

ENCLOSURE 1

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

Mr. Alfonso DeLeo, Jr.
Ardmore, Pennsylvania

Docket No. 030-19405
License No. 37-20553-01
EA 99-057

During a joint inspection/investigation conducted on April 1, 1999, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy), NUREG-1600, the violation is listed below:

10 CFR 30.36(d)(3) requires, in part, that within 26 months of the cessation of principal activities, the licensee begin decommissioning its site. 10 CFR 30.36(h) requires, in part, that, except in circumstances not applicable in this case, the licensee complete decommissioning of the site as soon as practicable, but no later than 24 months following the initiation of decommissioning. (In other words, decommissioning must be completed, at the latest, within 50 months of cessation of principal activities.)

Pursuant to 10 CFR 30.4, decommissioning means to remove a facility safely from service and reduce residual radioactivity to a level that permits release of the property for unrestricted use and termination of the license.

Contrary to the above, as of this date, although the licensee had ceased principal activities before April 6, 1994, a period greater than 50 months ago, the licensee has not completed decommissioning of its site. Specifically, the licensee has not divested itself of licensed material in its possession consisting of sealed sources containing cesium-137 and americium-241. (01013)

This is a Severity Level III violation (Supplement VI).
Civil Penalty - \$5,500

Pursuant to the provisions of 10 CFR 2.201, Alfonso DeLeo, Jr., (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 as 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.

Within the same time as provided for the response required above under 10 CFR 2.201, the Licensee may pay the civil penalty proposed above or the cumulative amount of the civil penalties if more than one civil penalty is proposed, in accordance with NUREG/BR-0254 and by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, a statement indicating when and by what method payment was made, 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 violation(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 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 the Enforcement Policy 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 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, statement as to payment of civil penalty, and Answer to a Notice of Violation) should be addressed to: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region I.

Because your response will be placed in the NRC Public Document Room (PDR), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information).

If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated at King of Prussia, PA
this 2nd day of June 1999

SYNOPSIS

This investigation was initiated on March 17, 1999, by the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region I, to determine whether an NRC licensee (an owner of two Troxler nuclear gauges) in Havertown, PA, has been in deliberate violation of NRC requirements concerning the proper disposal/transfer of licensed radioactive material since October 15, 1998.

Based upon the evidence developed during this investigation, OI concludes that the owner of the nuclear gauges has intentionally failed to dispose of or transfer the licensed radioactive material in his possession, and has, therefore, been in deliberate violation of NRC requirements since October 15, 1998.

NRC FORM 314

U.S. NUCLEAR REGULATORY COMMISSION

APPROVED BY OMB: NO. 3150-0028

EXPIRES: 06/30/98

(6-95)

10 CFR 30.36(c)(1)(iv)

10 CFR 40.42(c)(1)(iv)

10 CFR 70.38(c)(1)(iv)

CERTIFICATE OF DISPOSITION OF MATERIALS

INSTRUCTIONS: ALL ITEMS MUST BE COMPLETED -- PRINT OR TYPE
SEND THE COMPLETED CERTIFICATE TO THE NRC OFFICE SPECIFIED ON THE REVERSE

ESTIMATED BURDEN: PER RESPONSE TO COMPLY WITH THIS MANDATORY INFORMATION COLLECTION REQUEST: 30 MINUTES. THIS SUBMITTAL IS USED BY NRC AS PART OF THE BASIS FOR ITS DETERMINATION THAT THE FACILITY HAS BEEN CLEARED OF RADIOACTIVE MATERIAL BEFORE THE FACILITY IS RELEASED FOR UNRESTRICTED USE. FORWARD COMMENTS REGARDING BURDEN ESTIMATE TO THE INFORMATION AND RECORDS MANAGEMENT BRANCH (T-6 F33), U.S. NUCLEAR REGULATORY COMMISSION, WASHINGTON, DC 20555-0001, AND TO THE PAPERWORK REDUCTION PROJECT (3150-0028), OFFICE OF MANAGEMENT AND BUDGET, WASHINGTON, DC 20503. AN AGENCY MAY NOT CONDUCT OR SPONSOR, AND A PERSON IS NOT REQUIRED TO RESPOND TO, A COLLECTION OF INFORMATION UNLESS IT DISPLAYS A CURRENTLY VALID OMB CONTROL NUMBER.

LICENSEE NAME AND ADDRESS

LICENSE NUMBER

LICENSE EXPIRATION DATE

A. MATERIALS DATA (Check one and complete as necessary)

THE LICENSEE OR ANY INDIVIDUAL EXECUTING THIS CERTIFICATE ON BEHALF OF THE LICENSEE CERTIFIES THAT:
(Check and/or complete the appropriate item(s) below.)

- ☐ 1. NO MATERIALS HAVE EVER BEEN PROCURED OR POSSESSED BY THE LICENSEE UNDER THIS LICENSE.
OR
☐ 2. ALL ACTIVITIES AUTHORIZED BY THE LICENSE HAVE CEASED AND ALL MATERIALS PROCURED AND/OR POSSESSED BY THE LICENSE NUMBER CITED ABOVE HAVE BEEN DISPOSED OF IN THE FOLLOWING MANNER. (If additional space is needed, use the reverse side or provide attachments.)

Describe specific material transfer actions and, if there were radioactive wastes generated in terminating this license, the disposal actions including the disposition of low-level radioactive waste, mixed waste, Greater-than-Class-C waste, and sealed sources, if applicable.

For transfers, specify the date of the transfer, the name of the license recipient, and the recipient's NRC license number or Agreement State name and license number.

If materials were disposed of directly by the licensee rather than transferred to another licensee, licensed disposal site or waste contractor, describe the specific disposal procedures (e.g., decay in storage)

B. OTHER DATA

- ☐ 1. OUR LICENSE HAS NOT YET EXPIRED; PLEASE TERMINATE IT.
- ☐ 2. A RADIATION SURVEY WAS CONDUCTED BY THE LICENSEE TO CONFIRM THE ABSENCE OF LICENSED RADIOACTIVE MATERIALS AND TO DETERMINE WHETHER ANY CONTAMINATION REMAINS ON THE PREMISES COVERED BY THE LICENSE. (Check one)
- ☐ NO (Attach explanation)
- ☐ YES, THE RESULTS (Check one)
- ☐ ARE ATTACHED, or
- ☐ WERE FORWARDED TO NRC ON (Date)
3. THE PERSON TO BE CONTACTED REGARDING THE INFORMATION PROVIDED ON THIS FORM
- NAME
- TELEPHONE NUMBER (Include Area Code)
4. MAIL ALL FUTURE CORRESPONDENCE REGARDING THIS LICENSE TO

CERTIFYING OFFICIAL

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT

PRINTED NAME AND TITLE

SIGNATURE

DATE

WARNING: FALSE STATEMENTS IN THIS CERTIFICATE MAY BE SUBJECT TO CIVIL AND/OR CRIMINAL PENALTIES. NRC REGULATIONS REQUIRE THAT SUBMISSIONS TO THE NRC BE COMPLETE AND ACCURATE IN ALL MATERIAL RESPECTS. 18 U.S.C. SECTION 1001 MAKES IT A CRIMINAL OFFENSE TO MAKE A WILLFULLY FALSE STATEMENT OR REPRESENTATION TO ANY DEPARTMENT OR AGENCY OF THE UNITED STATES AS TO ANY MATTER WITHIN ITS JURISDICTIONS.

FILE CERTIFICATES AS FOLLOWS:

IF YOU ARE A DISTRIBUTOR OF EXEMPT PRODUCTS, SEND TO:

DIVISION OF INDUSTRIAL AND MEDICAL NUCLEAR SAFETY
OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS
U.S. NUCLEAR REGULATORY COMMISSION
WASHINGTON, DC 20555-0001

ALL OTHERS, IF YOU ARE LOCATED IN:

CONNECTICUT, DELAWARE, DISTRICT OF COLUMBIA, MAINE,
MARYLAND, MASSACHUSETTS, NEW HAMPSHIRE, NEW
JERSEY, NEW YORK, PENNSYLVANIA, RHODE ISLAND, OR
VERMONT, SEND APPLICATIONS TO:

LICENSING ASSISTANCE SECTION
NUCLEAR MATERIALS SAFETY BRANCH
U.S. NUCLEAR REGULATORY COMMISSION, REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PA 19406-1415

ALABAMA, FLORIDA, GEORGIA, KENTUCKY, MISSISSIPPI,
NORTH CAROLINA, PUERTO RICO, SOUTH CAROLINA,
TENNESSEE, VIRGINIA, VIRGIN ISLANDS, OR WEST VIRGINIA,
SEND APPLICATIONS TO:

NUCLEAR MATERIALS SAFETY SECTION
U.S. NUCLEAR REGULATORY COMMISSION, REGION II
101 MARIETTA STREET NW, SUITE 2900
ATLANTA, GA 30323-0199

IF YOU ARE LOCATED IN:

ILLINOIS, INDIANA, IOWA, MICHIGAN, MINNESOTA, MISSOURI,
OHIO, OR WISCONSIN, SEND APPLICATIONS TO:

MATERIALS LICENSING SECTION
U.S. NUCLEAR REGULATORY COMMISSION, REGION III
801 WARRENVILLE ROAD
LISLE, IL 60532-4351

ALASKA, ARIZONA, ARKANSAS, CALIFORNIA, COLORADO,
HAWAII, IDAHO, KANSAS, LOUISIANA, MONTANA, NEBRASKA,
NEVADA, NEW MEXICO, NORTH DAKOTA, OKLAHOMA,
OREGON, PACIFIC TRUST TERRITORIES, SOUTH DAKOTA,
TEXAS, UTAH, WASHINGTON, OR WYOMING, SEND
APPLICATIONS TO:

MATERIAL RADIATION PROTECTION SECTION
U.S. NUCLEAR REGULATORY COMMISSION, REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TX 76011-8064