



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

REGION IV

611 RYAN PLAZA DRIVE, SUITE 400  
ARLINGTON, TEXAS 76011-8064

MAY 25 1994

Docket: 150-00042  
License: Texas License No. L03924  
EA 94-083

AT Laboratories, Inc.  
ATTN: Christie Mayers, Vice President  
P.O. Box 5552  
Arlington, Texas 76005

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY -  
\$500 (NRC INSPECTION REPORT NO. 150-00042/94-01)

This refers to the inspection conducted on January 31, 1994 at a temporary jobsite in Tulsa, Oklahoma where AT Laboratories, Inc. (ATL) was using a moisture/density gauge containing radioactive material. At the time of the inspection, your activities in Oklahoma were authorized by the provisions of 10 CFR 150.20, which grants a general NRC license to licensees of Agreement States such as Texas provided certain conditions are met. However, as described in the inspection report issued on May 12, 1994, the inspection disclosed that you had conducted these activities in Oklahoma prior to providing notice to the NRC. On May 18, 1994, ATL representatives participated in an enforcement conference with representatives from NRC's Region IV office in Arlington, Texas. A list of enforcement conference participants is enclosed.

The NRC became aware of your intent to work in NRC jurisdiction on January 20, 1994, when you notified the NRC of proposed activities in Oklahoma beginning January 24, 1994. This notification was prompted by state of Texas inspectors making you aware of the requirement to inform the NRC of activities in non-Agreement States. However, the NRC's inspection disclosed that you had actually begun using licensed material in Oklahoma on January 11, 1994, nine days prior to notifying the NRC of your intent to begin work in Oklahoma. The NRC's review of this matter indicates that this violation was not deliberate, but occurred in part because your radiation safety officer (RSO) was unfamiliar with NRC's reciprocity requirements and in part because of a breakdown in communications between your RSO and employees using the gauge.

Based on the results of the inspection and the information exchanged during the enforcement conference, the NRC concludes that the requirements of 10 CFR 150.20 were violated from January 11-20, 1994, when your company conducted licensed activities in the state of Oklahoma before filing the necessary forms and paying the required fee. The NRC considers violations of this requirement a matter of significant regulatory concern because violators are in effect conducting licensed activities without a license and because the failure to notify us can deny us the opportunity to conduct inspections while work is in progress to ensure compliance with all NRC radiation safety requirements. Thus, this violation has been classified at Severity Level III, in accordance

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with the "General Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy) 10 CFR Part 2, Appendix C (Supplement VI).

The NRC recognizes the corrective actions that you have taken, which include filing the required Form-241 and paying the necessary fee when you became aware of the requirement. In addition, as discussed during the enforcement conference, you have established a system whereby a moisture/density gauge will not be shipped to a non-Agreement State until the necessary reciprocity arrangements have been entered into with the NRC.

To emphasize the importance of compliance with the requirements of 10 CFR 150.20, as well as the importance of being familiar with NRC requirements when conducting licensed activities in our jurisdiction, I have been authorized to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) in the amount of \$500 for the Severity Level III violation described above and in the enclosed Notice.

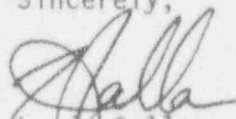
The base value of a civil penalty for a Severity Level III violation is \$500. The civil penalty adjustment factors in the Enforcement Policy were considered and, on balance, resulted in no adjustment. The NRC considered a 50 percent increase warranted because this violation was identified by the NRC during its January 31, 1994 inspection. However, we also considered a 50 percent decrease warranted because of your immediate and long-term corrective actions, which are summarized above. The remaining adjustment factors in the Enforcement Policy were considered and no further adjustments to the base civil penalty were considered appropriate.

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 action is necessary to ensure compliance with NRC regulatory requirements.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response 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,



L. J. Callan  
Regional Administrator

Enclosures: (See next page)

AT Laboratories, Inc.

-3-

Enclosures:

1. Notice of Violation and Proposed Imposition of Civil Penalty
2. List of enforcement conference participants

cc w/Enclosures 1-2:  
State of Oklahoma  
State of Texas

bcc w/Enclosures 1-2:

HQ DISTRIBUTION:

- PDR
- SECY
- CA
- JTaylor, EDO
- HThompson, DEES
- RBerner, NMSS
- CPaperiello, NMSS
- JLieberman, OE (4)(1 single sided)
- LChandler, OGC
- JGoldberg, OGC
- Enforcement Officers
  - RI, RII, RIII, WCFO
- FIngram, OPA
- PLohaus, OSP
- DWilliams, OIG
- EJordan, AEOD
- BHayes, OI
- DDandois, OC/LFDCB
- DCS

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- JMontgomery
- SJCollins
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- 241 File
- JGilliland
- CHackney
- WBrown
- RDoda
- GSanborn►EAfile
- RWise
- LWilliamson
- RIV Files
- MIS Coordinator

EO*	C:NMLB*	D:DRSS*	RC <i>JM</i>	DRA <i>JM</i>
GSanborn	WFisher	SJCollins	WBrown <i>WB</i>	JMontgomery
5/18/94	5/19/94	5/19/94	5/20/94	5/20/94
RA <i>CA</i>				
LJCallan				
5/20/94				

\*previously concurred

bcc w/Enclosures 1-2:

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 GSanborn▶EAFile  
 RWis  
 LWilliamson  
 RIV Files  
 MIS Coordinator

EO <i>[Signature]</i>	C:NMLB <i>[Signature]</i>	D:DRSS	RC <i>[Signature]</i>	DRA
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5/18/94	5/19/94	5/19/94	5/21/94	5/ /94
RA				
LJCallan				
5/ /94				