

Dr. Nicholas Samios
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Brookhaven National Laboratory
Post Office Box 5000
Building 460
Upton, New York 11973-5000

Subject: Noncompliance Number NTS-CH-BH-BNL-PE-1996-0001

Dear Dr. Samios:

This letter refers to the Department of Energy's (DOE) evaluation of Brookhaven National Laboratory's (BNL) report of potential noncompliances with the requirements of 10 CFR Part 835 (Occupational Radiation Protection Rule). These potential noncompliances involved a number of instances of contractor or subcontractor failure to: (1) comply with area radiological warning signs, (2) use protective clothing and equipment, (3) maintain radiation exposures as low as reasonably achievable (ALARA), or (4) complete radiological worker training. On May 22, 1996, BNL reported these potential noncompliances to DOE through the Noncompliance Tracking System. The Office of Enforcement and Investigation conducted an on-site investigation of the four instances during August 13-15, 1996. Enclosed is an Investigation Summary Report that discusses the on-site review of each incident.

Based upon our evaluation, we have concluded that noncompliances with 10 CFR Part 835 requirements have occurred. Specifically, the Enforcement Staff identified noncompliances with Posting, Radioactive Contamination Control and Monitoring, Radiological Safety Training for Radiological Workers, and Design and Control (ALARA) requirements by BNL contractors and subcontractors. Although the maximum exposures resulting from the four incidents were [a specified exposure] each for two individuals (which is less than that allowed by the annual exposure limits established by 10 CFR Part 835 and less than the annual administrative control limits established by BNL) the exposures were unplanned and preventable. A number of noncompliances were identified by BNL field staff as they were occurring and, once identified, efforts were undertaken to correct the problems. However, the repetitive nature of the noncompliances by the contractors and subcontractors raises a concern regarding the need for more management involvement by BNL in overseeing and setting the expectations for contractors who perform work at DOE's facilities under your purview.

DOE would normally consider an enforcement action for violations of this nature. However, DOE recognizes that BNL field staff interceded when subcontractor personnel failed to adhere to established requirements. Additionally, BNL management viewed the repetitive failures of contractors and subcontractors to comply with radiological requirements as a programmatic failure and responded accordingly.

Once BNL management concluded that a programmatic issue was involved, consideration of corrective actions for the four incidents was extended to include a laboratory-wide initiative concerning oversight and supervision of contractor personnel while on-site. Short range, interim solutions as well as long-term solutions for control of contractor-related radiological safety issues site-wide have been addressed by a high level management task force appointed for this purpose. Corrective actions proposed and implemented include but are not limited to: 1) providing refresher training in radiation protection for Plant Engineering engineers, designers and field personnel who

supervise contractors and subcontractors; 2) holding a meeting for BNL construction contractors that included coverage of 10 CFR part 835 requirements; 3) revising lesson plans for contractor orientation training to include more detailed instruction regarding radiological postings, and 4) developing policy on how construction in radiological areas will be managed.

These corrective actions, if fully implemented, meet the discretionary criteria described in DOE's nuclear safety enforcement policy. Therefore, the exercise of discretion not to undertake enforcement action at this time is warranted, contingent upon full implementation of all short and long term corrective actions. A radiological improvement path forward should be submitted to Dr. Carson Nealy, Brookhaven Group Manager, U. S. Department of Energy, Building 464, Post Office Box 5000, Upton, New York 11973, with a copy to the Docketing Clerk, Office of Enforcement and Investigation, EH-10, CXXI/3 Building, U.S. Department of Energy, 19901 Germantown Rd., Germantown, Maryland, 20874-1290, within 60 days of the date of this letter verifying implementation of your corrective actions. Once this verification is received, DOE will close this enforcement action. Ineffective implementation could warrant further enforcement review and action at a later date.

If you would like to discuss these matters further, please contact R. Keith Christopher of my staff at (301) 903-0100.

Sincerely,

Tara O'Toole, M.D., M.P.H.
Assistant Secretary
Environment, Safety, and Health

Enclosure