

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

S. K. McBryde, Inc.
Greensboro, North Carolina
EA 93-241

Docket No. 150-00032
License No. General License
(10 CFR 150.20)

During an NRC investigation completed on August 31, 1993, 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, the Nuclear Regulatory Commission proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violations and associated civil penalty are set forth below:

10 CFR 150.20(a) grants to any person holding a specific license from an Agreement State a general license to conduct the same activity in non-Agreement States. 10 CFR 150.20 (b) states, in part, that, when engaging in activities in non-Agreement States under the general license granted by 10 CFR 150.20(a), the general licensees are subject to the provisions of 10 CFR 30.9, the terms and conditions of the specific license issued by an Agreement State, and, in the case of radiographers, Subpart B of 10 CFR Part 34.

- A. 10 CFR 30.9(a) requires, in part, that information required by the Commission's regulations to be maintained by a licensee be complete and accurate in all material respects.

10 CFR 34.43(c) requires that a survey with a calibrated and operable radiation survey instrument be made at any time that a radiographic exposure device is placed in a storage area.

10 CFR 34.43(d) requires, in part, that a record of the storage survey required in 10 CFR 34.43(c) is made when the storage survey is the last one performed in the work day.

Condition 16. of the Agreement State license issued to S. K. McBryde by the State of North Carolina requires, in part, that the licensee record radiation surveys of the restricted area boundary and readings at the surface of the radiography device.

Contrary to the above, required records of radiation surveys (storage, boundary and surface) conducted in Abingdon, Virginia on March 8, 12 and 14, 1991, were not complete and accurate in all material respects. Specifically, the survey records contained the serial number for a radiation survey instrument that was not used for performing the surveys. (01014)

- B. 10 CFR 34.43(a) requires, in part, that the licensee have at least one calibrated radiation survey instrument available at the location of radiographic operations whenever radiographic operations are being

performed and at the storage location whenever a radiographic exposure device is being placed in storage.

Contrary to the above, on March 8, 12 and 14, 1991, the Licensee performed radiographic operations in Abingdon, Virginia and placed a radiographic exposure device in storage at the end of each work day without having a calibrated radiation survey instrument at the location of radiographic operations. (01024)

- C. 10 CFR 34.24 requires, in part, that each survey instrument used to conduct physical radiation surveys be calibrated at intervals not to exceed three months and after each instrument servicing.

Contrary to the above, on March 8, 12 and 14, 1991, the Licensee performed radiographic operations in Abingdon, Virginia with a survey instrument that had last been calibrated on December 4, 1990, an interval which exceeded the three month calibration requirement on March 4, 1991. (01034)

These violations represent a Severity Level IV problem (Supplement IV and VI) Civil Penalty - \$1,500.

Pursuant to the provisions of 10 CFR 2.201, S.K. McBryde (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 Penalty (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 or a Demand for Information 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 the cumulative amount of the civil penalties if more than one civil penalty is proposed, 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, 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 VI.B.2 of 10 CFR Part 2, Appendix C should be addressed. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from the statement of 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 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 II.

Dated at Atlanta, Georgia
this 20th day of June 1994