

NOTICE OF VIOLATION  
AND  
PROPOSED IMPOSITION OF CIVIL PENALTY

Robco Production Logging,  
Snyder, Texas

Docket No. 150-00042  
License No. L04925 (Texas)  
EA 96-378

During an NRC inspection and investigation conducted on June 6 through October 11, 1996, violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the NRC proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violations and associated civil penalty are set forth below:

I. Violation Assessed a Civil Penalty

10 CFR 150.20(a) provides in part that any person who holds a specific license from an Agreement State is granted an NRC general license to conduct the same activity in non-Agreement States, subject to the provisions of 10 CFR 150.20(b).

10 CFR 150.20(b)(1) requires, in part, that any person engaging in activities in non-Agreement States shall, at least 3 days before engaging in each such activity, file 4 copies of NRC Form 241 (revised), "Report of Proposed Activities in Non-Agreement States," and 4 copies of its Agreement State specific license with the Regional Administrator of the appropriate NRC regional office.

Contrary to the above, from June 3-6, 1996, Robco Production Logging, Inc. (Robco), a Texas licensee, used iodine-131 tracer material at temporary jobsites near Guymon, Oklahoma, a non-Agreement State, without filing an NRC Form 241 or copies of its specific license issued by the state of Texas with the NRC Region IV office. In addition, from August 27-31 and September 24-30, 1995, Robco used iodine-131 tracer material at temporary jobsites in Oklahoma without filing a Form 241 with the NRC Region IV office or revising the NRC Form 241 previously submitted by Robco, dated May 9, 1995, to include these dates. (01013)

This is a Severity Level III violation (Supplement VI).  
Civil Penalty - \$1,100

II. Violations Not Assessed a Civil Penalty

10 CFR 150.20(a) provides in part that any person who holds a specific license from an Agreement State is granted an NRC general license to conduct the same activity in non-Agreement States subject to the provisions of 10 CFR 150.20(b).

- A. 10 CFR 150.20(b)(4) states that any person engaging in activities in non-Agreement States under the general licenses provided in 10 CFR 150.20 shall comply with all terms and conditions of the specific license issued by an Agreement State except such terms or conditions as are contrary to the requirements of 10 CFR 150.20.

Condition 18 of Texas Radioactive Material License L04925 states, in part, that the licensee shall possess and use the radioactive material authorized by the license in accordance with statements, representations, and procedures contained in an application dated October 23, 1995.

Section XIII.C.3, Page 21, of the "Tracer Service Operating and Emergency Procedures Manual" submitted with the license application dated October 23, 1995, states that vinyl gloves will be worn when handling tracer material.

Contrary to the above, on June 6, 1996, while performing logging operations at a temporary jobsite near Guymon, Oklahoma, a logging supervisor did not wear vinyl gloves when handling an ejector tool which contained approximately 5 millicuries of iodine-131 tracer material. (02014)

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

- B. 10 CFR 150.20(b) states, in part, that any person engaging in activities in non-Agreement States under the general licenses provided in 10 CFR 150.20 are subject to 10 CFR Part 71 and 10 CFR 39.31 through 39.77, inclusive.
1. 10 CFR 39.39 requires, in part, that the licensee maintain records for each use of licensed material and that the records be retained for 3 years from the date of the recorded event.

Contrary to the above, from June 3-6, 1996, and from August 27-31 and September 24-30, 1995, Robco used iodine-131, a licensed material, at temporary jobsites in Oklahoma and did not make a record of each use of the licensed material. (03014)

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

2. 10 CFR 39.67(e) and (f) require, in part, that the licensee make a radiation survey at the temporary jobsite before and after each subsurface tracer study to confirm the absence of contamination and that records of such surveys be retained for 3 years after they are made.

Contrary to the above, from June 3-6, 1996, and from August 27-31 and September 24-30, 1995, Robco used iodine-131 to perform

subsurface tracer studies at temporary jobsites in Oklahoma and failed to make a radiation survey at the temporary jobsites before and after each subsurface tracer study. (04014)

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

3. 10 CFR 71.5(a) requires, in part, that each licensee who transports licensed material outside of the site of usage or on public highways, or who delivers licensed material to a carrier for transport, comply with the applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation (DOT) in 49 CFR Parts 170 through 189.

- a. 49 CFR 172.202(a) and (b) require in part, with exceptions not applicable here, that the shipping description of a hazardous material on the shipping paper include the hazard class. Pursuant to 49 CFR 172.101, radioactive material is classified as hazardous material.

Contrary to the above, on several occasions in 1995 and 1996, Robco transported iodine-131, in quantities greater than 1.35 millicuries, on public highways in Oklahoma and the shipping description on the shipping paper that accompanied the shipment did not include the hazard class. (05014)

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

- b. 49 CFR 172.310 requires, in part, that each package of radioactive materials which conforms to the requirements for Type A or Type B packaging be plainly and durably marked on the outside of the package in letters at least 1/2 inch (13 mm.) high with the words "TYPE A" or "TYPE B" as appropriate.

49 CFR 172.312 requires in part, with exceptions not applicable here, that each package having an inside packaging containing liquid hazardous materials be (1) packed with closures upward and (2) legibly marked, with package orientation markings that conform pictorially to ISO Standard 780-1985, on two opposite vertical sides of the package with the arrows pointing in the correct upright direction. Pursuant to 49 CFR 172.101, radioactive material is classified as hazardous material.

49 CFR 172.403 requires, in part, with exceptions not applicable here, that each package of radioactive material be labeled, as appropriate, with two RADIOACTIVE WHITE-I.

RADIOACTIVE YELLOW-II, or RADIOACTIVE YELLOW-III labels on opposite sides of the package. The contents, activity, and transport index must be entered in the blank spaces on the label.

49 CFR 173.475 requires, in part, that before each shipment of any radioactive materials package, the shipper must ensure by examination or appropriate test that the packaging is proper for the contents to be shipped and that external radiation and contamination levels are within the allowable limits specified in 49 CFR Parts 171-177.

Contrary to the above, on several occasions in 1995 and 1996, Robco transported on public highways in Oklahoma iodine-131 in liquid form in an ejector tool, and the tool 1) was not marked as a Type A package, 2) was not marked with orientation markings, 3) did not have the required labelling, and 4) was never evaluated by examination or appropriate test to ensure that the packaging was proper for the contents to be shipped and that external radiation and contamination levels were within the allowable limits specified in 49 CFR Parts 171-177. (06014)

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

Pursuant to the provisions of 10 CFR 2.201, Robco Production Logging, Inc., (Licensee) is hereby required to submit a written statement or explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice of Violation and Proposed Imposition of civil Penalty (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each alleged violation: (1) admission or denial of the alleged violation, (2) the reasons for the violation, if admitted, and if denied, the reasons why, (3) the corrective steps that have been taken and the results achieved, (4) the corrective steps that will be taken to avoid further violations, and (5) the date when full compliance will be achieved. 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. Consideration may be given to extending the response time for good cause shown. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

Within the same time as provided for the response required above under 10 CFR 2.201, the Licensee may pay the civil penalty by letter addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, with a check, draft, money order, or electronic transfer payable to the Treasurer of the United States in the amount of the civil penalty proposed above, or may protest imposition of the civil penalty, in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear

Regulatory Commission. Should the Licensee fail to answer within the time specified, an order imposing the civil penalty will be issued. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violations listed in this Notice, in whole or in part, (2) demonstrate extenuating circumstances, (3) show error in this Notice, or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty, in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the factors addressed in Section VI.B.2 of the Enforcement Policy should be addressed. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from the statement or explanation in reply pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty due which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234(c) of the Act, 42 U.S.C. 2282c.

The response noted above (Reply to Notice of Violation, letter with payment of civil penalty, and Answer to a Notice of Violation) should be addressed to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011.

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. If personal privacy or proprietary information is necessary to provide an acceptable response, the please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding



confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

Dated at Arlington, Texas  
this 2nd day of January 1997