

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTIES

Process Technology North Jersey
Rockaway, New Jersey

Docket No. 030-07022
License No. 29-13613-02
EA 89-80

During an NRC inspection conducted on March 21 and 23, 1989 at the licensee's facility in Rockaway, New Jersey, and subsequent investigations by the NRC Office of Investigations, 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 (1989), the Nuclear Regulatory Commission proposes to impose civil penalties pursuant to Section 234 of the Atomic Energy Act of 1954, as amended ("Act"), 42 U.S.C. 2282, Pub. L. 96-295, and 10 CFR 2.205. The particular violations and the associated civil penalties are set forth below:

I. VIOLATION ASSOCIATED WITH INACCURATE AND INCOMPLETE STATEMENTS

10 CFR 30.9(a) requires, in part, that information provided to the Commission by a licensee be complete and accurate in all material respects.

Contrary to the above, the licensee provided incomplete or inaccurate information to the NRC during an investigation and enforcement conference involving keyless entries into an irradiator cell as evidenced by the following examples:

- A. During an Enforcement Conference with the NRC on April 26, 1989, in response to NRC's repeated questions, information provided by the licensee was incomplete. Specifically, in response to questions as to whether there were unauthorized, keyless entries into the licensee's irradiator cell, the licensee failed to provide information that unauthorized entries had occurred, when in fact, certain of the licensee representatives attending the conference did have knowledge of two such unauthorized entries involving climbing over the irradiator cell door. This omission was material because it directly related to violations of NRC requirements and could have affected the NRC review and investigation into the details of the violations.
- B. During an Enforcement Conference with the NRC on April 26, 1989, information provided by the licensee was inaccurate in that a licensee's representative stated, in response to questions concerning whether the facility's computer logged all entries into the irradiator cell, that the computer log showed all personnel entries through the irradiator cell door and that these logs showed no indication of keyless entries through the cell door.

RTI REVISED 1/30 - 0007.0.0
01/31/91

9102070073 910131
REG1 LIC30
29-13613-02 PDR

These statements by the licensee's representative were not accurate, in that the computer log would not record all entries into the irradiator cell. Specifically, the computer would not record cell entries when the source was in the down position. These statements during the Enforcement Conference were material because they could have influenced the NRC review and investigation concerning whether the licensee had the capability of detecting all entries into the irradiator cell and whether there was the possibility that there had been keyless entries which had not been detected and recorded.

- C. During an Enforcement Conference with the NRC on April 26, 1989, information provided by the licensee was inaccurate in that a licensee representative in response to questions regarding when he first became aware of possible damage to the irradiator cell door knob which led in part to the possibility of the door being forced open, stated that he was not aware of any damage to the cell door knob until an internal audit conducted on February 13, 1989. This statement was inaccurate in that the licensee representative subsequently admitted to an NRC investigator on June 22, 1989, that he was actually informed of the damage to the door knob during the week prior to February 13, 1989. Furthermore, the information provided by the licensee was inaccurate in that, in response to questions regarding whether the licensee was aware that the door to the irradiator cell had been forced open without the use of the key prior to the internal audit conducted on February 13, 1989, licensee representatives denied having such knowledge. This information was inaccurate in that one licensee representative subsequently admitted to the NRC investigator on June 22, 1989, that he had been informed by the licensee's former Shift Supervisor/Irradiator Operator (Operator) prior to the audit that the Operator had forced the door open and a second licensee representative, although initially denying having knowledge of such an entry, in interviews with the NRC investigator on June 21 and July 7, 1989, subsequently admitted on July 7, 1989, that he had in fact been told by the Operator prior to the Enforcement Conference that the Operator had been able to force the door open without a key prior to the February audit. These statements were material because they could have affected the NRC's review of the adequacy of management's response to existing deficiencies and problems.
- D. During an investigation interview with an NRC inspector and investigator on April 11, 1989, a former Shift Supervisor/Irradiator Operator (Operator) provided information that was not accurate in all material respects. The Operator volunteered information that he was aware that two Operators had entered the irradiator cell by forcing the loosened knob on the locked access door. This statement by the Operator was inaccurate in that the Operator subsequently admitted to the NRC investigator on June 8, 1989, that the Operators had actually entered the cell by climbing over the cell door rather than by forcing the door open. This statement was material because it directly

related to the violations of NRC requirements and would have affected the NRC review and investigation into the details of the specific violation.

This is a Severity Level II Violation (Supplement VII)
Civil Penalty - \$8,000

II. VIOLATIONS OF OTHER REGULATORY REQUIREMENTS

- A. 10 CFR 20.203(c)(6)(i) and (vii) requires, in part, that each area in which there may exist radiation levels in excess of 500 rems in one hour at one meter from a sealed radioactive source must have each entrance or access point equipped with entry control devices which shall function automatically to prevent any individual from inadvertently entering the area when such radiation levels exist; and that no operations shall be conducted unless such entry control devices are functioning properly.

Contrary to the above, during the week of February 5, 1989, the personnel access door of the licensee's irradiator cell, an access control to an area in which there may exist radiation levels in excess of 500 rems in one hour at one meter from a sealed radioactive source, was malfunctioning such that inadvertent access to this area was possible; however, the licensee RSO continued operations and did not take sufficient corrective action to permanently repair the mechanism.

- B. Condition 26 of License No.29-13613-02 requires that licensed material be possessed and used in accordance with statements, representations and procedures contained in the application dated June 3, 1987, and letters dated April 8, 1988, May 25, 1988, June 7, 1988, and September 8, 1988.

Procedure 9.100 B, enclosed in the letter dated May 25, 1988, entitled "Auto Run Mode Irradiator Start-Up," provides in Steps 7.6 through 7.24, directions for routine entries into the irradiator cell. The procedure states that "Deviation from this procedure is prohibited without the express written approval of the RSO or his alternate designated in the license."

Contrary to this requirement, two operators entered the irradiator cell on two separate occasions (some time in September 1988, and some time in either January or February 1989) by climbing over the locked irradiator cell access door, a method not authorized by the procedure, and such entry was not authorized or approved by the RSO or any designated alternate.

- C. Condition 26 of License No. 29-13613-02 requires that licensed material be possessed and used in accordance with statements, representations and procedures contained in the application dated June 3, 1987, and letters dated April 8, 1988, May 25, 1988, June 7, 1988, and September 8, 1988.

Condition 22 of License No. 29-13613-02 requires, in part, that all changes to procedures 9.100, 9.102 and 9.500 be approved, prior to implementation, by the U.S. Nuclear Regulatory Commission.

Procedure 9.100 B enclosed in the letter dated May 25, 1988, entitled "Auto Run Mode Irradiator Start-Up," requires in Step 7.13, activation with the machine key, of the 90-second start-up time delay.

Contrary to the above, on March 9-10, 1989, irradiator start-up did not require activation, with the machine key, of the 90-second start-up time delay. Specifically, the licensee removed the machine-key-operated 90-second start-up time delay switch and installed a toggle switch. In addition, the licensee did not obtain prior approval from the Commission to change this procedure.

- D. Condition 22 of License No. 29-13613-02 requires, in part, that the licensee follow the written instructions contained in procedure 9.500, "Preventative Maintenance." Procedure 9.500 describes various preventive maintenance procedures that must be conducted and their required frequency.

Item 8.0 of Procedure 9.500, Exhibits C and D, describe the parts of the irradiator system that must be checked for proper maintenance on a monthly and quarterly maintenance schedule.

Contrary to the above, between the commencement of operation of the 2102-B irradiator system in August 1988, and the NRC inspection on March 23, 1989, none of the specified quarterly (Exhibit D) maintenance procedures had been performed, and not all of the monthly preventive maintenance procedures (Exhibit C) were performed.

- E. 10 CFR 20.408(b) and 20.409(b), respectively, require the licensee to report to the Commission, and to the individual involved, the radiation exposure of each individual who has terminated employment and of each individual who is not employed by the licensee but has completed a work assignment in the licensee's facility. Such reports shall be furnished within 30 days after the exposure of the individual has been determined by the licensee, or 90 days after the date of termination of employment or work assignment, whichever is earlier.

Contrary to the above, from approximately December 21, 1988, and continuing through March 21, 1989, neither the individuals who had terminated their employment, or who had been reassigned, nor the Commission had been provided with a report of the individuals' radiation exposure within 30 days after their exposure was determined by the licensee, or 90 days after the date of termination of employment or work assignment.

- F. Condition 20.A of License No. 29-13613-02 requires that, within ten working days of the filing of each quarterly third-party audit report, the licensee shall provide to the Commission a written description of any corrective actions in response to the audit findings.

Contrary to the above, as of March 23, 1989, the licensee had not submitted to the Commission a description of corrective actions in response to deficiencies identified during the third-party audit conducted on December 21, 1988.

- G. Condition 15 of License No. 29-13613-02 requires that, after installation of additional cobalt-60 source(s) greater than the quantity for which a previous radiation survey has been conducted, and prior to initiation of the irradiation program, a radiation survey be conducted to determine maximum radiation levels in each area adjoining the irradiation room. A detailed report of the survey is to be sent to the Commission no later than 30 days following the installation of the source(s).

Contrary to the above, on August 15, and November 22 and 23, 1988, additional cobalt-60 source(s) were installed in the irradiator creating a quantity greater than the quantity for which a previous survey had been conducted, and a radiation survey was not conducted to determine the maximum radiation levels in each area adjoining the irradiation room, prior to the subsequent initiation of the irradiation program. Further, a report of a survey performed on September 12, 1988, subsequent to the August 15, 1988 installation, was not sent to the Commission until October 11, 1988 (57 days after installation of the source).

- H. Condition 26 of the License 29-13613 02 requires that the licensee shall conduct its program in accordance with statements, representations and procedures contained in an application dated June 3, 1987, and letters dated April 8, 1988, May 25, 1988, June 7, 1988, and September 8, 1988.

1. Item 4 of Section 9.1.H "Irradiator Control Alarms" contained in the letter dated April 8, 1988, requires that a radiation monitor (that would alarm if high radiation levels existed) mounted above the storage pool be audible in the control room and pool room.

Contrary to the above, on March 23, 1989, the audible alarm installed above the storage pool was only audible in the storage pool room, and was not audible in the control room.

2. Procedure 10.2.E.3. submitted in the letter dated June 7, 1988, requires that the radiation monitor on the water treatment system be checked for proper functioning monthly using a portable radiation survey instrument.

Contrary to the above, for at least the three months prior to March 1989, the monitor on the water treatment system had not been checked for proper functioning using a portable survey instrument.

These violations have been classified in the aggregate at Severity Level III (Supplements IV and VI).

Cumulative Civil Penalty - \$5,000 (assessed \$1,000 for Violation A, \$1,000 for Violation B, \$1,000 for Violation C, \$450 for Violation D, \$100 for Violation E, \$100 for Violation F, \$450 for Violation G, \$450 for Violation H.1, \$450 for Violation H.2.)

Pursuant to the provisions of 10 CFR 2.201, Process Technology North Jersey (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 of Violation and Proposed Imposition of Civil Penalties (Notice). The 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 penalties 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 the cumulative amount of the civil penalties if more than one civil penalty is proposed, or may protest imposition of the civil penalties 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 penalties will be issued. Should

the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalties, in whole or in part, such answer should be clearly marked as "Answer to a Notice of Violation" and may: (1) deny the violations(s) 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 penalties should not be imposed. In addition to protesting the civil penalties, such answer may request remission or mitigation of the penalties.

In requesting mitigation of the proposed penalties, the factors addressed in Section V.B of 10 CFR Part 2, Appendix C (1989), 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 civil penalties.

Upon failure to pay any civil penalties due which subsequently have been determined in accordance with the applicable provisions of 10 CFR 2.205, this matter may be referred to the Attorney General, and the penalties, 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 penalties, 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 I, 475 Allendale Road, King of Prussia, Pennsylvania 19406.

FOR THE NUCLEAR REGULATORY COMMISSION

/s/ William F. Kane

Thomas T. Martin
Regional Administrator

Dated at King of Prussia, Pennsylvania
this 31 day of January 1991