



NOTICE OF VIOLATION (Individual)

Date of Notice: 2014-01-20

AMP Number: 2014-AMP-01

Violation committed by:

Frédéric Dulude
Technician

AMOUNT OF PENALTY: \$591
Due Date: March 6, 2014

Violation

Short Form Description:

Failure by a worker to correctly use equipment, devices, facilities and clothing.

Provision:

Section 17(a) of the *General Nuclear Safety and Control Regulations* (SOR/2000-202)

Relevant Facts

I, , Ramzi Jammal, Executive Vice-President and Chief Regulatory Operations Officer and Designated Officer for Administrative Monetary Penalties, believe on reasonable grounds that Frédéric Dulude, employee of Labo S.M. inc., CNSC licensee, committed the above violation. The relevant facts are:

- 1) On October 1, 2013, at approximately 8:00 a.m., a concerned citizen informed the CNSC that he had seen, in a late-night television report the previous day, a worker walking with a portable gauge whose source rod was in the exposed position. The report aired on television station TVA and concerned the large construction site in Lac-Mégantic.
- 2) The CNSC inspector searched the Web for the report in order to identify the worker involved.
- 3) The CNSC inspector made several telephone calls to contact the various CNSC licensees with locations in the Lac-Mégantic area in order to identify the worker.
- 4) The licensee, Labo S.M. inc., confirmed the identity of the worker, as well as the characteristics of the device used (a Troxler device, model 3430, s/n 31064).
- 5) The worker, Frédéric Dulude, was indeed taking density measurements on the Lac-Mégantic site on the day of the report.

- 6) Order No. 668 was issued to Mr. Dulude on October 2, 2013, requiring that he cease all work using radiation devices until he can demonstrate that he has the training necessary to operate a nuclear device.

After reviewing this matter and taking into account the seven criteria listed in section 5 of the *Administrative Monetary Penalties Regulations*, I find that:

- Mr. Dulude himself, the worker, has no history of non-compliance;
- The fact that the device was handled with the source rod in the exposed position demonstrates that Mr. Dulude did not follow the licensee's procedure for protecting workers and the public against radiation. This demonstrates negligence on the part of Mr. Dulude, which could potentially result in the exposure of a member of the public on site;
- Although the event did not cause any damage, Mr. Dulude could have continued working in this manner, continuing to expose himself and the workers around him;
- There does not seem to be any competitive or economic advantage derived from Mr. Dulude's actions;
- Mr. Dulude ceased handling radiation devices immediately following the issuance of Order No. 668 by the CNSC;
- Mr. Dulude complied with the CNSC's order;
- The violation was reported to the CNSC by a citizen, not by the licensee or Mr. Dulude himself.

Penalty Calculation:

(see *Administrative Monetary Penalties Regulations (Canadian Nuclear Safety Commission)* SOR/2013-139)

(a) Category of Violation	Category A <input type="checkbox"/>	Category B <input checked="" type="checkbox"/>	Category C <input type="checkbox"/>		
(b) Penalty Range					
		Category	Minimum	Maximum	Maximum - Minimum
		A	\$300	\$3,000	\$2,700
		B	\$300	\$10,000	\$9,700
		C	\$300	\$25,000	\$24,700
(c) Determining Factor(s)					
Factor		Scale of regulatory significance		Assessed Score	
1. Compliance History		0, +1, +2, +3, +4, +5		0	
2. Degree of intention or negligence		0, +1, +2, +3, +4, +5		+1	
3. Harm		0, +1, +2, +3, +4, +5		0	
4. Competitive or economic benefit		0, +1, +2, +3, +4, +5		0	
5. Mitigation or reverse effects		-2, -1, 0, +1, +2, +3		0	
6. Assistance to the Commission		-2, -1, 0, +1, +2, +3		0	
7. Self reporting		-2, -1, 0, +1, +2, +3		0	
				Total	+1
			$\div 29^{(1)}$ [rounded to 2 decimal points]=		0.03
			X [difference between category maximum and minimum] =		\$291
			+ [minimum for the category: \$300] =		\$591

⁽¹⁾29 being the maximum value of regulatory significance

To Request a Review

As a person subject to an Administrative Monetary Penalty, you have the right to request a review with respect to the violation or the amount of the penalty, and of the prescribed period within which that right must be exercised. Your request for a review must indicate if the request for review is with respect to the amount of the penalty or the facts of the violation, or both. Your request must also indicate the reasons why you are requesting a review. If you choose to request a review you must do so prior to March 6, 2014, in writing or by contacting:

Marc Leblanc
Commission Secretary
Canadian Nuclear Safety Commission
280 Slater Street
Ottawa ON K1P 5S9

Facsimile: 613-995-5086
Telephone: 613-995-6506
E-mail: interventions@cnsccsn.gc.ca

Payment

The manner in which this administrative monetary penalty may be paid is by sending a cheque to:

Receiver General for Canada
c/o Canadian Nuclear Safety Commission
Finance Division
P.O. Box 1046, Station "B"
Ottawa, Ontario
K1P 5S9

For other payment methods and further instructions, please refer to the attached "*Notice of Payment Due*"

Should you not pay the penalty nor exercise your right to a review, you will be considered to have committed the violation and will be liable to the penalty set out herein.

Issued by

Ramzi Jammal
Designated Officer
Telephone: 613-947-8899
Email: Ramzi.Jammal@cnsccsn.gc.ca

Date