

APPENDIX A

U.S. NUCLEAR REGULATORY COMMISSION
REGION IV

Inspection Report: 030-32202/94-01

License: 11-27316-01

Licensee: Diamond H Testing Company
4929 Yellowstone Ave.
Chubbuck, Idaho 73018

Inspection At: 99-940 Iwaena St., Aiea, Hawaii (office) and Hawaiian Electric
Company, Honolulu, Hawaii (temporary jobsite)

4929 Yellowstone Ave., Chubbuck, Idaho (office) and "old
gun plant," Pocatello, Idaho (temporary jobsite)

Inspection Conducted: April 20-21 and May 3, 1994, in Hawaii
April 19 and 21, 1994, in Idaho
May 11 & 18-20, 1994, in NRC regional offices

Inspector: James L. Montgomery, Senior Materials Specialist (Hawaii location)
Robert A. Brown, Senior Radiation Specialist (Idaho location)

Approved: Charles L. Cain
for Frank A. Wenslawski, Chief
Materials Branch
Walnut Creek Field Office

5/27/94
Date

Charles L. Cain
Charles L. Cain, Acting Chief
Nuclear Materials Inspection Branch

5/27/94
Date

Inspection Summary

Areas Inspected: Routine, unannounced radiation safety inspection of licensed activities regarding the use of byproduct materials for industrial radiography procedures. The inspection included a review of organization, management and training; licensee internal audits; facilities, equipment and independent measurements; personnel radiation protection and radiation surveys; notification and reports; and receipt, transfer, and transportation of licensed material. This inspection was conducted at the licensee's offices and storage locations in Aiea, Hawaii, and Chubbuck, Idaho, and at temporary jobsites in Honolulu, Hawaii, and Pocatello, Idaho.

Results:

Based on office and temporary jobsite inspections the inspectors conclude that the licensee's radiation safety program is in need of improvement in the areas of Radiation Safety Officer (RSO) oversight and record keeping. More

attention to auditing radiation safety records, particularly those documenting radiation surveys, is also needed. Five apparent violations were identified as described below:

- Failure to complete an initial radiation safety written examination for a radiographer's assistant as required by 10 CFR 34.31(b) (Section 2).
- Failure to complete a refresher radiation safety written examination for a radiographer as required by License Condition 19.C (Section 2).
- Failure to leak test a sealed source at 6-month intervals as required by 10 CFR 34.25(b) (Section 4).
- Failure of a radiographer and radiographer's assistant to use alarm ratemeters as required by 10 CFR 34.33(a) and (f) (Section 5).
- Failure to properly supervise a radiographer's assistant as required by 10 CFR 34.44 (Section 5).

In addition, one noncited violation was identified:

- Failure to maintain radiation survey records as required by 10 CFR 20.2103 (Section 7).

Summary of Inspection Findings:

- Violation Nos. 9401-01 through 9401-06 were opened (Sections 2, 4, 5 and 7).

Attachment:

- Persons Contacted and Exit Meeting

DETAILS

1 PROGRAM OVERVIEW

The inspectors observed that the licensee possessed five exposure devices containing iridium-192 for use in industrial radiography. At the time of the inspection conducted on April 19-21, 1994, the licensee employed five radiographers and one radiographer's assistant at the Aiea, Hawaii, office and one radiographer and one radiographer's assistant at the Chubbuck, Idaho, office. The licensee leases office space and radiography vans from Finlay Testing Laboratories in Aiea, Hawaii. Virtually all licensed activities are conducted on the Hawaiian Islands of Oahu, Maui, Kauai, and Hawaii, and in southeast Idaho.

2 ORGANIZATION, MANAGEMENT, AND TRAINING (87100)

The inspectors reviewed the licensee's organizational structure and noted that the RSO and other key personnel were as identified in the license application and that these individuals were functioning in the same positions as during previous inspections with the exception of the Chubbuck, Idaho, area RSO who was terminated from Diamond H on April 14, 1994.

The inspectors reviewed training records for the six radiographers and two radiographer's assistants engaged in licensed activities. This included both on-the-job training as well as written test results required by 10 CFR 34.31. Except as noted below, records were well maintained and indicated that adequate training had been provided to all licensee personnel.

On October 29, 1993, a written radiation safety refresher examination was given to a licensee radiographer, and on March 29, 1994, a written radiation safety initial examination was given to the licensee's newly hired radiographer's assistant at the Aiea, Hawaii, office. As of the beginning of this inspection (morning of April 20, 1994), the RSO had not graded either examination. Utilization log entries indicate that the radiographer performed licensed activities with a radiographic exposure device on April 14, 1994, and the radiographer's assistant performed licensed activities with a radiographic exposure device at a separate jobsite on April 14-15, 1994.

On April 20, 1994, after the inspector discussed the ungraded examinations with the RSO, the RSO graded both exams. The radiographer received a grade of 100 percent and the radiographer's assistant received a grade of 92 percent. Both the radiographer and radiographer's assistant had received a 100 percent grade on their practical (field radiography) exam that was administered prior to the written examination. The radiographer had been employed by the licensee for several years, and the radiographer's assistant had prior work experience as a radiographer with other radiography licensees.

The Annual Refresher Radiation Safety Training Program described in the licensee's Operating and Emergency Procedures dated November 2, 1992,

requires, in part, that radiographers complete, with a passing grade of 75 percent, the written examination designated as RSTP-ATT.5.

Failure to complete the radiographer annual refresher radiation safety training program written examination was identified as an apparent violation of License Condition 19.C, which references the licensee's Operating and Emergency Procedures dated November 2, 1992 (030-32202/9401-01).

10 CFR 34.31(b) prohibits any individual from acting as a radiographer's assistant until that individual has demonstrated an understanding of the licensee's safety instructions by successfully completing a written or oral examination.

Failure to complete the radiographer's assistant initial radiation safety training program written or oral examination was identified as an apparent violation of 10 CFR 34.31(b) (030-32202/9401-02).

3 INTERNAL AUDITS AND INSPECTIONS (87100)

10 CFR 34.28 requires that radiographic equipment be checked for defects prior to use each day and inspected at intervals not to exceed 3 months. The licensee had maintained site area radiation survey records for each job which indicated that radiographers had checked the equipment prior to use each day. The licensee had also maintained adequate records that indicated the radiographic equipment had been inspected at appropriate intervals.

10 CFR 34.11(d)(1) requires, in part, that an applicant have an inspection program that requires the observation of the performance of each radiographer and radiographer's assistant during an actual radiographic operation at intervals not to exceed 3 months. Through discussions with the RSO and two licensee radiographers, it appeared that radiographers and radiographer's assistants had been audited at least quarterly as outlined in the licensee's Operating and Emergency Procedures for the period January 1993 to April 1994.

4 FACILITIES, EQUIPMENT, AND INDEPENDENT MEASUREMENTS (87100)

The inspectors toured the licensee's main office facility in Aiea, Hawaii, and branch office in Chubbuck, Idaho, from which licensed material was stored and dispatched to jobsites. Independent measurements taken by the inspectors revealed radiation exposure levels within regulatory limits for areas where licensed material was stored.

The inspectors reviewed the licensee's sealed source inventory records and noted that an adequate inventory of all byproduct material had been conducted at the appropriate quarterly intervals.

10 CFR 34.25(b) requires, in part, that each sealed source be tested for leakage at intervals not to exceed 6 months. License Condition 13 specifies that, notwithstanding the periodic leak test requirements of Section 34.25(b) of 10 CFR Part 34, such requirement does not apply to radiography sources that

are stored and not being used. The sources excepted from this test shall be tested for leakage before use or transfer to another person.

In most cases, iridium sealed sources used in the licensee's radiographic exposure devices were exchanged with the manufacturer for new sources prior to the 6-month leak test due date and, therefore, no leak test was required to be performed by the licensee. In some cases iridium sources were kept longer than 6 months and leak tests were performed and recorded as required with no test results exceeding 0.005 microcuries.

The licensee also possessed a 110-millicurie cesium-137 survey meter calibration source at the Aiea, Hawaii, office at the time of the April 20, 1994, inspection. Since the last leak test of this source was June 10, 1993, the current leak test is more than 4 months overdue. This was identified as an apparent violation of 10 CFR 34.25(b) (030-32202/9401-03).

5 PERSONNEL RADIATION PROTECTION AND RADIATION SURVEYS (83822, 87100)

Film badges had been supplied to the licensee by an approved vendor at monthly intervals. The vendor had furnished the licensee with monthly exposure reports for all badged personnel. The average monthly exposures were approximately 115 millirem. The licensee maintained a complete NRC Form 4 for each radiographer and radiographer's assistant. Revised NRC Forms 4 and 5 have been in use since January 1994 as required by 10 CFR 20.2104 and 20.2106. A review of the exposure reports from January 1993 to April 1994 indicated that no individual had exceeded regulatory limits.

During the temporary jobsite inspections on April 19, 1994, and the evening of April 20, 1994, the inspectors observed the radiographer and radiographer's assistant wearing pocket dosimeters having a range of 0-200 milliroentgens, and film badges. The film badge vendor was NVLAP approved as required by 10 CFR 20.1501(c). The pocket dosimeters were recharged at the start of each work shift, and daily pocket dosimeters readings were recorded. Pocket dosimeters were checked for response within plus or minus 30 percent by the RSO once per year as required by 10 CFR 34.33.

10 CFR 34.33(a) and (f) require, in part, that the licensee not permit any individual to act as a radiographer or radiographer's assistant unless, at all times during radiographic operations, the individual wears an alarm ratemeter set to give an alarm signal at a preset dose rate of 500 mR/hour. During a temporary jobsite inspection by the inspector on April 20, 1994, at the Hawaiian Electric Company's Power Plant in Honolulu, Hawaii, a licensee radiographer and radiographer's assistant were not wearing alarm ratemeters set to give an alarm signal at a preset dose rate of 500 mR/hour. Instead, the radiographer and radiographer's assistant each possessed a Victoreen Model 400 survey meter which they used to perform radiation surveys of the radiographic exposure device, source guide tube, and restricted area boundary.

The survey meters were, at times, carried on the radiographer's and radiographer's assistant's belt. However, the inspector observed that on

several occasions the survey meters were placed on the ground or other surface while the radiographer and radiographer's assistant performed various tasks such as film retrieval. The survey meters were set by the manufacturer to alarm only at the 10 mR, 100 mR and 1000 mR/hour levels depending on the scale being used. The inspector tested the alarm on the X1 scale by placing the survey meter against the exposure device and noted that the alarm sounded when the meter went off scale at 10 mr/hr. The RSO maintained that he was verbally informed by the survey meter manufacturer that the Victoreen Model 400 meters complied with the NRC alarm ratemeter requirements. The manufacturer's written technical specifications for the Victoreen Model 400 were reviewed by the inspector and it was noted that the specification states only that the survey meter "meets 10 CFR 34 Regulations." Nothing in the specifications mentions a 500 mr/hr alarm rate capability. The specification sheet was undated, and it is not known if it was published before or after 10 CFR 34.33(a) and (f) became effective.

The inspector noted that the NRC Statements of Consideration for 10 CFR 34.33(f)(2) emphasize that the purpose of the 500 mR/hour preset alarm level requirement was to ensure that the alarm ratemeter would not alarm unnecessarily during normal radiography operations and still provide a reliable alarm before a radiographer could get within 10 feet of a lower activity (10 Ci) unshielded source. During the temporary jobsite inspection, the radiographer indicated to the inspector that he was pleased with the alarm function on the meter because the alarm frequently sounded to remind him to be cautious. The Statements of Consideration further justified the 500 mR/hour level by noting that alarm ratemeters that trigger while radiographers are conducting normal operations would prove annoying and would likely be turned off.

The inspector noted that two alarm ratemeters (NDS Products RA-500 Rate Alarm) which appeared to comply with 10 CFR 34.33, were present in the radiography van. Prior to leaving the temporary jobsite, the inspector recommended that the radiographer and radiographer's assistant wear the NDS Products RA-500 Rate Alarm until the RSO could determine the compliance status of the Victoreen Model 400 survey meter. Subsequent discussions with the RSO confirmed that the Victoreen Model 400 survey meter did not meet the requirements of 10 CFR 34.33. The RSO informed the inspector on April 21, 1994, that all of his radiographers and radiographer's assistants were wearing the NDS Products RA-500 Rate Alarm. Failure of the radiographer and radiographer's assistant to wear an alarm ratemeter was identified as an apparent violation of 10 CFR 34.33(a) and (f) (030-32202/9401-04).

On May 11, 18 & 19, 1994, the RSO provided additional information to the inspectors by telephone and facsimile concerning the Victoreen Model 400 survey meter and alarm rate settings. An inoffice review of this information by the inspectors on May 20, 1994, confirmed that the meters were not set by the manufacturer to alarm at a preset dose rate of 500 mR/hour.

The inspector also reviewed the licensee's survey instrument calibration records and determined that calibrations were performed at 3-month intervals

as required by 10 CFR 34.24. At the time of the inspection, no tests or calibrations had been performed on the Victoreen Model 400 survey meters to verify that an alarm occurs at the 500 mr/hr dose rate.

From the inspector's review of the licensee's utilization logs at the Aiea, Hawaii, and Chubbuck, Idaho, office and direct performance based inspection observations at the Honolulu and Pocatello temporary jobsites, it appeared that appropriate surveys with a calibrated survey instrument had been performed to include a survey of exposure levels at the boundary of restricted areas, surveys of the exterior surface of exposure devices and storage containers, and surveys to determine that sources were in the shielded position prior to securing the exposure devices in accordance with 10 CFR Parts 20.1301, 34.21 and 34.43, respectively.

10 CFR 34.44 requires that whenever a radiographer's assistant uses radiographic exposure devices, uses sealed sources or related source handling tools, or conducts radiation surveys required by 34.43(b) to determine that the sealed source has returned to the shielded position after an exposure, he shall be under the personal supervision of a radiographer. The personal supervision shall include: (a) the radiographer's personal presence at the site where the sealed sources are being used, (b) the ability of the radiographer to give immediate assistance if required, and (c) the radiographer's watching the assistant's performance of the operations referred to in § 34.44.

The inspector observed five exposures conducted at the Pocatello, Idaho, temporary jobsite. During four of these exposures the radiographer was in the portable darkroom developing film. This left the radiographer's assistant to crank the source in and out and perform the required surveys without the radiographer watching him. This was identified as an apparent violation of 10 CFR 34.44 (030-32202/9401-05). It was noted that the assistant radiographer had several years experience in that position and was eligible to take the examinations to become qualified as a radiographer.

6 NOTIFICATIONS, POSTINGS, AND REPORTS (83822)

The RSO informed the inspectors that no incidents, thefts, losses of licensed material, or overexposures had occurred requiring notification and/or report to NRC or the Department of Transportation (DOT).

The inspectors reviewed the licensee's annual report of all individuals whom personnel monitoring was required, and the reports of personnel monitoring on termination of employment or work assignment as required by 10 CFR 20.407 and 20.408(b), respectively (20.2206 in revised 10 CFR 20). Annual reports of whole body exposures for licensee personnel had been maintained and were forwarded to NRC as required.

The inspectors observed that areas for storage of licensed material had been properly posted, and exposure devices and containers were labeled

appropriately. During the temporary jobsite inspection in Hawaii, the inspector observed several deteriorated radiation caution signs. The RSO had recently received several new signs which the inspector observed. The RSO stated he planned to replace the signs with the new ones at the next jobsite. Current copies of NRC Form 3, the appropriate regulations, and the license were posted at the licensee's facility in a readily visible location. These documents were also observed by the inspector to be present in the radiographer's van at the temporary jobsite on April 20, 1994.

7 RECEIPT, TRANSFER, AND TRANSPORTATION (86740, 87100)

Since the last inspection, the licensee had received and transferred iridium-192 special form sources. These sources, in exposure devices or source changers, had been delivered to common carriers and transported in the licensee vehicles and vehicles owned by the Finlay Testing Company. The licensee had used approved Type B shipping containers for transportation. Certificates of Compliance were maintained on file in accordance with 10 CFR 71.12(c)(1).

During the last inspection, the licensee's failure to secure an NRC approved Quality Assurance Program (QAP) for radioactive material packages was identified as a violation. On April 20, 1994, the inspector reviewed the licensee's approved QAP which was recently received from the NRC in accordance with 10 CFR 71.12(b).

On several occasions in February and March 1994, licensee radiographers shipped via air cargo a Gamma Century exposure device (Serial No. 553) containing an Amersham sealed source ranging from 93 to 81 curies of iridium-192 (Serial No. 89911) between Honolulu and Hilo, Hawaii. Specifically, the licensee's shipping and receipt records for arriving and departing shipments showed the following:

1994 Shipping Date	Point of Origin	Point of Destination	Destination Arrival Date
Feb. 17	Honolulu	Hilo	Feb. 18
Feb. 18	Hilo	Honolulu	Feb. 19
Mar. 4	Honolulu	Hilo	Mar. 5
Mar. 6	Hilo	Honolulu	Mar. 7

Upon review of shipping records, the licensee's Assistant RSO noted that the radiographer's radiation survey results (170-180 mr/hr) were higher than expected when compared to previous shipments of the same exposure device. The Assistant RSO concluded that the surveys were performed directly on the exposure device surface with no "overpack" or shipping container present. Therefore, the Assistant RSO attempted to correct the record by "whiting-out" the original survey meter readings and writing in numbers that agreed with the previously recorded readings which ranged from 0.3 mr/hr at 3 feet from the shipping container to 40 mr/hr at the surface. Following the NRC inspection,

a discussion of the survey technique was held between the RSO, Assistant RSO and radiographers, and the RSO concluded that the surveys were correctly performed with the exposure device inside the shipping container as required by 49 CFR 173.475 and 10 CFR 20.1906(b)(2). The RSO also noted that the elevated 170-180 mr/hr readings did not exceed the allowable package surface dose rate of 200 mr/hr specified in 10 CFR 71.47. It is not clear why the radiographers detected the higher radiation levels. The utilization logs reviewed by the inspector for the February and March 1994 jobsites on the Island of Hawaii did not indicate elevated radiation survey data. The inspector explained to the RSO and his assistant that NRC required records should not be corrected by "white-out". Records should indicate if errors are made in data entry accompanied by an explanation for the error.

The RSO and Assistant RSO indicated to the inspector that the corrections made to the above shipping and receipt records were an attempt to eliminate what the Assistant RSO assumed to be incorrect and misleading survey data.

10 CFR 20.2103 requires in part that each licensee maintain records of radiation surveys required by 20.1906(b). Due to the "white-out" of the original and apparently correct record, the licensee failed to maintain the required radiation survey records. However, the RSO committed to conduct a special training session for the radiographers and Assistant RSO concerning the performance and record keeping of radioactive material package surveys. This was identified as an apparent noncited violation of 10 CFR 20.2103 because the criteria specified in Section VII.B(1) of the Enforcement Policy were satisfied (030-32202/9401-06).

ATTACHMENT

1 PERSONS CONTACTED

1.1 Licensee Personnel

Gerald Christensen, Radiographer's Assistant
Barbara Fair, Radiographer
*Pete Hanges, President and RSO
*Ruth Hanges, Assistant RSO
Brian Leong, Radiographer's Assistant
Brent Mockli, Former Area RSO
Wally Onuma, Radiographer
Shawn Rydalch, Radiographer

1.2 NRC Personnel

Robert A. Brown, Senior Radiation Specialist (Texas Regional Office)
*James L. Montgomery, Senior Materials Specialist (California Field Office)

*Indicates those present during the preliminary exit meeting on April 21, 1994.

2 EXIT MEETINGS

A preliminary site exit briefing was conducted on April 21, 1994, with those individuals identified in Section 1. A final exit briefing was conducted by telephone on May 26, 1994. Those participating in this final briefing were Mr. Hanges; Charles Cain, Branch Chief; and James Montgomery.

APPENDIX B

PROPOSED ENFORCEMENT CONFERENCE AGENDA
DIAMOND H TESTING COMPANY

June 22, 1994 - 1:00 p.m.

- | | |
|---|--------------------------------|
| I. INTRODUCTION AND PURPOSE | L. J. CALLAN |
| II. EXPLANATION OF ENFORCEMENT POLICY | G. F. SANBORN |
| III. NRC DISCUSSION OF APPARENT VIOLATIONS | C. L. CAIN
F. A. WENSLAWSKI |
| IV. LICENSEE COMMENTS AND
RESPONSE/CORRECTION ACTION | P. J. HANGES |
| V. CLOSING COMMENTS | S. J. COLLINS |

I. Criteria For Selecting Open Enforcement Conferences

Enforcement conferences will not be open to the public if the enforcement action being contemplated—

- (1) Would be taken against an individual, or if the action, though not taken against an individual, turns on whether an individual has committed wrongdoing;
- (2) Involves significant personnel failures where the NRC has requested that the individual(s) involved be present at the conference;
- (3) Is based on the findings of an NRC Office of Investigations (OI) report; or
- (4) Involves safeguards information, Privacy Act information, or other information which could be considered proprietary.

Enforcement conferences involving medical misadministrations or overexposures will be open assuming the conference can be conducted without disclosing the exposed individual's name. In addition, enforcement conferences will not be open to the public if the conference will be conducted by telephone or the conference will be conducted at a relatively small licensee's facility. Finally, with the approval of the Executive Director for Operations, enforcement conferences will not be open to the public in special cases where good cause has been shown after balancing the benefit of public observation against the potential impact on the agency's enforcement action in a particular case.

The NRC will strive to conduct open enforcement conferences during the two-year trial program in accordance with the following three goals:

- (1) Approximately 25 percent of all eligible enforcement conferences conducted by the NRC will be open for public observation;
- (2) At least one open enforcement conference will be conducted in each of the regional offices; and
- (3) Open enforcement conferences will be conducted with a variety of the types of licensees.

To avoid potential bias in the selection process and to attempt to meet the three goals stated above, every fourth eligible enforcement conference involving one of three categories of licensees will normally be open to the public during the trial program. However, in cases where there is an ongoing adjudicatory proceeding with one or more intervenors, enforcement conferences involving issues related to the subject matter of the ongoing adjudication may also be opened. For the purposes of this trial program, the

three categories of licensees will be commercial operating reactors, hospitals, and other licensees, which will consist of the remaining types of licensees.

II. Announcing Open Enforcement Conferences

As soon as it is determined that an enforcement conference will be open to public observation, the NRC will orally notify the licensee that the enforcement conference will be open to public observation as part of the agency's trial program and send the licensee a copy of this Federal Register notice that outlines the program. Licensees will be asked to estimate the number of participants it will bring to the enforcement conference so that the NRC can schedule an appropriately sized conference room. The NRC will also notify appropriate State liaison officers that an enforcement conference has been scheduled and that it is open to public observation.

The NRC intends to announce open enforcement conferences to the public normally at least 10 working days in advance of the enforcement conference through the following mechanisms:

- (1) Notices posted in the Public Document Room;
- (2) Toll-free telephone messages; and
- (3) Toll-free electronic business board messages.

Pending establishment of the toll-free message systems, the public may call (301) 492-4732 to obtain a recording of upcoming open enforcement conferences. The NRC will issue another Federal Register notice after the toll-free message systems are established.

To assist the NRC in making appropriate arrangements to support public observation of enforcement conferences, individuals interested in attending a particular enforcement conference should notify the individual identified in the meeting notice announcing the open enforcement conference no later than five business days prior to the enforcement conference.

III. Conduct of Open Enforcement Conferences

In accordance with current practice, enforcement conferences will continue to normally be held at the NRC regional offices. Members of the public will be allowed access to the NRC regional offices to attend open enforcement conferences in accordance with the "Standard Operating Procedures For Providing Security Support For NRC Hearings And Meetings" published November 1, 1991 (56 FR 58231). These procedures provide that visitors may be

subject to personnel screening, that signs, banners, posters, etc., not larger than 18" be permitted, and that disruptive persons may be removed.

Each regional office will continue to conduct the enforcement conference proceedings in accordance with regional practice. The enforcement conference will continue to be a meeting between the NRC and the licensee. While the enforcement conference is open for public observation, it is not open for public participation.

Persons attending open enforcement conferences are reminded that (1) the apparent violations discussed at open enforcement conferences are subject to further review and may be subject to change prior to any resulting enforcement action and (2) the statements of views or expressions of opinion made by NRC employees at open enforcement conferences or the lack thereof, are not intended to represent final determinations or beliefs.

In addition to providing comments on the agency's trial program in accordance with the guidance in this notice, persons attending open enforcement conferences will be provided an opportunity to submit written comments anonymously to the regional office. These comments will subsequently be forwarded to the Director of the Office of Enforcement for review and consideration.

Dated at Rockville, MD, this 7th day of July 1992.

For the Nuclear Regulatory Commission,
Sandra J. Chalk,
Secretary of the Commission.
[FR Doc. 92-16233 Filed 7-9-92; 8:45 a.m.]
BILLING CODE 7590-01-6

**Two-Year Trial Program for
Conducting Open Enforcement
Conferences: Policy Statement**

AGENCY: Nuclear Regulatory
Commission.

ACTION: Policy statement.

SUMMARY: The Nuclear Regulatory Commission (NRC) is issuing this policy statement on the implementation of a two-year trial program to allow selected enforcement conferences to be open to attendance by all members of the general public. This policy statement describes the two-year trial program and informs the public of how to get information on upcoming open enforcement conferences.

DATES: This trial program is effective on July 10, 1992, while comments on the program are being received. Submit comments on or before the completion of the trial program scheduled for July 11, 1992. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Send comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555. ATTN: Docketing and Service Branch.

Hand deliver comments to: One White Flint North, 11555 Rockville Pike, Rockville, MD between 7:45 a.m. to 4:15 p.m., Federal workdays.

Copies of comments may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC

FOR FURTHER INFORMATION CONTACT: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (301-504-2741).

SUPPLEMENTARY INFORMATION:

Background

The NRC's current policy on enforcement conferences is addressed in Section V of the latest revision to the "General Statement of Policy and Procedure for Enforcement Actions," (Enforcement Policy) 10 CFR part 2, appendix C that was published on February 18, 1992 (57 FR 5791). The Enforcement Policy states that "enforcement conferences will not normally be open to the public." However, the Commission has decided to implement a trial program to determine whether to maintain the current policy with regard to enforcement conferences or to adopt a new policy that would allow most enforcement conferences to be open to attendance by all members of the public.

Policy Statement

Position

The NRC is implementing a two-year trial program to allow public observation of selected enforcement conferences. The NRC will monitor the program and determine whether to establish a permanent policy for conducting open enforcement conferences based on an assessment of the following criteria:

- (1) Whether the fact that the conference was open impacted the NRC's ability to conduct a meaningful conference and/or implement the NRC's enforcement program;
- (2) Whether the open conference impacted the licensee's participation in the conference;
- (3) Whether the NRC expended a significant amount of resources in making the conference public; and
- (4) The extent of public interest in