



DEPARTMENT OF THE NAVY  
OFFICE OF THE CHIEF OF NAVAL OPERATIONS  
WASHINGTON, DC 20350-2000

IN REPLY REFER TO

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Ser N455/4U596146  
31 Mar 94

U. S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, DC 20555

REPLY TO A NOTICE OF VIOLATION (NRC INSPECTION REPORT  
NO. 45-23645-01NA/93-23, DOCKET NO. 030-29462)

This is in reply to your letter of February 14, 1994, Docket  
No. 030-29462, Subject: Notice of Violation, NRC Inspection  
Report No. 45-23645-01NA/93-23, Naval Air Weapons Station,  
China Lake, California. Enclosure (1) is the response to  
the notice of violation pursuant to the requirements of  
Title 10, Code of Federal Regulations, Part 2.201.

Sincerely,

J. W. MALINOSKI  
Captain, MSC, U.S. Navy  
Executive Secretary  
Navy Radiation Safety Committee

Enclosure:  
(1) Reply to Notice of  
Violation

Copy to:  
NRC Region II  
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REPLY TO A NOTICE OF VIOLATION (NRC INSPECTION REPORT  
NO. 45-23645-01NA/93-23, DOCKET NO. 030-29462)

1. Violation: 10 CFR 20.2103(a) requires, in part, that each licensee maintain records showing the results of surveys required by 10 CFR 20.1501.

Contrary to the above, as of October 13, 1993, the licensee did not maintain records of those surveys made to assure compliance with 10 CFR 20.1501(a), which requires surveys to evaluate potential radiological hazards that could be present. Specifically, in 1993, cotton glove liners were surveyed for contamination in order to remove them from the restricted area at the Tower 11 clean-up site for washing and records of surveys were not maintained.

a. Reason for the violation: As documented in the details section of the NRC Inspection Report No. 45-23645-01NA/93-23, the contractor's health physicist acknowledged that he was aware that surveys of the cotton glove liners should have been documented, however, he forgot to accomplish that action.

b. Corrective steps taken and results achieved: All contractor health physics personnel and the Radiation Safety Officer for the Navy Radioactive Material Permit governing the operation have been made aware of the violation and the requirement to document surveys which evaluate potential radiological hazards present.

c. Corrective steps that will be taken to avoid future violations: No further actions deemed necessary as the Tower 11 cleanup operation has been completed.

d. Date when full compliance will be achieved: Full compliance is considered achieved.

2. Violation: 10 CFR 20.201(b) requires that each licensee make such surveys as may be necessary to comply with the requirements of Part 20 and which are reasonable under the circumstances to evaluate the extent of radiation hazards that may be present. As defined in 20.201(a), "survey" means an evaluation of the radiation hazards incident to the production, use, release, disposal, or presence of radioactive materials or other sources of radiation under a specific set of conditions. When appropriate, such an evaluation includes measurements of the concentrations or quantities of radioactive materials present.

Contrary to the above, the licensee did not make surveys to assure compliance with 10 CFR 20.106, which limits the yearly average concentration of radioactive material in water discharged to unrestricted areas. Specifically, between early January, 1993 and March 4, 1993, contractor

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personnel operating under the licensee's Navy radioactive materials permit took potentially contaminated water from a holding pond in a restricted area at the Tower 11 clean-up site and released it to the roads surrounding the site, an unrestricted area, without making surveys to assure the concentration of radioactive material (depleted uranium) in the water was in compliance with 10 CFR 20.106.

a. Reason for the violation: Navy does not consider this a valid violation as written. At the time of the cited releases of water from the holding pond in January 1993 through March 4, 1993, the holding pond was located in an area designated as unrestricted. All water slated for discharge into the holding pond was routinely surveyed to ensure that it met free release criteria. In June 1993, just prior to the NRC inspection in October 1993, the holding pond was incorporated into the restricted area. The redesignation occurred because the trace amounts of depleted uranium suspended in the water settled out in the sediment and upon evaporation and caused some samples of the residual material to be greater than established free release criteria. It should be noted that both the permittee's contractor and the NRC inspection party conducted representative surveys of the roadways in question; no finding approached free release criteria. Navy opines that it was not prudent for the contractor to release the water from the holding pond without additional confirmatory sampling and documentation even though the pond was in the unrestricted area and all water had been previously sampled.

b. Corrective steps taken and results achieved: Upon discovering of the releases of water from the holding pond, the permittee's safety and environmental personnel immediately caused the contractor to cease the practice. Management realized that releases should be specifically authorized by the Lahontan Region Water Quality Control Board (which has jurisdiction over release of any water in that region) and NAVSEADET RASO as the technical support center for the Navy Radiation Safety Committee for this project. Lahontan Region Water Quality Control Board gave provisional approval for releases of holding pond water and NAVSEADET RASO was in the process of requesting NRC approval of a release procedure when the Tower 11 project was completed and additional water was not required.

c. Corrective steps that will be taken to avoid further violations: No additional action is required as the Tower 11 cleanup is complete and all water has evaporated. It is not anticipated that future cleanups of areas under the NRMP will use the same or similar processes thereby eliminating the potential for this situation to recur.

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d. Date when full compliance will be achieved: Full compliance is considered achieved.

3. Violation: 10 CFR 19.12 requires, in part, that all individuals working in a restricted area be instructed in the use of radioactive materials or of radiation in the restricted area, in the health protection problems associated with radioactive materials or radiation in the restricted area, in the precautions and procedures to minimize exposure to radioactive materials, in the purpose and functions of protective devices employees, and in the applicable provisions of the Commission's regulations and licenses.

Contrary to the above, individuals who worked in the radiation control area at the Tower 11 clean-up site, a restricted area, had not been instructed in the health protection problems, precautions, and procedures associated with licensed material and in the applicable provisions of the regulations and conditions of the license. Specifically, in May and October 1993, personnel were allowed to work in the Tower 11 restricted area without first receiving radiation safety training.

a. Reason for the violation: Legal counsel has advised Navy not to address this cited violation until completion of a Judge Advocate General (JAG) investigation resulting from a lawsuit filed against Navy by an employee of the Tower 11 project contractor. Upon completion of the JAG investigation, estimated in late April, and upon receipt of subsequent recommendations from counsel, Navy will provide a revised response specifically addressing this portion of the NOV.