

ENCLOSURE 1

NOTICE OF VIOLATION

U.S. Geological Survey, Western Region
Menlo Park, California

Docket No.: 030-13620
License No.: 04-06674-01

During an NRC inspection conducted on April 22-23 and May 16, 1997, four violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violations are listed below:

- A. 10 CFR 20.1801 requires that the licensee secure from unauthorized removal or access, licensed materials that are stored in controlled or unrestricted areas. 10 CFR 20.1802 requires that the licensee control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage. As defined in 10 CFR 20.1003, controlled area means an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee for any reason; and unrestricted area means an area, access to which is neither limited nor controlled by the licensee.

Contrary to the above, on April 22, 1997, the licensee did not secure from unauthorized removal, or limit access to, 12 millicuries of carbon-14 located in Laboratory 2015 (Building 15), an unrestricted area, and did not control and maintain constant surveillance of this licensed material.

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

- B. 10 CFR 20.1101(c) requires, in part, that the licensee review the Radiation Protection Program content and implementation at least annually.

Contrary to the above, as of April 23, 1997, the licensee had not conducted an annual review of the Radiation Protection Program content and implementation for the calendar year 1996.

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

- C. License Condition 27 requires, in part, that the licensee possess and use licensed material in accordance with statements, representations, and procedures contained in a letter dated September 22, 1994, which transmitted the revised Radiation Safety Manual dated November 17, 1993.

1. The U.S. Geological Survey Radiation Safety Manual, revised on November 17, 1993, specifies that users of licensed materials will perform routine surveys, including area monitoring and wipe tests, at least monthly.

Contrary to the above, unsealed licensed materials were used in Laboratory 2015 on February 20, 1997, and no surveys were performed during the months of February, March and April 1997 (as of the date of the inspection).

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

2. The U.S. Geological Survey Radiation Safety Manual, revised November 17, 1993, requires the Western Region Radiation Safety Committee membership to be comprised, in part, of a representative of management as designated by the Director's Representative.

Contrary to the above, on March 6 and May 8, 1996, and other dates in 1996 and 1997, the licensee's Radiation Safety Committee met and conducted business and the committee did not include a representative of management, as designated by the Director's Representative.

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

Pursuant to the provisions of 10 CFR 2.201, U.S. Geological Survey, Western Region is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator, Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, and the Walnut Creek Field Office, 1450 Maria Lane, Walnut Creek, California 94596, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation, (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. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. 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. Where good cause is shown, consideration will be given to extending the response time.

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, then 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).

Dated at Arlington, Texas
this 9 day of June 1997

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS
WASHINGTON, D.C. 20555

May 1, 1996

NRC INFORMATION NOTICE 96-28: SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND
IMPLEMENTATION OF CORRECTIVE ACTION

Addressees

All material and fuel cycle licensees.

Purpose

The U.S. Nuclear Regulatory Commission (NRC) is issuing this information notice to provide addressees with guidance relating to development and implementation of corrective actions that should be considered after identification of violation(s) of NRC requirements. It is expected that recipients will review this information for applicability to their facilities and consider actions, as appropriate, to avoid similar problems. However, suggestions contained in this information notice are not new NRC requirements; therefore, no specific action nor written response is required.

Background

On June 30, 1995, NRC revised its Enforcement Policy (NUREG-1600)¹ 60 FR 34381, to clarify the enforcement program's focus by, in part, emphasizing the importance of identifying problems before events occur, and of taking prompt, comprehensive corrective action when problems are identified. Consistent with the revised Enforcement Policy, NRC encourages and expects identification and prompt, comprehensive correction of violations.

In many cases, licensees who identify and promptly correct non-recurring Severity Level IV violations, without NRC involvement, will not be subject to formal enforcement action. Such violations will be characterized as "non-cited" violations as provided in Section VII.B.1 of the Enforcement Policy. Minor violations are not subject to formal enforcement action. Nevertheless, the root cause(s) of minor violations must be identified and appropriate corrective action must be taken to prevent recurrence.

If violations of more than a minor concern are identified by the NRC during an inspection, licensees will be subject to a Notice of Violation and may need to provide a written response, as required by 10 CFR 2.201, addressing the causes of the violations and corrective actions taken to prevent recurrence. In some cases, such violations are documented on Form 591 (for materials licensees)

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¹Copies of NUREG-1600 can be obtained by calling the contacts listed at the end of the Information Notice.

which constitutes a notice of violation that requires corrective action but does not require a written response. If a significant violation is involved, a predecisional enforcement conference may be held to discuss those actions. The quality of a licensee's root cause analysis and plans for corrective actions may affect the NRC's decision regarding both the need to hold a predecisional enforcement conference with the licensee and the level of sanction proposed or imposed.

Discussion

Comprehensive corrective action is required for all violations. In most cases, NRC does not propose imposition of a civil penalty where the licensee promptly identifies and comprehensively corrects violations. However, a Severity Level III violation will almost always result in a civil penalty if a licensee does not take prompt and comprehensive corrective actions to address the violation.

It is important for licensees, upon identification of a violation, to take the necessary corrective action to address the noncompliant condition and to prevent recurrence of the violation and the occurrence of similar violations. Prompt comprehensive action to improve safety is not only in the public interest, but is also in the interest of licensees and their employees. In addition, it will lessen the likelihood of receiving a civil penalty. Comprehensive corrective action cannot be developed without a full understanding of the root causes of the violation.

Therefore, to assist licensees, the NRC staff has prepared the following guidance, that may be used for developing and implementing corrective action. Corrective action should be appropriately comprehensive to not only prevent recurrence of the violation at issue, but also to prevent occurrence of similar violations. The guidance should help in focusing corrective actions broadly to the general area of concern rather than narrowly to the specific violations. The actions that need to be taken are dependent on the facts and circumstances of the particular case.

The corrective action process should involve the following three steps:

1. Conduct a complete and thorough review of the circumstances that led to the violation. Typically, such reviews include:
 - Interviews with individuals who are either directly or indirectly involved in the violation, including management personnel and those responsible for training or procedure development/guidance.
 - Particular attention should be paid to lines of communication between supervisors and workers.

Tours and observations of the area where the violation occurred, particularly when those reviewing the incident do not have day-to-day contact with the operation under review. During the tour, individuals should look for items that may have contributed to the violation as well as those items that may result in future violations. Reenactments (without use of radiation sources, if they were involved in the original incident) may be warranted to better understand what actually occurred.

Review of programs, procedures, audits, and records that relate directly or indirectly to the violation. The program should be reviewed to ensure that its overall objectives and requirements are clearly stated and implemented. Procedures should be reviewed to determine whether they are complete, logical, understandable, and meet their objectives (i.e., they should ensure compliance with the current requirements). Records should be reviewed to determine whether there is sufficient documentation of necessary tasks to provide an auditable record and to determine whether similar violations have occurred previously. Particular attention should be paid to training and qualification records of individuals involved with the violation.

2. Identify the root cause of the violation.

Corrective action is not comprehensive unless it addresses the root cause(s) of the violation. It is essential, therefore, that the root cause(s) of a violation be identified so that appropriate action can be taken to prevent further noncompliance in this area, as well as other potentially affected areas. Violations typically have direct and indirect cause(s). As each cause is identified, ask what other factors could have contributed to the cause. When it is no longer possible to identify other contributing factors, the root causes probably have been identified. For example, the direct cause of a violation may be a failure to follow procedures; the indirect causes may be inadequate training, lack of attention to detail, and inadequate time to carry out an activity. These factors may have been caused by a lack of staff resources that, in turn, are indicative of lack of management support. Each of these factors must be addressed before corrective action is considered to be comprehensive.

3. Take prompt and comprehensive corrective action that will address the immediate concerns and prevent recurrence of the violation.

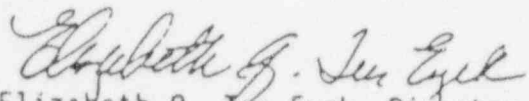
It is important to take immediate corrective action to address the specific findings of the violation. For example, if the violation was issued because radioactive material was found in an unrestricted area, immediate corrective action must be taken to place the material under licensee control in authorized locations. After the immediate safety concerns have been addressed, timely action must be taken to prevent future recurrence of the violation. Corrective action is sufficiently comprehensive when corrective action is broad enough to reasonably prevent recurrence of the specific violation as well as prevent similar violations.

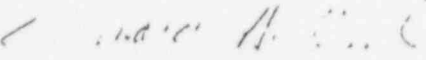
In evaluating the root causes of a violation and developing effective corrective action, consider the following:

1. Has management been informed of the violation(s)?
2. Have the programmatic implications of the cited violation(s) and the potential presence of similar weaknesses in other program areas been considered in formulating corrective actions so that both areas are adequately addressed?
3. Have precursor events been considered and factored into the corrective actions?
4. In the event of loss of radioactive material, should security of radioactive material be enhanced?
5. Has your staff been adequately trained on the applicable requirements?
6. Should personnel be re-tested to determine whether re-training should be emphasized for a given area? Is testing adequate to ensure understanding of requirements and procedures?
7. Has your staff been notified of the violation and of the applicable corrective action?
8. Are audits sufficiently detailed and frequently performed? Should the frequency of periodic audits be increased?

9. Is there a need for retaining an independent technical consultant to audit the area of concern or revise your procedures?
10. Are the procedures consistent with current NRC requirements, should they be clarified, or should new procedures be developed?
11. Is a system in place for keeping abreast of new or modified NRC requirements?
12. Does your staff appreciate the need to consider safety in approaching daily assignments?
13. Are resources adequate to perform, and maintain control over, the licensed activities? Has the radiation safety officer been provided sufficient time and resources to perform his or her oversight duties?
14. Have work hours affected the employees' ability to safely perform the job?
15. Should organizational changes be made (e.g., changing the reporting relationship of the radiation safety officer to provide increased independence)?
16. Are management and the radiation safety officer adequately involved in oversight and implementation of the licensed activities? Do supervisors adequately observe new employees and difficult, unique, or new operations?
17. Has management established a work environment that encourages employees to raise safety and compliance concerns?
18. Has management placed a premium on production over compliance and safety? Does management demonstrate a commitment to compliance and safety?
19. Has management communicated its expectations for safety and compliance?
20. Is there a published discipline policy for safety violations, and are employees aware of it? Is it being followed?

This information notice requires no specific action nor written response. If you have any questions about the information in this notice, please contact one of the technical contacts listed below.


Elizabeth Q. Ten Eyck, Director
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards


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Attachments:

1. List of Recently Issued NMSS Information Notices
2. List of Recently Issued NRC Information Notices