

December 29, 1999

EA 99-297

Carl Buckland
Plant Manager
Southeastern Plastics Corporation
15 Home News Row
New Brunswick, NJ 08901

SUBJECT: NOTICE OF VIOLATION
(NRC Inspection Report No. 999-90001/99-008)

Dear Mr. Buckland:

This refers to the NRC inspection conducted from October 27 through November 23, 1999, at the Zeta Consumer Products Corporation (Zeta), 555 Route 57 East, Washington Township, New Jersey, and at Southeastern Plastics Corporation (Southeastern), 15 Home News Row, New Brunswick, New Jersey. The purpose of the inspection was to review the circumstances leading to the appearance of an Ohmart scanning gauge containing 1200 millicuries of krypton-85 at a warehouse that is owned by Zeta. The gauge was stored on a pallet and was among several other pieces of used machinery and equipment that had been brought to the warehouse from other plants to be sold at an auction.

During the inspection, the NRC learned that Southeastern had acquired the Ohmart gauge under a general license, and installed it at the Southeastern facility in July 1991. Subsequently, the gauge was removed and transferred to the Zeta warehouse. This was an unauthorized transfer since Zeta does not have a specific NRC license to possess the gauge. As such, Southeastern's actions constituted an abandonment of the gauge, contrary to NRC requirements for a general licensee. Other apparent violations were also identified during the inspection, including the abandonment of another thickness gauge (manufactured by NDC), containing 150 millicuries of americium-241, that Southeastern had acquired in March of 1986. The NDC gauge is considered abandoned since it could not be located at the time of the inspection. Details were provided in the inspection report sent to you on December 2, 1999. On December 15, 1999, a predecisional enforcement conference was held with you in our Region I office in King of Prussia, Pennsylvania, to discuss the violations, their causes and Southeastern's corrective actions. A copy of the predecisional enforcement conference summary report is enclosed.

Based on the information developed during the inspection and the information that you provided during the conference, the NRC has determined that four violations of NRC requirements occurred. The most significant problem involved Southeastern's abandonment of the two gauges, including the Ohmart gauge, which, fortuitously, was found at the Zeta warehouse before it could be sold at an auction. While the entire gauge unit, at the time it was found,

appeared to be intact with the source assembly shielded, this occurrence, along with the failure to account for the other gauge, represents a significant safety issue. Implementation of adequate controls of licensed material is intended to prevent members of the public from being unknowingly and unnecessarily exposed to radiation. Abandonment of generally licensed radioactive material constitutes a violation of 10 CFR (Code of Federal Regulations) 31.5.

Three other violations were identified during the inspection regarding the use of generally licensed sources at the Southeastern facility. The violations are fully described in the referenced inspection report. Between 1986 and 1992, Southeastern used four generally licensed gauges containing byproduct material, and did not assure that the devices were tested for proper operation of their on-off mechanisms and indicators. The labels affixed to an Ohmart Gauge (Scanning Gauge, Serial No. 8529) required that device dismantling and relocation be performed by persons specifically licensed by the NRC or an Agreement State. Contrary to this requirement, at some time prior to October 1999, Southeastern allowed the dismantling/removal of the Ohmart Model gauge by employees or contractors who were not specifically licensed to perform these activities. Also, on at least four occasions between 1986 and 1992, Southeastern installed and subsequently removed from installation, the four generally licensed gauges containing byproduct material, and did not maintain records of their installation and removal.

As you stated at the predecisional enforcement conference, three of the gauges have been permanently removed from the Southeastern facility and returned to the manufacturers. The search for the remaining NDC thickness gauge included a walk-down of the Southeastern facility in New Brunswick, New Jersey and the Zeta facility in Washington Township, New Jersey. In addition, you have alerted the scrap dealer, and employees and contractors working at the facility, to inform you if they find the gauge. Other than the missing NDC gauge, Southeastern has no other generally licensed devices remaining at the facility. We have received your written report, dated December 21, 1999, regarding the missing NDC gauge containing a radioactive source.

The violation involving abandonment of the Ohmart gauge is being cited in the attached Notice and is classified as a Severity Level III violation in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG 1600. This violation was identified based upon a contact between a third party and the NRC. The abandonment of the missing NDC gauge is not being cited as part of this violation for the reasons discussed below.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$2,750 is considered for a Severity Level III violation or problem. Because the Southeastern facility has not been the subject of an escalated enforcement action within the last two years or two inspections, the NRC considered whether credit was warranted for Corrective Action in accordance with the civil penalty assessment process in Section VI.B.2 of the Enforcement Policy. Credit for corrective actions is warranted because once you were put on notice of the apparent violation, Southeastern's actions, as described at the conference, were considered prompt and comprehensive. These actions include, but are not limited to, (1) returning the Ohmart gauge to the manufacturer for disposal; (2) making arrangements to have two other thickness gauges in your possession returned to their manufacturer (NDC) for proper disposal;

(3) continuing efforts to locate the other missing NDC gauge, including searching the facility and alerting your staff and contractors to the loss of the gauge and the safety implications. We understand that there are no other generally licensed devices left at the Southeastern facility, with the possible exception of the missing gauge.

Therefore, to encourage prompt and comprehensive correction of violations, I have been authorized to not propose a civil penalty for the abandoned Ohmart gauge. However, similar violations in the future could result in further escalated enforcement action.

The NRC is not taking enforcement action for the remaining violations identified during the inspection, including the abandonment of the missing NDC gauge. Southeastern assisted in identifying these violations during the portion of the NRC inspection conducted at your facility and through your continued efforts to locate the missing NDC gauge after the NRC inspector left the Southeastern facility. Under the Interim Enforcement Policy for Generally Licensed Devices, 63 FR 66492, enforcement action normally will not be taken for violations of 10 CFR 31.5 if they are identified by the general licensee, and reported to the NRC if reporting is required, provided (among other things) that the general licensee takes appropriate corrective action to address the specific violations and prevent recurrence of similar problems. This approach is intended to encourage general licensees to determine if applicable requirements have been met, to search their facilities to assure that sources are located, and to develop appropriate corrective action when deficiencies are found. The NRC recognizes your cooperation in this regard.

The NRC has concluded that information regarding the reason for the violations, and the corrective actions taken and planned to correct the violations and prevent recurrence, were already described adequately during the inspection, and in the predecisional enforcement conference, as documented herein and in the enforcement conference report. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect Southeastern's corrective actions or Southeastern's position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosure, and your response (if any) will be placed in the NRC Public Document Room (PDR).

Sincerely,

ORIGINAL SIGNED BY:
A RANDOLPH BLOUGH for

Hubert J. Miller
Regional Administrator

Enclosure:

1. Notice of Violation
2. Predecisional Enforcement Conference Summary Report

cc w/encl:

Alfred Teo, President
John Reier, Chief Financial Officer
State of New Jersey

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OFFICE	RI:ORA	E	RI:ORA	RI:DNMS	RI:RC	RI:RA
NAME	JNick		DHolody TEW for	GPangburn	BFewell	HMiller ARB for
DATE	12/22/99		12/22/99	12/28/99	12/23/99	12/29/99

ENCLOSURE

NOTICE OF VIOLATION

Southeastern Plastics Corporation
New Brunswick, NJ

Docket No. 999-90001
License No. GL
EA 99-297

During an NRC inspection conducted between October 27 and November 23, 1999, at the Zeta Consumer Products Corporation, 555 Route 57 East, Washington Township, New Jersey, and at Southeastern Plastics Corporation, 15 Home News Row, New Brunswick, New Jersey, 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 31.5(c)(6) requires that any person who acquires, receives or possesses byproduct material in a device pursuant to the general license in 10 CFR 31.5(a), not abandon the device containing byproduct material.

Contrary to the above, at some time prior to October 1999, the licensee abandoned an Ohmart gauge containing 1200 millicuries of krypton-85, a byproduct material, that was acquired by the licensee in 1991, in that the device was found in a warehouse at the Zeta Consumer Products Corporation, 555 Route 57 East, Washington Township, New Jersey, where it was to be sold at auction. (01013)

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

The NRC has concluded that information regarding the reason for the violation, and the corrective actions taken and planned to correct the violation and prevent recurrence were adequately described during the inspection, and are already adequately addressed on the docket in the NRC inspection report and in the letter transmitting this Notice. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 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).

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, your response will be placed in the NRC Public Document Room (PDR). Therefore, to the extent possible, the response should not include any personal privacy or proprietary information so that it can be placed in the PDR without redaction.

Dated this 29th day of December 1999

U.S. NUCLEAR REGULATORY COMMISSION
REGION I

ENFORCEMENT CONFERENCE SUMMARY

Report No. 999-90001/99-008
Docket No. 999-90001
License No. General License in 10 CFR 31.5
Licensee: Southeastern Plastics Corporation
15 Home News Row
New Brunswick, N.J. 08901
Facility Name: Southeastern Plastics Corporation
Conference Date and Time: December 15, 1999 at 1:00 p.m.
Conference Location: NRC Region I, King of Prussia, Pennsylvania

Inspector: ORIGINAL SIGNED BY:
JOHN D. KINNEMAN FOR: 12/28/99
Sattar Lodhi, Ph.D. date
Health Physicist

Approved By: ORIGINAL SIGNED BY: 12/28/99
John D. Kinneman, Chief date
Nuclear Materials Safety Branch 2
Division of Nuclear Materials Safety

CONFERENCE SUMMARY

Southeastern Plastics Corporation
NRC Enforcement Conference Report No. 999-90001/99-008

The Deputy Director of the Division of Nuclear Materials Safety, Mr. Francis Costello opened and explained the format for the conference. He stated that the meeting was not a legal hearing and the purpose of the meeting was to provide the licensee with an opportunity to explain the events that lead to the apparent violations.

Mr. John Kinneman emphasized NRC's concern for any loss of licensed material because of the hazards associated with such material. He stated that the NRC was particularly interested in knowing the actions taken by the licensee to recover the missing gauge and discussed why it is in the interest of the licensee to make every effort to locate the missing gauge.

The inspector, Sattar Lodhi, briefly reviewed his findings as described in the inspection report, including the four apparent violations, and requested that the licensee provide any corrections or point out any finding that the licensee disagreed with.

Mr. Buckland did not dispute the findings described or the contents of the report. He provided details of the steps he has taken to recover the missing gauge. He stated that he is new at the plant and did not know the history of acquisition and installation of these gauges. He was unable to explain how or when the Ohmart gauge was transferred to the warehouse in Washington, New Jersey. He stated that one of the NDC gauges was removed and stored in the plant by an employee a few years ago. A second gauge (the still missing NDC gauge) was removed from installed location by a contractor a few months ago, and he himself removed the third gauge after being informed of the presence of the gauges by the NRC. He stated that the Ohmart gauge and the two NDC gauges have been returned to their respective manufacturers for disposal and provided copies of the documentation of the return of these gauges.

He stated that notices in English and Spanish are posted at several locations in the plant informing workers of the missing gauge and instructing them to contact the plant manager if they find it. The notices include a picture of the gauge and a warning that improper handling of the gauge may cause personal injury to workers. He has also requested that the scrap metal yard they have used look for the missing gauge. He stated that the plant is large area and that equipment is stored all over the plant. He agreed to continue the search in his plant and also agreed to search the warehouse in Washington Township for the missing gauge.

The Enforcement Specialist, Joseph Nick, explained the NRC's enforcement policy.

Mr. Costello thanked Mr. Buckland for attending the meeting and for providing useful information.

The meeting was adjourned.

LIST OF PERSONS ATTENDING

Licensee

Carl Buckland, Plant Manager
Southeastern Plastics Corporation

NRC

Francis Costello, Deputy Director
Division of Nuclear Materials Safety
John D. Kinneman, Chief
Nuclear Materials Safety Branch 2
Sattar Lodhi, Health Physicist
Daniel Holody, ORA, Region I
J. Bradley Fewell, Regional Counsel, Region I
Joseph Nick, Enforcement Specialist
Michael La Franco, OE/NRC Headquarters (via phone)
Brian Smith, NMSS/NRC Headquarters (via phone)