

Form 7000-1 in lieu of sending the form by mail. MSHA also is developing procedures for transmitting the required data via the Internet. Statistical compilations based on submitted information are already available for the Internet. For more information on this capability, please refer to the person listed in the contact section of this notice.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Mine Accident, Injury, and Illness Report.

OMB Number: 1219-0007.

Recordkeeping: 30 CFR 50.40(b)

requires respondents to maintain a copy of the Form 7000-1 at the office closest to the mine for 5 years after submission.

Affected Public: Business or other for-profit.

Form: MSHA Form 7000-1.

Total Respondents: 19,935 mine operators and mining contractors.

Frequency: On occasion.

Total Responses: 44,444.

Average Time per Response: 1.91 hours.

Estimated Total Burden Hours: 84,946 hours.

Estimated Total Burden Cost: \$23,160.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request. They will also become a matter of public record.

George M. Fesak,

Director, Program Evaluation and Information Resources.

[FR Doc. 96-7947 Filed 4-1-96; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL BANKRUPTCY REVIEW COMMISSION

Meeting

AGENCY: National Bankruptcy Review Commission.

ACTION: Notice of public meeting.

TIME AND DATE: Friday, April 19, 1996; 8:30 A.M. to 5:00 P.M.

PLACE: Thurgood Marshall Federal Judiciary Building, Federal Judicial Center/Education Center, One Columbus Circle, N.E., Washington, D.C. 20002. The public should enter through the South Lobby entrance of the Thurgood Marshall Federal Judiciary Building.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED: General administrative matters relating to the

organization of the Commission as well as future meetings and hearings.

CONTACT PERSONS FOR FURTHER

INFORMATION: Contact Susan Jensen-Conklin or Carmelita Pratt at the National Bankruptcy Review Commission, Thurgood Marshall Federal Judiciary Building, One Columbus Circle, N.E., Suite G-350, Washington, D.C. (202) 273-1813.

Susan Jensen-Conklin,

Deputy Counsel.

[FR Doc. 96-7902 Filed 4-1-96; 8:45 am]

BILLING CODE 6820-36-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 150-00032 License No. (General License) EA 95-101]

TESTCO, Inc. Greensboro, North Carolina; Order Imposing Civil Monetary Penalty

I

TESTCO, Inc. (TESTCO or Licensee), located in Greensboro, North Carolina, holds Byproduct Materials License No. 041-0894-1 issued by the State of North Carolina under an agreement with the Nuclear Regulatory Commission (NRC or Commission) pursuant to subsection 274b of the Atomic Energy Act of 1954, as amended. The license permits the possession and use of byproduct material for industrial radiography activities in accordance with the conditions specified therein.

II

On September 9, 1992, while conducting an inspection of another NRC licensee, an NRC inspector obtained information which indicated that TESTCO had performed radiographic activities in areas under NRC jurisdiction. A review of NRC records revealed that TESTCO did not possess an NRC specific license pursuant to 10 CFR 30.3, nor had TESTCO notified the NRC of its activities by filing an NRC Form-241 as required by 10 CFR 150.20(b)(1).

The requirement that an Agreement State licensee must file Form-241 before conducting a licensed activity in a non-Agreement State allows NRC to be informed of the location and duration of the activity and permits NRC to inspect licensed activities as appropriate. Since August 9, 1991, NRC has required a fee for the filing of Form-241.

Between November 16, 1992 and April 25, 1995, an investigation was conducted by the NRC Office of Investigations (OI) to determine whether TESTCO performed radiography in non-

Agreement States and deliberately withheld notification from the NRC by failing to file Form-241s. In addition, an inspection of the Licensee's performance of activities in areas of NRC jurisdiction was conducted on August 31 and September 6, 1994. The results of the inspection and investigation indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. Specifically, OI concluded that TESTCO, Inc., while a State of North Carolina radioactive materials licensee, performed radiographic services in Virginia, a non-Agreement State, and its Radiation Safety Officer deliberately withheld notification to the NRC by his failure to file the required NRC Form-241s regarding those activities. A written Notice of Violation and Proposed Imposition of Civil Penalty ("Notice") was served upon the Licensee by letter dated October 31, 1995. The Notice stated the nature of the violation, the provisions of the NRC's requirements the Licensee had violated, and the amount of the civil penalty proposed for the violation.

The Licensee responded to the Notice in letters dated December 20 and 21, 1995 ("Reply"). In its Reply, the Licensee denied the violation and requested a hearing. As the basis for the Licensee's denial, the Licensee contended that prior to October 3, 1994, which the Licensee described as the date of "the issue of NRC Manual Chapter 1220," the NRC did not have a tracking method in place for processing NRC Form-241s and that TESTCO had located copies of NRC Form-241s filed prior to that time.

By letter dated December 28, 1995, NRC responded to the Licensee's request for a hearing, indicating that a request for a hearing on this issue was premature and requesting that TESTCO provide to Mr. James Lieberman, Director, NRC Office of Enforcement, at the address specified, any additional documentation that was relevant to the case by January 27, 1996. The NRC letter further advised that even if the documentation was incomplete, TESTCO should still provide whatever documentation it had to support its position. During a telephone conference held on January 31, 1996, as confirmed by letter dated February 1, 1996, NRC granted an extension giving TESTCO until February 7, 1996, to provide to the NRC Office of Enforcement any documents that it had in its possession or control which might rebut the October 31, 1995 Notice, including any NRC Form-241s and any checks for reciprocity fees regarding work performed in Virginia from January

1992 to January 1994. As further discussed in the Appendix to this Order, TESTCO did submit some information in a facsimile communication on March 5, 1996, but did not provide documentation addressing the dates and locations of work stated in the Notice, as NRC had requested. As of the date of this Order, TESTCO has not provided the documentation (copies of Form-241) that TESTCO claimed it had located in its Reply denying the violation.

III

After consideration of the Licensee's Reply, the statements of fact, explanation, and argument for mitigation contained therein, and the lack of further response, the NRC staff has determined, as set forth in the Appendix to this Order, that the violation occurred as stated and that the penalty proposed for the violation designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that:

The Licensee pay a civil penalty in the amount of \$5,000 within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to Mr. James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738.

V

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and include a statement of good cause for the extension. A request for hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the Commission's Document Control Desk, Washington, D.C. 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region II, 101

Marietta Street, Suite 2900, Atlanta, Georgia 30323.

If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

- (a) Whether the Licensee was in violation of the Commission's requirements as set forth in the Notice referenced in Section II above, and
- (b) Whether, on the basis of such violation, this Order should be sustained.

Dated at Rockville, Maryland this 14th day of March 1996.

For the Nuclear Regulatory Commission.
James Lieberman,
Director, Office of Enforcement.

Appendix—Evaluation and Conclusion

On October 31, 1995, a Notice of Violation and Proposed Imposition of Civil Penalty ("Notice") was issued for a violation identified during an NRC inspection and investigation. TESTCO, Inc. (the Licensee) responded to the Notice in letters dated December 20 and 21, 1995 ("Reply"). The Licensee denied the violation. The NRC's evaluation and conclusion regarding the Licensee's denial are as follows:

Restatement of Violation

10 CFR 30.3 requires in relevant part, that no person shall possess or use byproduct material except as authorized by a specific or general license issued by the NRC.

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 such activity, file four copies of Form-241, "Report of Proposed Activities in Non-Agreement States," with the Regional Administrator of the appropriate NRC regional office.

Contrary to the above, between January 7, 1992 and January 22, 1994,

TESTCO, Inc. performed radiography using Iridium-192 in Virginia, a non-Agreement State, at the following locations on the indicated dates without a specific license issued by the NRC and without filing any copies of Form-241 with the NRC:

1. Yorktown, on or about January 7 and 13, 1992;
2. Goochland, on or about March 20, 1992;
3. Lynchburg, on or about March 24, 1992;
4. Yorktown, on or about September 9 and 11, 1992;
5. Franklin, on or about February 4, 1993;
6. Boydton, on or about April 12, 1993;
7. Craney Island, on or about August 13 and 27, 1993; and
8. Hillsville, on or about January 22, 1994

This is a Severity Level III violation (Supplements VI and VII). Civil Penalty—\$5,000.

Summary of Licensee's Response to Violation

In its Reply, the Licensee denied that the violation occurred as stated and requested a hearing on the matter. The Licensee claimed as the basis for its denial that before October 3, 1994, which the Licensee describes as the date of "the issue of NRC Manual Chapter 1220," the NRC did not have a tracking method in place for processing NRC Form-241s and revisions. In addition, the Licensee stated that it had located TESTCO, Inc.'s copies of NRC Form-241s which were filed prior to October 3, 1994.

NRC Evaluation of Licensee's Response

By letter dated December 28, 1995, the NRC responded to the Licensee's request for hearing. The NRC informed TESTCO, Inc. that a hearing in this matter was premature in that a civil penalty only had been proposed and not yet imposed by Order. Further, the NRC requested that the Licensee provide to Mr. James Lieberman, Director NRC Office of Enforcement, at the address specified, by January 27, 1996, any additional documentation that it had to show that it had filed Form-241s and paid the appropriate fees for the dates and locations of work stated in the Notice. In the letter, the NRC indicated that even if the documentation was incomplete, the Licensee should still provide whatever documentation it had to support its position. During a telephone conference on January 31, 1996, and as confirmed by NRC letter dated February 1, 1996, an extension was granted giving the Licensee until

February 7, 1996 to provide to the NRC Office of Enforcement any documents that it may have in its possession or control which might rebut the October 31, 1995 Notice, such as any NRC Form-241s and any checks for reciprocity fees regarding work performed in Virginia from January 1992 to January 1994.

Since the February 7, 1996 NRC letter, the NRC has received two additional communications from the Licensee and/or its attorneys:

(1) In a February 13, 1996 letter concerning settlement, addressed to Mr. James Lieberman, Director of NRC's Office of Enforcement, the Licensee and its attorneys contended that the civil penalty amount should not have been determined in accordance with the NRC Enforcement Policy that became effective June 30, 1995 (NUREG 1600), because the violations occurred before that date. However, the NRC staff chose to use the newer Enforcement Policy because by doing so, the civil penalty amount was reduced, thus producing a result that was advantageous to the Licensee.¹

(2) In a March 5, 1996 facsimile communication to Mr. David Collins of the NRC Region II Office, Mr. J. L. Shelton, the Licensee's president, included some documentation concerning work performed in the Fall of 1994, but that documentation is not relevant to the dates and locations of work that are set forth in the Notice. In the facsimile, Mr. Shelton also made an assertion that a listing of dates and locations of work performed by TESTCO, Inc. in NRC jurisdictions, compiled by NRC's Office of Investigations (OI), "appears to have locations * * * that Testco, Inc., or J. L. Shelton has never worked at." Thus, while the Licensee did submit some additional information, the Licensee has not provided the documentation, as requested by NRC, that the Licensee claimed it had located in its Reply denying the violation (*i.e.*, copies of Form-241 relevant to the dates and locations of work that are set forth in the Notice). The Licensee also has not

provided any other documentation that specifically addresses the dates and locations of work stated in the Notice. The NRC believes that the listing of dates and locations of work performed in NRC jurisdictions, as set forth in the Notice, is reliable because it is based on documentary evidence, including work records and invoices.

In its Reply, the Licensee questioned the reliability of NRC's findings due to what the Licensee claims was the lack of an NRC Form-241 tracking system prior to October 3, 1994. However, NRC Manual Chapter 1220, "Processing of NRC Form-241, 'Report of Proposed Activities in Non-Agreement States,' and Inspection of Agreement State Licensees Operating Under 10 CFR 150.20," has been in effect since March 1988. The October 3, 1994 date that the Licensee relies on is merely the date that a revision of Manual Chapter 1220 was effected.

Beginning in March 1988, in accordance with Manual Chapter 1220, each Region was required to maintain records of NRC Form-241 activities including the reports received, the reciprocity activities conducted, inspections performed, and noncompliances identified. Hardcopy information was, and continues to be, retained in the NRC Region II Docket Files, the repository for official records related to NRC Region II materials licensing and inspection activities. Moreover, from January 1991 through January 1994, the NRC Region II Office did have in place a method to track the filing of Form-241s by a log maintained on a computer. Prior to that time, Region II tracked the filing of Form-241s manually by using a log book. After that time, an NRC agency-wide computerized system was used to document and track the filing of Form-241s.

Further, at the predecisional enforcement conference held with TESTCO, Inc. on July 27, 1995, the Licensee indicated it had additional information to support its contention that NRC Form-241s were filed. Since that time, no such information has been provided.

In the absence of additional documentation from TESTCO, Inc., as was requested, to support its position and refute the facts disclosed by NRC, the NRC concludes that the violation occurred as stated.

NRC Conclusion

The NRC has concluded that this violation occurred as stated and no adequate basis for withdrawal of the violation or mitigation of the civil penalty has been provided by the

Licensee. Consequently, the proposed civil penalty in the amount of \$5,000 should be imposed.

[FR Doc. 96-7952 Filed 4-1-96; 8:45 am]

BILLING CODE 7590-01-P

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATES: Weeks of April 1, 8, 15, and 22, 1996.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of April 1

Monday, April 1

10:00 a.m.

Affirmation Session (Public Meeting) (if needed)

Thursday, April 4

10:00 a.m.

Briefing on PRA Implementation Plan (Public Meeting) (Contact: Ashok Thadani, 301-415-1274)

11:30 a.m.

Affirmation Session (Public Meeting) (if needed)

2:00 p.m.

Briefing on Status of Activities with CNWRA and HLW Program (Public Meeting) (Contact: Shirley Fortuna, 301-415-7804)

Week of April 8—Tentative

There are no meetings scheduled for the Week of April 8.

Week of April 15—Tentative

There are no meetings scheduled for the Week of April 15.

Week of April 22—Tentative

There are no meetings scheduled for the Week of April 22.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415-1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415-1661.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301-415-1963).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically,

¹ Under the current Enforcement Policy (NUREG-1600), the civil penalty was calculated by increasing the base civil penalty of \$5,000 by 100% to \$10,000, considering the factors of Identification and Corrective Action, and in view of the willful nature of the violation. Then, after consulting with the Commission, the NRC staff applied enforcement discretion, based in part on the small size of the Licensee, to reduce the amount of the civil penalty from \$10,000 to \$5,000. Under the Enforcement Policy in effect at the time that the violation was occurring (10 CFR Part 2, Appendix C), the base civil penalty of \$5,000 could have been increased by 300% to \$20,000, considering the factors of Identification, Corrective Action, Multiple Occurrences, and Prior Notice, and in view of the willful nature of the violation.