



NON DESTRUCTIVE TESTING MANAGEMENT ASSOCIATION

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May 7, 2001

Mr. Frank J. Congel
Director, Office of Enforcement
U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001

**SUBJECT: Comments on Proposed Revision to NRC Enforcement Policy
Concerning Enforcement Actions that Involve Individuals.**

Dear Mr. Congel:

The Non Destructive Testing Management Association, Inc. (NDTMA) supports the proposed revision to NRC Enforcement Policy [66FR14224, March 9, 2001]. Specifically, we support the revision that highlights that willful violations may result in enforcement actions against non-licensed individuals.

NDTMA represents the industrial radiography industry. We have actively participated in the rulemaking process by direct comment to the NRC and by representation on the G-34 radiographer certification committee of the Conference of Radiation Control Program Directors (CRCPD) for many years. Our goal is to improve radiation safety and to reduce the burden of regulations that are marginal to safety.

The majority of major safety violations in the radiography industry are committed by only a few radiographers and licensees, which ultimately results in additional rules for the entire industry. The proposed policy change will not have a major impact on the enforcement of regulations in general, yet we hope it will improve the level of compliance with one specific area of radiography regulation - the radiation survey rule.

The failure of workers to perform proper surveys after each radiographic exposure remains the most significant safety violation in the radiography industry. This violation is the primary contributing factor that is common to all acute overexposure events. Obviously, there are other violations, but these comments will focus on the failure to properly survey. We believe that stronger enforcement of the survey rule is essential to improve safety. Currently there is virtually no enforcement action taken by the NRC against individual workers for survey violations. There must be greater accountability placed on individual workers to influence improvements in their safety performance.

The proposed policy change can be used to improve the situation. A safety certified radiographer must be present during all radiography operations. In most cases he/she is the only representative of the licensee at a remote job site to directly assure compliance with safety regulations. Radiography workers are non-licensed individuals; therefore, we are pleased that the

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proposed policy revision clarifies that they are subject to enforcement action. We encourage the NRC to become more active in taking enforcement action against radiography workers when their failure to survey represents a willful violation. We assume that, in all instances, a failure to properly survey which is committed by a trained and experienced individual represents, at a minimum, careless disregard for safety rules. It is very difficult to imagine that such a violation would not also be classified as deliberate, particularly in cases involving safety certified radiographers.

NRC enforcement actions (e.g., Notice of Violation, Order) that are issued against individuals will provide all certification entities in the United States with documented evidence of individual wrongdoing. This, in turn, will potentially prompt certification entities to initiate due process and consider the imposition of sanctions (i.e., the suspension or revocation of safety certification) against the individual. Finally, certification entities can disseminate sanction reports to deter other radiography workers from engaging in failure to survey violations.

If the revised enforcement policy is used to focus on survey rule violations it will compliment our ongoing work with the NRC and CRCPD to improve the effectiveness of the radiographer safety certification program. We are working through CRCPD with all independent and state certifying entities to develop: (1) the means to share information about willful violations committed by certified radiographer, (2) uniform due process and sanction guidelines, and (3) the means for reciprocal recognition of sanctions against radiographers. A well focused application of the enforcement policy offers an excellent opportunity to enhance our efforts to improve safety.

Please contact me at 504-464-9471 if you have any questions.

Sincerely,



R. D. "Donny" Dicharry, Chairman
Government and Industry Affairs Committee