

Public

November 12, 1997

EA 97-350

Jimmy C. Morgan, Director
Armament and Chemical Acquisition
and Logistics Activity (ACALA)
U.S. Army Tank-Automotive and
Armaments Command
Rock Island, IL 61299-7630

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY -
\$16,000 (NRC Inspection Report Nos. 030-13027/97001(DNMS);
030-21073/97001(DNMS), and 030-22274/97001(DNMS))

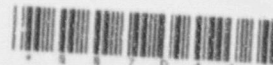
Dear Mr. Morgan:

This refers to the NRC inspections conducted between December 9, 1996 and March 28, 1997, of activities authorized at the U. S. Department of the Army's Ft. Bragg, NC; Rock Island, IL; Ft. Leonard Wood, MO; Anniston, AL; Ft. Devens, MA; and Rhode Island National Guard facilities. As described in the NRC inspection reports sent to you by letter dated April 11, 1997, thirteen apparent violations of NRC requirements were identified. On August 8, 1997, a predecisional enforcement conference was held with Major General Beauchamp, you and other U.S. Army representatives to discuss the violations, their causes, and your corrective actions. In addition, ACALA's progress with the assistance of the Department of the Army, in completing the action items described in a Confirmatory Order Modifying License (Order) issued to the ACALA on March 26, 1997, was discussed.

Based on the information developed during the inspection, the information provided during the conference, and the information provided in the ACALA's June 15, 1997 and September 9, 1997 responses to the Order, the NRC has determined that violations of NRC requirements occurred. These violations are cited in the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice), and the circumstances surrounding them are described in detail in the subject inspection report. In particular, the violations include failures to:

- (1) conduct annual inspections at all named Army depots, (2) provide training to users of licensed materials, (3) ensure that tests for leakage and/or contamination were performed by persons specifically authorized to perform that service, (4) conduct inventories of licensed commodities annually, (5) conduct surveys to demonstrate compliance with personnel/public exposure limits contained in 10 CFR Part 20, (6) secure licensed material in storage from unauthorized access or removal, (7) properly prepare a package containing radioactive material for shipment, (8) notify the local Radiation Protection Officer of non-illuminated or damaged fire control devices containing tritium and place defective fire control devices in plastic bags, (9) properly set the pressure level for purging of fire control devices, that resulted in damage to

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the device and release of tritium gas, (10) limit storage of damaged fire control devices to unoccupied buildings, (11) limit repair/maintenance activities on tritium-containing fire control devices, (12) provide notification to NRC of incidents pursuant to 10 CFR 20.2201 (immediate), and (13) provide notification pursuant to 10 CFR 30.50 (24 hour). Many of these violations involved multiple examples.

The violations impact nearly every aspect of your radiation protection program. The number and nature of the violations are indicative of a continued breakdown in the control of licensed responsibilities. Ten of the thirteen violations were repeat violations, having been previously identified during four NRC inspections conducted in 1992, 1993 and 1995. During those inspections, a total of 21 violations were identified. This inspection determined that the Army's implementation of previous corrective actions, especially for the 1992 inspection findings, for which six of seven violations were identified as repetitive during this inspection, had been ineffective in precluding similar violations from recurring.

Safety significant, repeat violations were identified for the failure to properly store damaged tritium devices. During two incidents, one at Camp Kineohe and the other at Ft. Campbell, known damaged M1A1 collimators were stored in occupied offices for extended periods of time. During those periods of storage, the damaged devices continued to off-gas tritium, resulting in facility contamination, and unnecessary exposure of personnel. These events had the potential to result in significant intakes of tritium that could have resulted in exposures in excess of regulatory limits.

Violations were also identified for failure to make timely notifications of events, such as those discussed above. Ten examples were identified, several of which the NRC likely would have dispatched inspectors to follow up. The failure to notify the NRC impeded the NRC's ability to fulfill its regulatory responsibilities.

Furthermore, fundamental commitments regarding accountability for licensed material were not met. The Army was not able to determine the quantity of licensed material in its possession or determine with any certainty all locations of possession and use. It appeared that ACALA had requested arbitrarily inflated possession limits in order to preclude the likelihood of exceeding those limits. The large possession limits notwithstanding, the NRC expects its licensees to be able to account for all radioactive materials possessed under their licenses.

ACALA's continued failure to effectively manage its licensed radiation safety program is a very significant safety and regulatory concern to the NRC. The NRC entrusts you with the responsibility for radiation safety within the Department of Defense for the items authorized under your NRC licenses. Incumbent upon you is the responsibility to protect public health and safety, including the health and safety of military and civilian personnel, by assuring that all NRC requirements are met and any potential violations are identified and promptly corrected. The repetitive nature of the violations and your relatively poor past performance demonstrate continued severe programmatic deficiencies and the lack of management oversight. Therefore, the violations in Section A of the Notice addressing ACALA's failures regarding inspections, procedures, maintenance, training, leak tests, inventories, surveys, security, and

shipping are classified in the aggregate in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, as a Severity Level II problem. The violations in Section B of the Notice addressing ACALA's failures to make timely notifications, are also classified in the aggregate as a Severity Level II problem.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$8000 is considered for a Severity Level II problem. Because the Army has been the subject of escalated enforcement actions within the last two inspections,¹ the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section VI.B.2 of the Enforcement Policy. No credit is warranted for *Identification* due to the fact that seven of the thirteen violations identified during the inspection were identified by the NRC. Credit for *Corrective Action* is warranted. The Army's corrective actions were confirmed in the March 26, 1997, Order. The corrective actions described in the Order were initially agreed upon during the exit meeting conducted on January 31, 1997. The first milestone in the Order required the Army to have an independent audit conducted within 30 days of NRC's approval of the audit plan. The audit plan was approved by NRC on April 17, 1997, and subsequently the audit was conducted, as required. The audit report, dated June 16, 1997, included a comprehensive root cause analysis. Subsequent actions, involving development and implementation of long-term corrective actions for audit findings, were addressed in a letter to the NRC dated September 9, 1997. The corrective actions include restructuring the Army's radiation safety program, improving the procedures for annual inventories, improving and consolidating the audit criteria and schedule, upgrading training requirements, revising Technical Manuals to include NRC reporting requirements, creating and distributing additional information concerning safe handling, maintenance, storage and disposal of radioactive material, reducing or eliminating radioactive sources containing tritium, and ensuring adequate staffing in the safety office.

Therefore, to emphasize the importance of lasting and effective corrective action, I have been authorized, after consultation with the Director, Office of Enforcement, to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalties (Notice) in the base amount of \$8000 for each of the two Severity Level II problems. This is a total Civil Penalty of \$16,000. In addition, issuance of this Notice constitutes escalated enforcement action that may subject you to increased inspection effort.

¹ December 28, 1993 - Civil penalty, in the amount of \$17,500, for a significant breakdown in the control of NRC licensed activities, identified as a result of an inspection conducted October 19 to November 9, 1993, at the Marine Corps Logistics Base (MCLB), Barstow, California.

J. Morgan

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You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements. In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response will be placed in the NRC Public Document Room (PDR).

Sincerely,

/s/ J. L. Caldwell (for)

A. Bill Beach
Regional Administrator

Enclosure: Notice of Violation and Proposed
Imposition of Civil Penalties

Docket Nos. 030-13027
030-21073
030-22274

License Nos. 12-00722-06
12-00722-13
12-00722-14

cc: Major General Roy E. Beauchamp, Commander
U.S. Army Tank-Automotive and Armament Command
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Warren, MI 48397-5000

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