

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

C & R Laboratories
Pearl City, Hawaii

Docket No. 030-17088
License No. 53-19179-01
EA 89-101

During an NRC investigation conducted on December 12, 1988, certain violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions," 10 CFR Part 2, Appendix C (1990), the violations are listed below:

License Condition 16 requires, in part, that the licensee conduct its program in accordance with the statements, representations, and procedures contained in the letter dated April 29, 1985, with attachments, and the application dated June 13, 1988.

- A. Item 9 of the application dated June 13, 1988, requires in part, compliance with all of the safety and operations manuals under the C&R license, including all attached checklists, and survey and utilization logs. Sections 5.C. and 13.B. of the Operating and Emergency Procedures, and Form 2, "Radiation Survey Record and Utilization Log," attached to the letter dated April 29, 1985, as modified by the application dated June 13, 1988, require the licensee to conduct radiation surveys (a) to confirm that a source is properly stored when an exposure device is removed from or returned to a storage area before and after all radiographic operations, (b) to determine the Transport Index of containers of materials or components to be shipped, and (c) to confirm that radiation levels in the passenger compartments and outside surfaces of vehicles used to transport licensed materials are within required limits. Also, 10 CFR 34.43(c) requires a radiation survey of an exposure device when the device is placed into storage to assure that the sealed source is in its shielded position.
1. Contrary to the above requirements, on December 12, 1988, a radiographer employed by the Licensee failed to conduct a radiation survey of a radiographic exposure device upon removing the device from the licensee's mobile laboratory van storage facility in Pearl City, Hawaii.
 2. Contrary to the above, on December 12, 1988, a radiographer employed by the Licensee failed to conduct a survey of a Dodge Ram pickup truck, Hawaii license 378TDG, prior to transporting the exposure device in the Dodge pickup truck to the Honolulu Resource Recovery Venture job site.
 3. Contrary to the above, on December 12, 1988, radiation surveys were not conducted upon return of the exposure device to the mobile laboratory van storage facility following radiographic operations.
- B. Section 3 of the C&R Operating and Emergency Procedures, attached to the letter dated April 29, 1985, lists radiographers' duties, including the duty to record radiation survey results, as specified in the C&R "Form 2", "Radiation Survey Record and Utilization Log" (Log). The Log, as of April 25, 1985, required that the results of surveys of the radiographic exposure device upon removal from and return to storage be recorded; as

of June 13, 1988, the log required, in addition, that the results of a survey of the perimeter of any vehicle used to transport the device, and of the passenger compartment of such vehicle prior to transport be recorded. 10 CFR 30.9(a) provides in part that information provided to the Commission by a licensee, or information required by the Commission's regulations, orders, or license conditions to be maintained by the licensee, shall be complete and accurate in all material respects.

Contrary to the above requirement, between December 12, 1988 and March 9, 1989, the licensee employee cited in Violation A above created records showing the results of radiation surveys of the exposure device and vehicle noted above, when in fact no surveys were performed.

- C. Section 13.B. of the Operating and Emergency Procedures, attached to the letter dated April 29, 1985, requires the licensee to post "Caution, Radioactive Material" signs on all four sides of the mobile laboratory van used for temporary or permanent storage of radiographic exposure devices.

Contrary to the above requirement, the licensee's mobile laboratory van that was used for storing a radiographic exposure device on December 12, 1988, was not posted with any "Caution, Radioactive Material" signs.

This is a Severity Level IV problem (Supplements VI and VII). Cumulative Civil Penalty - \$1,500 (assessed equally among the five violations).

Pursuant to the provisions of 10 CFR 2.201, C & R Laboratories, Inc. (Licensee) is hereby required to submit a written statement or explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice. This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each alleged violation: (1) admission or denial of the alleged violation, (2) the reasons for the violation if admitted, and if denied, the reasons why, (3) the corrective steps that have been taken and the results achieved, (4) the corrective steps that will be taken to avoid further violations, and (5) the date when full compliance will be achieved. If an adequate reply is not received within the time specified in this Notice, an order may be issued to show cause why the license should not be modified, suspended, or revoked or why such other action as may be proper should not be taken. Consideration may be given to extending the response time for good cause shown. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

Within the same time as provided for the response required above under 10 CFR 2.201, the Licensee may pay the civil penalty by letter addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, with a check, draft, money order, or electronic transfer payable to the Treasurer of the United States in the amount of the civil penalty proposed above, or may protest imposition of the civil penalty in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should the Licensee fail to answer within the time specified, an order imposing the civil penalty will be issued. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty,

Notice of Violation

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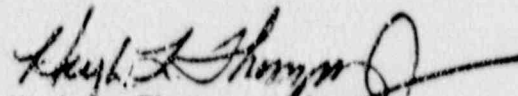
in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violations listed in this Notice in whole or in part, (2) demonstrate extenuating circumstances, (3) show error in this Notice, or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the factors addressed in Section V.B of 10 CFR Part 2, Appendix C (1990), should be addressed. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from the statement or explanation in reply pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty due which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The response noted above (Reply to Notice of Violation, letter with payment of civil penalty, and Answer to a Notice of Violation) should be addressed to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region V, 1450 Maria Lane, Suite 210, Walnut Creek, CA 94596.

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 28th day of November 1990