

Notice of Violation

and

Proposed Imposition of Civil Penalties

Kay-Ray, Incorporated
516 West Campus Drive
Arlington Heights, Illinois

License No. 12-11184-01
EA 83-76

During NRC inspections on June 8 and 10, and August 1, 1983, violations of NRC requirements were identified. A licensee's employee received an apparent occupational radiation dose of 29.88 rems to the hands during the second quarter of 1983. Another employee received apparent radiation doses of 60.68 rems to the hands and 7.19 rems to the eyes during the third quarter of 1983. This same employee during the third quarter of 1983 received an apparent whole body radiation dose of 25.26 rems (14.38 rems gamma + 10.88 beta). In addition, a Kay-Ray employee shipped a package from a customer's facility that had surface radiation levels in excess of Department of Transportation limits.

To emphasize the importance of these matters and the responsibility of licensees to limit excessive radiation exposure, properly package and ship radioactive materials and ensure effective management control, the NRC proposes to impose civil penalties in the cumulative amount of One Thousand Eight Hundred Dollars. In accordance with the General Policy and Procedure for NRC Enforcement Actions (10 CFR Part 2, Appendix C), 47 FR 9987 (March 9, 1982), and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended ("Act"), 42 U.S.C. 2282, PL 96-295, and 10 CFR 2.205, the particular violations and associated civil penalties are set forth below:

I. Civil Penalty Violations

- A. 10 CFR 20.101(a) states no licensee shall use licensed material in such a manner as to cause an individual in a restricted area to receive in any period of one calendar quarter a total occupational dose in excess of 1.25 rems to the whole body and lens of the eyes, and 18.75 rems to the hands. 10 CFR 20.101(b) permits a whole body exposure of 3 rems per calendar quarter provided certain conditions are met.

Contrary to the above, an individual who worked in a restricted area during the third quarter of 1983 received an apparent whole body dose of 25.26 rems (14.38 rems gamma + 10.88 beta). In addition, this individual received apparent doses of 7.19 rems to the eyes and 60.68 rems to the hands during the third quarter of 1983.

This is a Severity Level II violation (Supplement IV).
(Civil Penalty - \$800)

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- B. 10 CFR 20.101(a) states no licensee shall use licensed material in such a manner as to cause an individual in a restricted area to receive in any period of one calendar quarter a total occupational dose in excess of 1.25 rems to the whole body and 18.75 rems to the hands.

Contrary to the above, an individual working in a restricted area received an apparent dose of 29.88 rems to the hands during the second quarter of 1983.

This is a Severity Level III violation (Supplement IV).

(Civil Penalty - \$500)

- C. License Condition No. 15 requires that all transport of licensed material be performed in accordance with the provisions of 10 CFR Part "Packaging of Radioactive Material for Transport and Transportation of Radioactive Material Under Certain Conditions."

10 CFR 71.5 requires licensees to transport licensed material in accordance with the Department of Transportation (DOT) regulations in 49 CFR Parts 170 through 189.

49 CFR 173.393(i) requires that all radioactive materials must be packaged so that at any time during the normal conditions incident to transportation, the radiation dose rate does not exceed 200 millirems per hour at any point on the external surface of the package.

Contrary to the above, a Kay-Ray Incorporated field service engineer packaged and shipped, from a customer's facility, two Kay-Ray gauging devices containing a total of 1 curie of cesium-137. After the package arrived at the Kay-Ray facility in Arlington Heights, Illinois, the licensee surveyed the package on September 21, 1982 and found radiation levels in excess of 500 millirems per hour on the external surface.

This is a Severity Level III violation (Supplement V).

(Civil Penalty - \$500)

Pursuant to the provisions of 10 CFR 2.201, Kay-Ray, Incorporated is hereby required to submit to the Director, Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555, with a copy to the Regional Administrator, USNRC, Region III, 799 Roosevelt Road, Glen Ellyn, IL 60137, within 30 days of the date of this Notice, a written statement or explanation in reply, including for each alleged violation: (1) admission or denial of the alleged violation;

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(2) the reasons for the violation, if admitted; (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. 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, Kay-Ray, Incorporated may pay the civil penalties in the cumulative amount of One Thousand Eight Hundred Dollars or may protest imposition of the civil penalties in whole or in part by a written answer. Should Kay-Ray, Incorporated fail to answer within the time specified, the Director, Office of Inspection and Enforcement, will issue an order imposing the civil penalties in the amount proposed above. Should Kay-Ray, Incorporated elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalties, such answer 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 penalties should not be imposed. In addition to protesting the civil penalties, in whole or in part, such answer may request remission or mitigation of the penalties. In requesting mitigation of the proposed penalties, the five factors contained in Section IV(B) 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 or explanation in reply pursuant to 10 CFR 2.201, but may incorporate statements or explanations by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. Kay-Ray, Incorporated's attention 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 has been subsequently 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, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282.

FOR THE NUCLEAR REGULATORY COMMISSION


James G. Keppeler
Regional Administrator

Date at Glen Ellyn, Illinois
this 23 day of September 1983