous material.

Contrary to the above, on numerous occasions between approximately May 1993 until October 1993, the licensee transported Troxler gauges containing approximately 8 millicuries of cesium-137 and 40 millicuries

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of americium-241 outside the confines of its plant and the driver of the vehicle did not ensure that the shipping paper was readily available in the driver's compartment, as required. Specifically, shipping papers were stored with the gauge during transportation, a location not readily available to, and recognizable by, authorities in the event of accident or inspection.

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

Pursuant to the provisions of 10 CFR 2.201, Kermit Butcher is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator, Region II, 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 for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation, (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. If an adequate reply is not received within the time specified in this Notice, an order or 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.

Dated at Atlanta, Georgia
this 24th day of February 1994