

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**Sunshine Act Meeting**

June 10, 2002.

Time and Date: 10:00 a.m., Wednesday, June 19, 2002.

Place: Room 6005, 6th Floor, 1730 K Street, NW, Washington, DC.

Status: Closed [Pursuant to 5 U.S.C. 552b(c)(10)].

Matters To Be Considered: It was determined by a majority vote of the Commission that the Commission consider and act upon the following in closed session:

1. *Douglas R. Rushford Trucking*, Docket No. YORK 99-39-M (Issues include whether the judge erred by failing to follow the Commission's remand instructions in assessing a penalty).

Any person attending the open portion of the meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and § 2706.160(d).

Contact Person for More Information: Jean Ellen, (202) 653-5629/(202) 708-9300 for TDD Relay/1-800-877-8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 02-15522 Filed 6-14-02; 8:45 am]

BILLING CODE 6735-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 150-00004, General License /10 CFR 150.20, EA-01-271]

Decisive Testing, Inc., San Diego, California; Order Imposing Civil Monetary Penalty**I**

Decisive Testing, Inc. (Licensee) is the holder of California Radioactive Material License No. 1836-37, which authorizes the Licensee to use sealed sources containing byproduct material to conduct industrial radiography. California is an Agreement State as defined by 10 CFR 150.3(b) of the NRC's regulations. Pursuant to 10 CFR 150.20 of the NRC's regulations, the Licensee is granted a general license to conduct the same activity in areas of exclusive Federal jurisdiction provided the requirements of 10 CFR 150.20(b) have been met.

II

An inspection and an investigation of the Licensee's activities were completed in September 2001. The results of the inspection and the investigation indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated February 27, 2002. The Notice stated the nature of the violation, the provisions of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violation.

The Licensee responded to the Notice in a letter dated March 21, 2002. In its response, the Licensee admitted the violation, but requested that discretion be exercised and that no civil penalty be assessed.

III

After consideration of the Licensee's responses and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined that violations cited in the Notice were willful, and that the civil penalty proposed for the violations 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 \$6,000 within 30 days of the date of this Order, in accordance with NUREG/BR-0254. In addition, at the time of making the payment, the licensee shall submit a statement indicating when and by what method payment was made, to the 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, DC 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission,

ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011.

If a hearing is requested, the Commission will issue an Order designating the time and place of the 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 issue to be considered at such hearing shall be whether on the basis of the violation admitted by the Licensee, this Order should be sustained.

Dated this 11th day of June 2002.

For the Nuclear Regulatory Commission.

Frank J. Congel,

Director, Office of Enforcement.

Appendix to Order Imposing Civil Penalty**NRC Evaluation and Conclusion of Licensee's Request for Mitigation of Civil Penalty**

On February 27, 2002, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for a violation identified during an NRC inspection and investigation. Decisive Testing, Inc. (DTI or Licensee) responded to the Notice on March 21, 2002. The Licensee admitted the violation, but requested that discretion be exercised and no civil penalty assessed. The NRC's evaluation and conclusion regarding the licensee's response are as follows:

Summary of Licensee's Request for Mitigation

DTI admitted the violation, but requested that discretion be exercised and that no civil penalty be assessed. DTI based this request on its statement that there was no threat to public health, that the situation was corrected before the NRC became involved, and that management had no reason to suspect that a responsible employee would schedule covered work without first making certain the reciprocity form was filed and the fee paid. DTI suggested that a violation such as this with a very low safety significance might best be addressed by a letter of reprimand. DTI also stated that the violation does not fit neatly into Table 1A of the NRC Enforcement Policy, arguing that Decisive Testing is not the equivalent of the other facilities listed in the same category, and that

this type of violation is not listed in the examples of violations included in the supplements to NRC's Enforcement Policy. DTI stated that the penalty appeared to be more severe than was intended by the authors of the regulation. DTI also questioned the characterization of the violation as having occurred on at least six occasions, because this may be viewed as implying the suspicion of additional violations.

NRC Evaluation of Licensee's Request for Mitigation

The NRC agrees that the violation, in and of itself, posed no threat to public health and safety. It is an administrative violation, but one on which NRC has intentionally placed some importance. The NRC considers this type of violation important because without proper notification, the NRC cannot conduct inspections of Agreement State licensees to assure that such licensees are conducting their activities safely and in accordance with NRC requirements.

With regard to DTI's statement that management had no reason to suspect that a responsible employee would schedule covered work without first making certain the reciprocity form was filed and the fee paid, the NRC notes its Enforcement Policy holds licensees accountable for the actions, or omissions, of their employees. It is incumbent on employers to assure that their employees are abiding by NRC requirements in the conduct of NRC-licensed activities.

With regard to DTI's several statements regarding the treatment of this violation within the NRC's Enforcement Policy, the NRC assures DTI that the violation was properly classified at Severity Level III, and that a specific example of this violation is contained in Supplement VI of the policy. Supplement VI, example C.7, states, "A failure to submit an NRC Form 241 as required by 10 CFR 150.20." In addition, DTI was properly classified as an industrial radiography licensee in Table 1A of the Enforcement Policy.

For the reasons discussed above, the NRC has intentionally placed importance on this type of violation. In this particular case, the violation was more significant because it was committed willfully. NRC's investigation identified six examples of this violation, and each of the six examples was cited in the violation because each involved a separate opportunity for DTI's assistant radiation safety officer to comply with NRC's requirements and file the necessary form. However, for the purpose of the civil penalty, the six examples were treated as one violation and assessed one civil penalty.

Thus, the NRC concludes that the violation and civil penalty were correctly assessed and were in accordance with the NRC's Enforcement Policy.

NRC Conclusion

The NRC concludes that DTI has not provided a sufficient basis for mitigation of the proposed civil penalty. Consequently, the proposed civil penalty in the amount of \$6,000 should be imposed by Order.

[FR Doc. 02-15425 Filed 6-18-02; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Notice of Public Meeting of the Interagency Steering Committee on Radiation Standards

AGENCIES: Nuclear Regulatory Commission and Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) will host a meeting of the Interagency Steering Committee on Radiation Standards (ISCORS) on July 9, 2002, in Rockville, Maryland. The purpose of ISCORS is to foster early resolution and coordination of regulatory issues associated with radiation standards. Agencies represented on ISCORS include the NRC, U.S. Environmental Protection Agency, U.S. Department of Energy, U.S. Department of Defense, U.S. Department of Transportation, the Occupational Safety and Health Administration of the U.S. Department of Labor, the U.S. Department of Health and Human Services. The Office of Science and Technology Policy, the Office of Management and Budget, and a State Department representative may be observers at meetings. The objectives of ISCORS are to: (1) Facilitate a consensus on allowable levels of radiation risk to the public and workers; (2) promote consistent and scientifically sound risk assessment and risk management approaches in setting and implementing standards for occupational and public protection from ionizing radiation; (3) promote completeness and coherence of Federal standards for radiation protection; and (4) identify interagency radiation protection issues and coordinate their resolution. ISCORS meetings include presentations by the chairs of the subcommittees and discussions of current radiation protection issues. Committee meetings normally involve pre-decisional intra-governmental discussions and, as such, are normally not open for observation by members of the public or media. One of the four ISCORS meetings each year is open to all interested members of the public. There will be time on the agenda for members of the public to provide comments. Summaries of previous ISCORS meetings are available at the ISCORS web site, <http://www.iscours.org> and the final agenda for the July meeting will be posted shortly before the meeting.

DATES: The meeting will be held from 1 p.m. to 5 p.m. on Tuesday, July 9, 2002.

ADDRESSES: The meeting will be held in the NRC auditorium, at Two White Flint North, 11545 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION, CONTACT: James Kennedy, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301-415-6668; fax 301-415-5398; E-mail jek1@nrc.gov.

SUPPLEMENTARY INFORMATION: Visitor parking around the NRC building is limited; however, the NRC auditorium is located adjacent to the White Flint Metro Station on the Red Line.

Dated at Rockville, MD, this 12th day of June, 2002.

For the Nuclear Regulatory Commission.

John T. Greeves,

*Director, Division of Waste Management
Office of Nuclear Material Safety and
Safeguards.*

[FR Doc. 02-15424 Filed 6-18-02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension

Rule 17Ac3-1(a) and Form TA-W; SEC Rule No. 270-96; OMB Control No. 3235-0151.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for approval of extension on Rule 17Ac3-1(a) and Form TA-W.

Subsection (c)(3)(C) of section 17A of the Securities Exchange Act of 1934 ("Exchange Act") authorizes transfer agents registered with an appropriate regulatory agency ("ARA") to withdraw from registration by filing with the ARA a written notice of withdrawal and by agreeing to such terms and conditions as the ARA deems necessary or appropriate in the public interest, for the protection of investors, or in the furtherance of the purposes of Section 17A.

In order to implement section 17A(c)(3)(C) of the Exchange Act the Commission, on September 1, 1977, promulgated Rule 17Ac3-1(a) and accompanying Form TA-W. Rule 17Ac3-1(a) provides that notice of