

NOTICE OF VIOLATION

Clough, Harbour and Associates
Albany, NY

Docket No. 030-29966
License No. 31-28025-01

During an NRC inspection conducted on July 14, 1998, nine violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy), NUREG-1600, the violations are listed below:

- A. 10 CFR 20.1101(c) requires that the licensee review the radiation safety program content and implementation at least annually.

Contrary to the above, as of July 14, 1998, the licensee did not perform a review of the radiation safety program content and implementation at least annually. Specifically, the licensee did not conduct a review of the radiation safety program content and implementation since January 1994.

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

- B. 10 CFR 20.1301(a)(2) requires that the licensee conduct operations so that the dose in any unrestricted area from external sources, exclusive of the dose contributions from patients administered radioactive material and released in accordance with 10 CFR 35.75, does not exceed 2 millirem in any one hour.

Contrary to the above, on July 14, 1998, licensee operations resulted in a dose of 4.5 millirem in one hour in the reception area, an unrestricted area. Specifically, the licensee was storing two Troxler 3400 Series moisture density meters in a storage cabinet in a room adjacent to the reception area which resulted in a dose exceeding two millirem in any one hour in the reception area.

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

- C. 10 CFR 71.5 requires, in part, that each licensee who transports licensed material outside the site of usage, as specified on the NRC license, or where transport is on public highways comply with the applicable requirements of the DOT regulations in 49 CFR parts 170 through 189 appropriate to the mode of transport.

1. 49 CFR 172.203(c)(2) requires that the letters "RQ" be entered on the shipping paper either before or after the basic description required by 49 CFR 172.202 for each hazardous substance.

Contrary to the above, on July 14, 1998, the letters "RQ" were not entered on the shipping paper either before or after the basic description required by 49 CFR 172.202 for each hazardous substance. Specifically, the shipping paper for the Troxler 3411B, which contained cesium-137 and americium-241 (hazardous substances), did not include the required entry and the gauge had been transported on public highways in 1998.

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

2. 49 CFR 172.324(b) requires that the letters "RQ" be marked on the package in association with the proper shipping name.

Contrary to the above, on July 14, 1998, the letters "RQ" were not marked on packages in association with the proper shipping name. Specifically, the transport cases used to carry the licensee's Troxler gauges were not marked with the letters "RQ" and were used to transport the gauges on the public highways.

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

3. 49 CFR 172.406(e)(2) requires, in part, that duplicate labels must be displayed on two sides or two ends (other than the bottom) of each non-bulk package containing radioactive material.

Contrary to the above, on July 14, 1998, duplicate labels were not displayed on two sides or two ends (other than the bottom) of each non-bulk package containing radioactive material. Specifically, the transport case used to carry the Troxler 3411B gauge was only labeled on one side.

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

4. 49 CFR 173.476(a) requires, in part, that each offerer of Class 7 (radioactive) materials must maintain on file for at least one year after the latest shipment, a complete safety analysis, including the documentation of any tests, demonstrating that the special form material meets the requirements of 49 CFR 173.469.

Contrary to the above, on July 14, 1998, the licensee transported Class 7 (radioactive) materials and did not maintain on file for at least one year after the latest shipment, a complete safety analysis, including the documentation of any tests, demonstrating that the special form material met the requirements of 49 CFR 173.469. Specifically, the licensee's IAEA certificate used to show compliance with 49 CFR 173.476(a) expired in February 1997, the licensee did not obtain a replacement, and shipped radioactive materials since February 1997.

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

5. 49 CFR 177.817(e)(1) requires, in part, that the driver of a motor vehicle containing hazardous material ensure that the shipping paper required by this section is readily available to, and recognizable by, authorities in the event of an accident or inspection. Specifically, the driver shall clearly distinguish the shipping paper, if it is carried with shipping papers or papers of any other kind, by either distinctively tabbing it or by having it appear first.

Contrary to the above, as of July 14, 1998, the driver of a motor vehicle containing hazardous material did not ensure that the shipping paper required by this section was readily available to, and recognizable by, authorities in the

event of an accident or inspection. Specifically, the driver did not clearly distinguish the shipping paper, and it was carried with shipping papers or papers of any other kind, by either distinctively tabbing it or by having it appear first.

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

- D. Condition 13.A. of License No. 31-28025-01 requires that sealed sources and detector cells be tested for leakage and/or contamination at intervals not to exceed six months or at such other intervals as are specified by the certificate of registration referred to in 10 CFR 32.210, not to exceed 3 years.

Contrary to the above, as of July 14, 1998, sealed sources and detector cells were not tested for leakage and/or contamination at intervals not exceeding six months and the certificate of registration did not specify another leak test interval. Specifically sealed sources were tested on March 1994, January 1995, January 1996, July 1996, March 1997, and January 1998, intervals exceeding six months.

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

- E. Condition 15 of License No. 31-28025-01 requires, in part, that the licensee conduct a physical inventory every six months to account for all sources and/or devices received and possessed under the license.

Contrary to the above, as of July 14, 1998, the licensee did not conduct physical inventories every six months to account for all sources and/or devices received and possessed under the license. Specifically, sealed sources were inventoried on March 1994, January 1995, January 1996, July 1996, March 1997, and January 1998, intervals exceeding six months.

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

Pursuant to the provisions of 10 CFR 2.201, Clough, Harbour and Associates is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555, with a copy to the Regional Administrator, Region I, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. 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 to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

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If you contest this enforcement action, you should also provide a copy of your response to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

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. However, if you find it necessary to include such information, you should clearly indicate the specific information that you desire not to be placed in the PDR, and provide the legal basis to support your request for withholding the information from the public.