

July 12, 2006

Docket No. 03019230
EA No. 06-097

License No. 45-19782-01

Gwen S. Eddleman, Ed.D.
President & CEO
Southside Community Hospital
800 Oak Street
Farmville, VA 23901

SUBJECT: NOTICE OF VIOLATION (NRC Inspection Report No. 03019230/2006001)

Dear Dr. Eddleman:

This letter refers to the NRC inspection conducted at your facility in Farmville, Virginia, on March 2, 2006, as well as reviews of additional information you provided to the NRC through April 18, 2006. During the inspection, the NRC reviewed the circumstances associated with apparent violations of NRC requirements, including the failure to conduct a survey of six vials, at least two of which contained radioactive material in the form of iodine-131 sodium iodide capsules. This apparent violation resulted in licensed material being improperly disposed into non-radioactive waste containers at your facility, and resulted in another violation involving the failure to secure the licensed material from unauthorized removal. The containers were transported offsite on December 1, 2005, to Stericycle Disposal, a waste facility in Baltimore, Maryland. That facility is not licensed to possess radioactive material. The material was subsequently retrieved by a contractor licensed to possess the material on December 13, 2005, and then returned to your facility on December 19, 2005.

The results of the inspection, including the apparent violations, were discussed with you and members of your staff during exit meetings on March 2, 2006, and April 18, 2006, and were described in a letter and inspection report sent to you on May 17, 2006. Based on the inspection, three apparent violations of NRC requirements were identified. On May 16, 2006, Ms. Penny Lanzisera of my staff informed Ms. Claudia Meinhard, your Director of Quality Management, that these apparent violations were being considered for escalated enforcement action, and the NRC did not need any additional information to make an enforcement decision. However, Ms. Lanzisera provided you an opportunity to attend a predecisional enforcement conference or to provide a written response, prior to the NRC determining appropriate enforcement action. During this conversation, Ms. Meinhard indicated that she had discussed these options with you, and you declined the opportunity to attend a conference or to provide a written response.

Based on the information developed during the inspection, the NRC has determined that three violations of NRC requirements occurred, specifically, the failures to: (1) conduct surveys, (2) secure from unauthorized removal or access licensed materials that were stored in controlled or unrestricted areas, and (3) notify the NRC by telephone immediately after it became known that there was a loss of licensed material. The violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in detail in the subject inspection report.

These violations are of concern to the NRC because the failure to conduct radiation surveys and the failure to control licensed material resulted in the release of licensed material to a facility not authorized to possess the material. Although there is no evidence that members of the public received an inadvertent radiation exposure, unintended radiation exposure could occur if licensed material is improperly released. Therefore, the first two violations described above are categorized as a Severity Level III problem in accordance with the NRC Enforcement Policy. In addition, given the underlying significance of these two violations, the violation involving the failure to immediately report the loss of licensed material is categorized as a separate Severity Level III violation consistent with Section IV.A.3 of the Enforcement Policy.

In accordance with the NRC Enforcement Policy, base civil penalties in the amount of \$3,250 are considered for the Severity Level III problem and violation. Because your facility has not been the subject of escalated enforcement action within the last two years or two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. Credit for corrective actions is warranted because your corrective actions were considered prompt and comprehensive. These corrective actions included, but were not limited to: (1) immediately re-training the responsible technician on proper disposal techniques; (2) revising the facility's waste disposal policy to include step-by-step procedures; (3) requiring radioactive material surveys prior to disposal; and (4) providing training on NRC reporting requirements to the staff and the executive management team.

Therefore, to encourage prompt and comprehensive identification and correction of violations, and in recognition of the absence of previous escalated enforcement action at your facility, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose civil penalties for either the Severity Level III problem set forth in Section I of the Notice, or for the Severity Level III violation set forth in Section II of the Notice. However, you should be aware that any significant violation in the future could result in a civil penalty. In addition, issuance of the Severity Level III problem and the Severity Level III violation constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding the reasons for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in this letter and in the inspection report issued on May 17, 2006. Therefore, you are not required to respond to this letter unless the description herein, as well as in the inspection report, does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response (if you choose to provide one) will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). To the extent possible, your response should not include any personal privacy, proprietary or safeguards information so that it can be made available to the public without redaction. The NRC also includes significant enforcement actions on its web site

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at <http://www.nrc.gov>; select **What We Do, Enforcement**, then **Significant Enforcement Actions**.

Sincerely,

/RA/

Samuel J. Collins
Regional Administrator

Enclosure: Notice of Violation

cc:
Lee Anthony, Ph.D., Radiation Safety Officer
Commonwealth of Virginia

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ENCLOSURE

NOTICE OF VIOLATION

Southside Community Hospital
Farmville, Virginia

Docket No. 03019230
License No. 45-19782-01
EA No. 06-097

Based on an NRC inspection conducted at the Southside Community Hospital in Farmville, Virginia, March 2, 2006, as well as reviews in the Region I office until April 18, 2006, the date on which a final exit meeting was held, three violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

I. VIOLATIONS THAT CONTRIBUTED TO AN IMPROPER DISPOSAL

- A. 10 CFR 20.1501 requires that each licensee make or cause to be made surveys that may be necessary for the licensee to comply with the regulations in Part 20 and that are reasonable under the circumstances to evaluate the extent of radiation levels, concentrations or quantities of radioactive materials, and the potential radiological hazards that could be present. Pursuant to 10 CFR 20.1003, *survey* means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of radioactive material or other sources of radiation.

10 CFR 20.2001 (a) specifies, in part, that a licensee shall dispose of licensed material only by transfer to a person authorized to receive licensed radioactive materials.

Contrary to the above, on December 1, 2005, the licensee did not make surveys to assure compliance with 10 CFR 20.2001(a), which describes authorized means of disposing of licensed material. Specifically, the licensee did not perform a survey of six vials, at least two of which contained licensed material in the form of iodine-131 sodium iodide capsules. The failure to conduct the surveys resulted in improper disposal of licensed material.

- B. 10 CFR 20.1801 requires that the licensee secure from unauthorized removal or access licensed materials that are stored in controlled or unrestricted areas. 10 CFR 20.1802 requires that the licensee control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage. As defined in 10 CFR 20.1003, controlled area means an area, outside of a restricted area, but inside the site boundary, access to which can be limited by the licensee for any reason; and unrestricted area means an area, access to which is neither limited nor controlled by the licensee.

Contrary to the above, for an indeterminate amount of time prior to December 1, 2005, the licensee did not secure from unauthorized removal or limit access to six vials, at least two of which contained radioactive material in the form of iodine-131 sodium iodide capsules, at the Southside Community Hospital facility, which is a controlled area, nor did the licensee control and maintain constant surveillance of this licensed material. The vials were subsequently disposed of as non radioactive waste on December 1, 2005.

These two violations constitute a Severity Level III problem (Supplement IV).

II. VIOLATION INVOLVING FAILURE TO MAKE A TIMELY REPORT

10 CFR 20.2201(a)(1) requires that the licensee notify the NRC by telephone immediately after its occurrence becomes known to the licensee of the loss of licensed material in an aggregate quantity equal to or greater than 1,000 times the quantity specified in Appendix C to Part 20 under such circumstances that it appears to the licensee that an exposure could result to persons in unrestricted areas.

Contrary to the above, on December 13, 2005, the licensee became aware that a loss of licensed material in an aggregate quantity greater than 1,000 times the quantity specified in Appendix C to Part 20 occurred, and the licensee did not immediately notify the NRC of the event. Specifically, the licensee was notified by a contractor at the disposal facility on that date that material in two containers at a waste facility contained iodine-131 and that the radiation levels on the exterior of the boxes were 50-60 milliRoentgens per hour which indicated that the activity released was greater than 1,000 times the quantity for I-131 specified in Appendix C to Part 20 (i.e., 1 millicurie). However, licensee did not notify the NRC about this event until December 22, 2005.

This is a Severity Level III violation (Supplement IV).

The NRC has concluded that information regarding the reasons for the violations, the corrective actions taken to correct the violations and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket in this letter and in the inspection report issued on May 17, 2006. Therefore, no response to this Notice is required. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-06-097" and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator, Region I, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest any of the violations, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, D.C. 20555. Under authority of Section 182 of the Act, 42 U. S. C. 2232, any response which contests an enforcement action shall be submitted under oath or affirmation.

Because any response will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the

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information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information).

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 12th day of July 2006