

APPENDIX A

NOTICE OF VIOLATION

Kimbo, Inc.
Harrisburg, Pennsylvania 17104

Docket No. 030-14914
License No. 37-18356-01

As a result of the inspection conducted on September 24 and 25, and October 15, 1992, and in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR Part 2, Appendix C (Enforcement Policy) (1992), the following violations were identified:

- A. Condition 11.B. of License Number 37-18356-01 indicates that Robert Malpass is the Radiation Safety Officer for this license.

Contrary to the above, Mr. Malpass has not been employed by Kimbo, Incorporated since previous to October, 1991, and licensed material was used subsequent to this time period and prior to a new authorized Radiation Safety Officer being added to the license.

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

- B. Condition 16 of License number 37-18356-01 requires that each portable nuclear gauge shall have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The gauge or its container shall be locked when in transport or when not under the direct surveillance of an authorized user.

Contrary to the above, as of September 24 and 25, 1992, two gauges were stored, and not under the direct surveillance of an authorized user without being locked, and one gauge was transported, without being locked.

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

- C. 10 CFR 71.5(a) requires that each licensee who transport licensed material outside the confines of its plant or other place of use, or delivers licensed material to a carrier for transport, comply with the applicable requirements of the regulations appropriate to the mode of transport of DOT in 49 CFR Parts 170 through 189.

Pursuant to 49 CFR 172.101, radioactive material is classified as a hazardous material.

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1. 49 CFR 177.817(a) requires that a carrier not transport a hazardous material unless it is accompanied by a shipping paper prepared in accordance with 49 CFR 172.200-203.

Contrary to the above, on September 24, 1992, the licensee transported a nuclear gauge, Troxler model 3411B, outside the confines of its plant without shipping papers.

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

2. 49 CFR 177.817(e), requires in part, that the driver of a motor vehicle which contains hazardous material ensure that the shipping paper is readily available to, and recognizable by the authorities in the event of accident or inspection. Specifically, (i) when the driver is at the vehicles controls, the shipping paper shall be: (A) within his immediate reach while he is restrained by the lap belt; and (B) either readily visible to a person entering the drivers compartment or in a holder which is mounted to the inside of the door on the drivers side of the vehicle; (ii) when the driver is not at the vehicle controls the shipping papers shall be: (A) in a holder which is mounted to the inside of the door on the drivers side of the vehicle; or (B) on the drivers seat of the vehicle.

Contrary to the above, on September 25, 1992, the licensee transported a nuclear gauge, Troxler model 3411B, outside the confines of its plant and the driver did not ensure that the shipping paper was readily available in the drivers compartment, as required. Specifically, the proper shipping papers were maintained inside a closed case when the driver was not at the vehicle controls.

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

3. 49 CFR 172.403 requires, in part, with exceptions not applicable here, that each package of radioactive material be labeled, as appropriate with a RADIOACTIVE WHITE I, A RADIOACTIVE YELLOW II, OR A RADIOACTIVE YELLOW-III label. The contents, activity and transport index must be entered in the blank spaces on the label; and each package must have two labels, affixed to opposite sides of the package.

Contrary to the above, on September 24, 1992, the licensee transported licensed material without the required RADIOACTIVE label.

Specifically, on September 24, the licensee transported a nuclear gauge at the Route 74 field site without placing the gauge inside the carrying case which has the appropriate RADIOACTIVE labels.

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

4. 49 CFR 173.448(a) requires that each shipment of radioactive materials be secured in order to prevent shifting during normal transportation conditions.

Contrary to the above, on September 24, 1992, the licensee transported a package containing millicuries of Cesium-137 and Americium-241 which was not secured in order to prevent shifting during normal transportation conditions.

Specifically, the nuclear gauge was placed in the back of a pickup truck, not secured inside the carrying case, and transported at a field site job location on Route 74, south of Carlisle, Pennsylvania.

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

- D. Condition 15 of License number 37-18356-01 requires that the licensee shall conduct a physical inventory every 6 months to account for all sources and/or devices received and possessed under the license. Records of inventories shall be maintained for 3 years from the date of each inventory.

Contrary to the above, as of September 25, 1992, the licensee did not conduct a physical inventory every 6 months to account for all sources and/or devices received and possessed under the license.

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

- E. 10 CFR 19.11(a) and (b) require, in part, that the licensee post current copies of Part 19, Part 20, the license, license conditions, documents incorporated into the license, license amendments and operating procedures; or that a licensee post a notice where they may be examined.

Contrary to the above, on September 25, 1992, the licensee did not post current copies of Part 19, Part 20, the license, license conditions, documents incorporated into the license, license amendments and operating procedures nor did the licensee post a notice where they may be examined.

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

Pursuant to the provisions of 10 CFR 2.201, Kimbob, Inc. is hereby required to submit to this office within thirty days of the date of the letter which transmitted this Notice, a written statement or explanation in reply, including: (1) the corrective steps which have been taken and the results achieved; (2) corrective steps which will be taken to avoid further violations; and (3) the date when full compliance will be achieved. Where good cause is shown, consideration will be given to extending this response time.