

SUMMARY OF LEVEL I AND II ENFORCEMENT ACTIONS FOR FYS 2002 - 2005

FY 2002:

Bristol-Myers Squibb Radiopharmaceuticals, Inc.
Rio Piedras, Puerto Rico
EA 02-160
Docket No. 030-34187

Severity Level II

On August 22, 2002, a Notice of Violation was issued for a Severity Level II problem involving the failure to control occupational dose (two operators received extremity overexposures) and the failure to perform adequate surveys to evaluate radiation exposure to the extremities.

Eastern Isotopes, Inc.
Charlotte, North Carolina
EA 02-097
Docket No. 030-32974

Severity Level II

On July 30, 2002, a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$4800 was issued for a Severity Level II violation involving an overexposure to a pharmacist in excess of U.S. Nuclear Regulatory Commission (NRC) requirements. Although the civil penalty would have been fully mitigated based on the normal civil penalty assessment process, NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy and proposed a base civil penalty because the violation resulted in an actual overexposure.

J. L. Shepherd and Associates
San Fernando, California
EA 02-043
Docket Nos. 71-0122, 71-6280

Severity Level II

On August 13, 2002, an Order Imposing Civil Monetary Penalty in the amount of \$19,200 was issued. The action was based on a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$19,200 that was issued on June 11, 2002, for a Severity Level II problem involving the willful failure to comply with a Certificate of Compliance with regard to fabrication and shipment of packages. The licensee's July 10, 2002, response did not deny that the violations occurred as stated in the Notice, but requested mitigation of the penalty. After considering the licensee's response, NRC concluded that the violations occurred as stated and that there was not an adequate basis for mitigating the civil penalty.

Enclosure 2

FY 2003:

**Advanced Medical Imaging and Nuclear Services
Easton, Pennsylvania
EA 02-072
Docket No. 030-35594**

Severity Level II

On October 22, 2002, a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$43,200 was issued for a Severity Level II problem involving willfully using byproduct material without an Authorized User, failing to appoint a Radiation Safety Officer, and creating incomplete and inaccurate records. Although the normal civil penalty assessment process would have resulted in a base civil penalty, NRC exercised discretion in accordance with Section VIIA.3 of the Enforcement Policy and assessed a base civil penalty for each day the violation continued after the licensee's consultant raised the issue. Discretion was warranted base on the egregiousness of the violations, the level of management involved, the economic benefit of being in noncompliance, and the failure to take corrective action after the consultant's finding.

**Pacific Radiopharmacy, Ltd.
Honolulu, Hawaii
EA-02-172
EA-02-246
Docket: 030-12031**

Severity Level I

On March 27, 2003, a Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$9000 was issued for a Severity Level I problem. The Severity Level I problem (assessed a \$6000 civil penalty) involved the failure to limit the occupational dose to an individual adult to the shallow-dose equivalent of 500 mSv (50 rem) to any extremity, and the failure to make surveys that are necessary to comply with regulations.

**St. Joseph Mercy Hospital
Ann Arbor, Michigan
EA-02-248
Docket: 030-01997**

Severity Level I

On May 7, 2003, Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$6000 was issued for a Severity Level I problem involving: (1) the failure to conduct operations so that the total effective dose equivalent to individual members of the public from licensed operations does not exceed 1 mSv (0.1 rem) in a year; and (2) the failure of the radiation safety officer to investigate overexposures and other deviations from approved radiation safety practice, and implement corrective actions as necessary.

Structural Testing and Inspection
Pocatello, Idaho
EA-03-006
Docket: 999-90004

Severity Level II

On July 1, 2003, a Notice of Violation was issued for a Severity Level II violation involving the willful failure to obtain a specific license from NRC or an Agreement State, before acquiring and using byproduct material. Although a civil penalty would normally be considered for this type of case, NRC exercised discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from assessing a civil penalty based on the fact that the gauges were returned to an authorized NRC licensee and the company withdrew its application for an NRC license.

Testing Technologies, Inc.
Woodbridge, Virginia
EA-02-166
Docket: 030-30657

Severity Level II

On January 22, 2003, a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$9600 was issued for a Severity Level II problem involving the willful:
 (1) performance of radiographic operations at temporary job sites by radiographers' assistants and helpers who were not accompanied by at least one qualified radiographer; (2) performance of radiographic operations by individuals who had not met training requirements; (3) failure to wear a combination of a direct reading pocket dosimeter, an alarming ratemeter, and either a film badge or TLD and (4) failure of the corporate and site Radiation Safety Officer to oversee the radiation safety program.

FY 2004:

State of Alaska Department of Transportation
& Public Facilities
Anchorage, Alaska
EA-03-126, EA-03-190, EA-04-061
Docket No. 030-07710

Severity Level II

On March 15, 2004, a Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$21,000 was issued: for (1) a willful Severity Level II problem (\$15,000), involving radiation exposures in excess of NRC's annual public exposure limit and failure to perform surveys appropriate to demonstrate compliance with NRC dose limits for individual members of the public; and (2) a willful Severity Level III violation (\$6000) involving the failure to provide copies of two exposure reports to six affected individuals. A Notice of Violation was also issued for a Severity Level II violation based on the licensee discriminating against one of its employees for raising safety concerns regarding radiation exposures to other employees. In addition, a Confirmatory Order was also issued in conjunction with this action.

U.S. Inspection Services
Dayton, Ohio
EA-03-204
Docket No.

Severity Level II

On June 15, 2004, a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$19,200 was issued for a Severity Level II problem involving multiple violations related to an overexposure of radiographer, including issues such as failure to survey, failure to calibrate and inspect equipment, and failure to follow procedures.

Westinghouse Electric Company
Columbia Nuclear Fuel Plant
Columbia, South Carolina
EA-04-096
Docket No. 70-1151

Severity Level II

On July 28, 2004, a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$24,000 was issued for a Severity Level II problem involving multiple violations related to the discovery of ash deposits in the incinerator off-gas system at concentrations that exceeded the bounding assumptions of the approved safety basis.

Shannon Kokkeler
IA-03-005

Severity Level II

On October 14, 2003, a Notice of Violation was issued for a Severity Level II violation based on the individual's deliberate activities while employed at Schlumberger Technology Corporation. As a field engineer in training on a well-logging crew, the individual knowingly failed to perform any required radiation surveys of the source storage container to ensure the source was present in the container before loading the container back onto the vehicle and departure from the wellsite, and falsified a log certifying that she had "personally checked each logging source shield with a survey meter to ensure that the source is contained within," despite her knowledge that this information was not accurate.

Shane Moran
IA-03-006

Severity Level II

On October 14, 2003, a Notice of Violation was issued for a Severity Level II violation based on the individual's deliberate activities while employed at Schlumberger Technology Corporation. As a senior operator on a well-logging crew, the individual knowingly failed to perform any required radiation surveys of the source storage container to ensure the source was present in the container before loading the container back onto the vehicle and departure from the wellsite, and falsified a log certifying that he had "personally checked each logging source shield with a survey meter to ensure that the source is contained within," despite his knowledge that this information was not accurate.

FY 2005:

Saint Joseph Regional Medical Center
South Bend, IN
EA-05-128
Docket No. 030-13685

Severity Level II

On September 23, 2005, a Notice of Violation and Proposed Imposition of Civil Penalties in the cumulative amount of \$19,200, was issued for three Severity Level II problems, one Severity Level II violation, and two Severity Level IV violations, associated with brachytherapy treatments that resulted in unintended radiation doses to five patients. Because these violations directly contributed to significant health consequences for Patients Nos. 3, 4, and 5, each of those three events is categorized as a separate Severity Level II problem in accordance with the NRC Enforcement Policy. In addition, the licensee became aware that three medical events had occurred and did not notify the NRC of the events until more than one day after the medical events were discovered, contrary to 10 CFR 35.3045(c) that requires licensees to notify the NRC Operations Center, by telephone, no later than the next calendar day after discovery of such events. The events associated with Patients Nos. 1 and 2 are categorized as separate examples of a Severity Level IV problem in accordance with the NRC Enforcement Policy due to the more limited health consequences associated with these medical events.

Baxter Healthcare Corp.
Aibonito, PR
EA-04-118 and EA-04-208
Docket No. 03019882

Severity Level II (2 actions)

On October 25, 2004, a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$44,400 was issued for two willful Severity Level II violations (assessed \$28,800 for three occurrences of failure to adhere to emergency procedures and \$9600 for failure to perform an adequate survey) and a willful Severity Level III violation (\$6000 for failure to provide an individual radiation monitoring device) related to an event involving personnel entering an irradiator when the source was stuck in an unshielded position.

Soil Consultants, Inc.
Manasas, VA
EA-04-103
Docket No. 030-33635

Severity Level II

On April 27, 2005, an immediately effective Confirmatory Order was issued to confirm commitments made as part of a settlement agreement concerning an Order Imposing Civil Monetary Penalty in the amount of \$9000 issued on February 1, 2005. The action was based on a Severity Level II violation for discrimination against an employee for engaging in certain protected activities (reporting safety concerns to his employer or to the NRC). In response to the Order, the licensee requested the use of the NRC's alternative dispute resolution (ADR)

process to resolve differences it had with the NRC concerning the violation. As part of the settlement agreement that was reached through the ADR process, the licensee agreed to pay a civil penalty in the amount of \$1200 and to take additional corrective actions to emphasize the importance of a Safety Conscious Work Environment at their facility.