

October 2, 2007

Docket Nos. 71-5979 and 71-0086  
EA No. 07-215

Troy Hedger  
Chief Executive Officer  
Alpha Omega Services, Inc.  
9156 Rose Street  
Bellflower, CA 90706

SUBJECT: NRC OFFICE OF INVESTIGATIONS REPORT NO. 4-2005-016

Dear Mr. Hedger:

On May 4, 2005, the Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region IV (RIV), initiated an investigation to determine whether Alpha Omega Services (AOS) deliberately failed to provide complete and accurate information to the NRC regarding a Model No. 5979 shipping package, serial number 1B. A factual summary of OI Investigation 4-2005-016 is enclosed.

Based on the results of the OI investigation, two apparent violations of 10 CFR 71.8, "Deliberate misconduct," were identified and are being considered for escalated enforcement action in accordance with the "NRC Enforcement Policy" (Enforcement Policy). The current Enforcement Policy is included on the NRC's Web site at [www.nrc.gov](http://www.nrc.gov); select **About NRC, Organization and Functions, Office of Enforcement, About Enforcement**, then **Enforcement Policy** and select **"(Enforcement Policy)"** to open the full document.

First, contrary to 10 CFR 71.8(b)(2), in January 2003 the President and Radiation Safety Officer (RSO) of AOS, an NRC certificate holder and quality assurance program approval holder, deliberately provided materially inaccurate information to Source Production Equipment Co. (SPEC), an NRC licensee. The President and RSO performed a maintenance inspection of Certificate of Compliance (CoC) No. 5979, Model No. 5979, for Foss Therapy Services (FTS), the owner of the package. He certified that the package conformed to CoC No. 5979, but purposely did not indicate on the maintenance inspection checklist that the package failed to comply with CoC No. 5979. The package did not comply because the cask end caps did not conform to the drawings in the CoC in that they were physically (weight and materials) and dimensionally (end cap thickness and length of bolts) different than the approved end caps. The inaccurate checklist was material to the NRC because it concealed that the package did not comply with CoC No. 5979. The President/RSO provided the inaccurate maintenance inspection checklist to FTS. An owner of FTS was also a contractor to SPEC, an NRC licensee pursuant to 10 CFR Part 110. When performing pre-shipment inspections of the package for SPEC, the contractor relied on the inaccurate checklist to certify that the package met all federal requirements.

Second, in violation of 10 CFR 71.8(b)(1), by representing that the package complied with CoC No. 5979, AOS caused SPEC to use the nonconforming package to deliver for transport or transport licensed material, in violation of 10 CFR 71.3, "Requirement for license" and/or 10 CFR 71.17, "General license: NRC-approved package."

Before the NRC makes its enforcement decision, we are providing you with the opportunity to either (1) respond to the apparent violations addressed in this letter within 30 days of the date of this letter, or (2) request a predecisional enforcement conference (PEC) to discuss the apparent violations.

Violations of deliberate misconduct by an employee of a certificate holder are of particular concern to the NRC. Further, if the facts of a case demonstrate that a person in authority has willfully committed a violation of NRC regulations, this deliberate misconduct can be of even greater concern to NRC.

If you choose to respond in writing, your response should be clearly marked as a "Response to an Apparent Violation Described in OI Investigation Report No. 4-2005-016, EA-07-215" and should include for the apparent violations: (1) the reason for the apparent violations, or, if contested, the basis for disputing the apparent violations; (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.

If you request to attend a PEC, it would be closed to the public and transcribed. The decision to hold a PEC does not mean that the NRC has determined that a violation has occurred or that enforcement action will be taken. This conference would be held to obtain information to assist the NRC in making an enforcement decision. This may include information to determine whether violations occurred, information to determine the significance of each violation, information related to the identification of the violations, and information related to any corrective actions taken or planned. The conference would provide you an opportunity to present your perspective on these matters and any other information that you believe the NRC should take into consideration in making an enforcement decision. In presenting your corrective action, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty of the apparent violations. The guidance in the enclosed excerpt from NRC Information Notice 96-28, "SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION," may be helpful. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response.

Please contact David Pstrak at (301) 492-3299 within 10 days of the date of this letter to notify the NRC of your decision to respond in writing or to participate in the PEC. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision.

In addition, please be advised that the number and characterization of apparent violations described in the enclosed inspection report may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

T. Hedger

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In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

Your cooperation is appreciated.

Sincerely,

**/RA/**

E. William Brach, Director  
Division of Spent Fuel Storage and Transportation  
Office of Nuclear Material Safety  
and Safeguards

Enclosures:

1. Factual Summary of OI Investigation Report No. 4-2005-016
2. Excerpts from NRC Information Notice 96-28, "SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION"

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E. William Brach, Director Division of Spent Fuel  
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