



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

May 19, 2005

IA-05-015

Matthew A. Loeffert
HOME ADDRESS DELETED
UNDER 10 CFR 2.390

SUBJECT: NRC OFFICE OF INVESTIGATIONS REPORT NO. 1-2004-037

Dear Mr. Loeffert:

This letter is in reference to an investigation initiated on August 26, 2004, by the NRC's Office of Investigations (OI) at the Milton S. Hershey Medical Center (MSHMC). The purpose of the OI investigation was to determine whether, in October 2002, in your capacity as a nuclear medicine technologist (NMT) for MSHMC, you deliberately had yourself injected with a diagnostic dosage of technetium-99m for the purpose of performing a bone scan without the knowledge and approval of a physician or authorized user, knowing this action was a violation of NRC regulations.

OI concluded that in October 2002, you did request that another NMT inject you with a diagnostic dosage of technetium-99m and that you did so deliberately, knowing it was a violation of 10 CFR 35.27. As such, you caused MSHMC to violate NRC requirements. The basis for this finding is described in the enclosed letter to MSHMC and its attached Factual Summary of the four related OI Investigation Reports (Reference: Case No. 1-2004-037). Your actions constituted an apparent violation of Title 10 of the Code of Federal Regulations (CFR) Part 30.10. 10 CFR 30.10(a) states, in part, that any licensee, or licensee employee, may not engage in deliberate misconduct that causes or would have caused, if not detected, a licensee to be in violation of any rule, regulation, or any term, condition, or limitation of any license issued by the Commission. This apparent violation is being considered for escalated enforcement in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Enforcement Policy**.

Before the NRC makes its enforcement decision, we are providing you with the opportunity to either (1) respond to the apparent violation addressed in this letter within 30 days of the date of this letter, (2) request a predecisional enforcement conference (PEC) to discuss the apparent violation, or (3) request alternative dispute resolution (ADR) to resolve this issue.

If you choose to respond in writing, your response should be clearly marked as a "Response to Apparent Violation Described in Individual Action #05-015" and should include for the apparent violation: (1) the reason for the apparent violation, or, if contested, the basis for disputing the apparent violation, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved.

If you request to attend a PEC, it would be closed and transcribed. The decision to hold a PEC does not mean that the NRC has determined that a violation has occurred or that enforcement action will be taken. This conference would be held to obtain information to assist the NRC in making an enforcement decision. This may include information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned. The conference would provide you an opportunity to present your perspective on these matters and any other information that you believe the NRC should take into consideration in making an enforcement decision. In presenting your corrective action, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violations. The guidance in the enclosed excerpt from NRC Information Notice 96-28, "SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION," may be helpful.

Instead of a PEC, you may request alternative dispute resolution (ADR) with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflict outside of court using a neutral third party. The technique that the NRC has decided to employ during a pilot program which is now in effect is mediation. Additional information concerning the NRC's pilot program is described in the enclosed brochure (NUREG/BR-0317) and can be obtained at <http://www.nrc.gov/what-we-do/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as an intake neutral. Please contact ICR at 877-733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR.

Please contact Ms. Pamela Henderson at (610) 337-6952 within 10 days of the date of this letter to notify the NRC of your decision to either respond in writing, participate in a PEC, or pursue ADR.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (RARS) component of the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm.html> (the Public Electronic Reading Room). However, the NRC will delay making available a copy of this letter until an enforcement decision has been made. At that time, in accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, with your home address removed will be made available to the Public, if enforcement action is taken. This letter will be maintained by the Office of Enforcement (OE) in a NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from our Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

This letter will be maintained by the Office of Enforcement (OE) in a NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from our Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Sincerely,

Original signed by George Pangburn

George Pangburn, Director
Division of Nuclear Materials Safety

Enclosures:

1. NRC letter to MSHMC with Factual Summary of OI Investigation Reports
2. Excerpt from NRC Information Notice 96-28
3. Brochure NUREG/BR-0317

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*J Luehman for F Congel based on e-mail from A Hayes to J Wray 5/17/05 (includes OGC concurrence)

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