

the Pottstown Public library, 500 High Street, Pottstown, PA.

Dated at Rockville, Maryland, this 16th day of February 1995.

For the Nuclear Regulatory Commission.

Frank Rinaldi,

Project Manager, Project Directorate I-2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95-4384 Filed 2-22-95; 8:45 am]

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[Docket No. 030-29343; License No. 29-19310-02 (Expired); EA 94-226]

Environmental Testing Laboratories, Inc., Philadelphia, Pennsylvania; Order Imposing a Civil Monetary Penalty

I

Environmental Testing Laboratories (ETL), Inc. (Licensee), is the holder of expired Byproduct Materials License No. 29-19310-02 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30 on July 31, 1986. The License authorized the possession and use of nickel-63 in plated sources or foils, not to exceed 15 millicuries per foil, in accordance with the conditions specified therein. The License expired on August 31, 1991.

II

ETL did not submit an application for renewal of the License under 10 CFR 30.37 prior to its expiration on August 31, 1991, nor did ETL notify the Commission, in writing under 10 CFR 30.36, of a decision not to renew the License 30 days prior to its expiration. Although Mr. Walter Holm, Jr., the Radiation Safety Officer, stated ETL's intentions in a letter dated May 15, 1991, to terminate the license, until January 24, 1995, ETL had not transferred the licensed material to an authorized recipient, nor had ETL applied for an NRC license.

On January 14, 1993, NRC Region I issued a Notice of Violation (NOV) at Severity Level IV to ETL, mailed to Mr. Walter Holm, for possession of byproduct material without a valid NRC license. The letter forwarding the NOV directed the Licensee to place the byproduct material in secure storage, not to use the material, and promptly transfer the byproduct material to an authorized recipient. The Licensee did not respond to that NOV. In a June 7, 1994 letter, the NRC again reminded ETL of the need to respond to the NRC Notice of Violation. ETL did not respond. In addition, ETL did not respond to a telephone message left on October 26, 1994. On November 10,

1994, a written Notice of Violation and Proposed Imposition of Civil Penalty (Notice); Notification of Consideration of the Imposition of Daily Civil Penalties; and Order to Cease and Desist Use and Possession of Regulated Byproduct Material were served upon ETL. The Notice categorized the violation at Severity Level III since ETL had not transferred the material nor responded to the NOV issued on January 14, 1993. ETL has not responded in writing to the Notice, even though a response was required by December 10, 1994, and even though the NRC contacted ETL on January 3, 6 and 18, 1995, regarding submittal of a response. ETL has not responded to the Order to Cease and Desist as required. However, NRD, a sub-contractor of Perkin-Elmer (an authorized recipient) received the sealed source from ETL on January 24, 1995.

III

The NRC staff has determined, as set forth in the Appendix to this Order, that the violations occurred as stated in the Notice, and that a penalty of \$3,000 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:

ETL pay a penalty in the amount of \$3,000 within 30 days of the date on this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville, MD 20852-2738.

V

ETL may request a hearing within 30 days of the date of this Order. A request for a 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 I, 475 Allendale Road, King of Prussia, PA 19406.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If ETL fails to request a hearing within 30 days of the date of this Order,

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

(a) Whether ETL 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 violations, this Order should be sustained.

Dated at Rockville, Maryland this 15th day of February 1995.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

Appendix—Violations and Conclusion

On November 10, 1994, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued based on a review of communications (and associated documents) conducted between the NRC and Environmental Testing Laboratories, Inc. (ETL) between November 1991 and October 26, 1994. ETL has not responded to the Notice, even though a response was required by December 10, 1994, and even though NRC contacted ETL on January 3, 6 and 18, 1995, to remind them of need to respond. The violations set forth in the Notice, as well as the NRC conclusion on this matter, are as follows:

1. Restatement of Violations

A. 10 CFR 30.3 states, in part, that except for persons exempt as provided in 10 CFR Parts 30 and 150, no person shall possess or use byproduct material except as authorized in a specific or general license issued pursuant to the regulations in this chapter.

Contrary to the above, from January 14, 1993 through October 31, 1994, ETL has been in possession of byproduct material not authorized under a specific or general license, and ETL is not exempt as provided in 10 CFR Parts 30 and 150. (01013)

B. 10 CFR 30.36(b) requires, in part, that each licensee notify the Commission promptly, in writing, and request termination of the license when the licensee decides to terminate all activities involving materials authorized under the license.

10 CFR 30.36(c)(1) requires, in part, that if a licensee does not submit an application for license renewal under 10 CFR 30.37, the licensee shall, on or before the expiration date specified in the license, terminate use of byproduct material; properly dispose of byproduct material; submit a completed form NRC-314, which certifies information concerning the disposition of material; and conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey.

Contrary to the above, as of August 31, 1991, the NRC license issued to ETL expired and the licensee did not submit an application for license renewal nor did it

notify the Commission and request termination of its license, dispose of its byproduct material, submit a completed form NRC-314, and submit a report of the results of a survey of the premises where the licensed activities were carried out. (01023)

2. NRC Evaluation and Conclusion

ETL has failed to respond to the Notice. The November 14, 1993 letter accompanying the Notice provided a full explanation as to why a civil penalty was warranted in this matter. Absent a response from ETL, the NRC has no basis to retract the violations or withdraw the civil penalty. Since a response to the Notice was due by December 10, 1994, and ETL has not responded, despite several reminders, the NRC concludes that a civil penalty in the amount of \$3,000 should be imposed.

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Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on March 9-11, 1995, in Conference Room T2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the Federal Register Notice on Wednesday, December 28, 1994 (59 FR 66977).

Thursday, March 9, 1995

8:30 A.M.-8:45 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting and comment briefly regarding items of current interest. During this session, the Committee will discuss priorities for preparation of ACRS reports.

8:45 A.M.-10:30 A.M.: Proposed Final Amendment to 10 CFR Part 54, Nuclear Power Plant License Renewal (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed final amendment to 10 CFR Part 54.

Representatives of the industry will participate, as appropriate.

10:45 A.M.-12:00 Noon: Rulemaking to Obtain Equipment Reliability Data from Licensees (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed rule to obtain equipment reliability data from licensees.

Representatives of the industry will participate, as appropriate.

1:00 P.M.-2:30 P.M.: Decommissioning of Nuclear Power

Reactors (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the Nuclear Energy Institute regarding the proposed rule on decommissioning of nuclear power reactors.

2:30 P.M.-4:00 P.M.: Wolf Creek Event—Loss of Reactor Coolant Inventory During Shutdown (Open)

The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the safety significance of the event at the Wolf Creek Nuclear Power Plant which involved loss of reactor coolant inventory during shutdown.

Representatives of the industry will participate, as appropriate.

4:15 P.M.-5:15 P.M.: Methods for Estimating (Seismic) Core-Damage Frequency from a Seismic Margin Analysis (Open)—The Committee will hear presentations by and hold discussions with the ACRS Fellow regarding the status of Committee activities in developing a methodology for estimating the core-damage frequency from seismic events, given that a plant has performed a seismic margin analysis. (This is part of the Committee's efforts to provide guidance and insights to the Commission for determining where the current population of operating plants, both individually and collectively, fall in relation to the safety goals.)

5:15 P.M.-6:30 P.M.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on certain matters considered during this meeting.

Friday, March 10, 1995

8:30 A.M.-8:35 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting.

8:35 A.M.-9:30 A.M.: Kobe Earthquake (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the impact of the recent Kobe earthquake on nuclear power plants and other structures located in the vicinity of the earthquake.

9:30 A.M.-10:15 A.M.: Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business and internal organizational and personnel matters relating to the ACRS staff members.

A portion of this session may be closed to discuss matters that relate solely to internal personnel rules and

practices of this Advisory Committee, and matters the release of which would constitute a clearly unwarranted invasion of personal privacy.

10:30 A.M.-11:00 A.M.: Future ACRS Activities (Open)—The Committee will discuss topics proposed for consideration during future ACRS meetings.

11:00 A.M.-11:15 A.M.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss responses from the NRC Executive Director for Operations to ACRS comments and recommendations included in recent ACRS reports.

11:15 A.M.-12:00 Noon: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports on certain matters considered during this meeting.

1:00 P.M.-3:15 P.M.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports on certain matters considered during this meeting.

3:30 P.M.-3:45 P.M.: Subcommittee Activities (Open)—The Committee will hear a report by the Chairman of the ACRS Thermal Hydraulic Phenomena Subcommittee regarding the February 15-16, 1995 meeting.

3:45 P.M.-5:00 P.M.: New Research Needs (Open)—The Committee will discuss new research needs.

5:00 P.M.-6:30 P.M.: Strategic Planning (Open)—The Committee will discuss items that are of significant importance to the Committee and the Commission.

Saturday, March 11, 1995

8:30 A.M.-10:30 A.M.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of ACRS reports on certain matters considered during this meeting.

10:45 A.M.-11:45 A.M.: Strategic Planning (Open)—The Committee will continue to discuss items that are of significant importance to the Committee and the Commission.

11:45 A.M.-12:00 Noon: Miscellaneous (Open)—The Committee will discuss miscellaneous matters related to the conduct of Committee activities and complete discussions of topics that were not completed during previous meetings as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 5, 1994 (59 FR 50780). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only