

October 16, 2006

EA-06-218

Glen W. Grippen
Medical Center Director
Department of Veterans Affairs
Clement J. Zablocki Medical Center
5000 W. National Avenue
Milwaukee, WI 53295-0001

SUBJECT: NRC REVIEW OF REPORT OF LOST TRITIUM EXIT SIGN AND
NOTICE OF VIOLATION

Dear Mr. Grippen:

This refers to the event reported by the Department of Veterans Affairs (DVA) National Health Physics Program (NHPP), on April 10, 2006, and the written report dated April 24, 2006, regarding the loss of one exit sign from the Clement J. Zablocki Medical Center containing a nominal activity of 23 curies of tritium.

This is the second incident that you have recently reported involving the loss of tritium exit signs from your facility. The first incident was reported on June 1, 2004, and involved the loss of four exit signs. Our letter to you dated July 29, 2004, identified a violation of 10 CFR 31.5, concerning the improper transfer of byproduct material. However, we treated that violation as a Non-Cited Violation because it was identified by your staff and corrective action was implemented.

Based on your report dated April 24, 2006, the NRC has identified two Severity Level IV violations of the NRC requirements. The first violation involves the improper transfer or disposal of a generally licensed tritium exit sign containing a nominal activity of 23 curies of tritium. The violation is being cited because it is similar to the Non-Cited Violation that we issued on July 29, 2004, and because of the apparent ineffectiveness of the corrective actions described in your June 1, 2004, report that were taken to ensure against a recurrence. In addition, we have also determined that you were in violation of 10 CFR Part 20, Section 20.2201 with regard to the requirements for timely reporting of the missing tritium exit sign. The violations were evaluated in accordance with the NRC's 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**. The Code of Federal Regulations can be found at the NRC's Web site at <http://www.nrc.gov/reading-rm/doc-collections/cfr>. The violations are cited in the enclosed Notice of Violation (Notice).

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. For your consideration and convenience, an excerpt from NRC Information Notice 96-28, "SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION," is enclosed.

G. Grippen

-2-

In your response to this letter, please describe why your proposed corrective actions are expected to be more successful in preventing future or similar violations than the actions and commitments stated in the past. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/readingrm/adams.html>. 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.

Sincerely,

/RA/

Patricia J. Pelke, Chief
Materials Licensing Branch

Docket No. 99990003
General Licensee 10 CFR 31.5

Enclosures:

1. Notice of Violation
2. NRC Information Notice 96-28

cc w/encl: E. Lynn McGuire, DVA
State of Wisconsin

DISTRIBUTION:

See next page

*See prior concurrence

DOCUMENT NAME: C:\FileNet\ML062920479.wpd

☒ Publicly Available

☐ Non-Publicly Available

☐ Sensitive

☒ Non-Sensitive

To receive a copy of this document, indicate in the concurrence box "C" = Copy without attach/encl "E" = Copy with attach/encl "N" = No copy

OFFICE	RIII:DNMS	RIII:DNMS	RIII:EICS	RIII
NAME	KGNull:dah*	PJPelke	KGO'Brien:Weil for	
DATE	09/15/06	10/16 /06	10/17/06	

OFFICIAL RECORD COPY

Letter to Glen W. Grippen from Patricia J. Pelke dated October 16, 2006

SUBJECT: NRC REVIEW OF REPORT OF LOST TRITIUM EXIT SIGN AND
NOTICE OF VIOLATION

DISTRIBUTION w/encl:

Docket File
SECY
OCA
C. Carpenter, OE
D. Solorio, OE
S. Merchant, OE
J. Caldwell, RIII
G. Grant, RIII
B. Jones, OGC
J. Strosnider, NMSS
C. Miller, FSME
G. Morell, NMSS
D. Holody, RI
C. Evans, RII
K. O'Brien, RIII
K. Fuller, RIV
J. Schlueter, FSME
S. Reynolds, RIII
G. Shear, RIII
K. Lambert, RIII
C. Frazier, RIII
RIII:PA
R. Lickus, RIII
J. Lynch, RIII
OEMAIL

NOTICE OF VIOLATION

Clement J. Zablocki, Medical Center
Milwaukee, Wisconsin

Docket No. 99990003
General Licensee 10 CFR 31.5
EA-06-218

As a result of a review of the written event report dated April 24, 2006, two violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," the violations are listed below:

1. 10 CFR 31.5(c)(8)(i), requires, in part, that any person who acquires, receives, possesses, uses or transfers byproduct material in a device pursuant to a general license shall, except as provided in 10 CFR 31.5(c)(9), transfer or dispose of the device containing byproduct material only by transfer to persons authorized to receive the device by a specific license issued under 10 CFR Parts 30 and 32, or equivalent regulations of an Agreement State.

Contrary to the above, the licensee failed to transfer a generally licensed exit sign containing nominally 23 curies of tritium to a person holding a specific license pursuant to 10 CFR Parts 30 and 32, or equivalent regulations of an Agreement State. Specifically, the sign was disposed in a local landfill in 2005.

This is a Severity Level IV violation (Supplement VI)

2. 10 CFR 31.5(c)(10) provides, in part, that any person who acquires, receives, possesses, uses or transfers byproduct material in a device pursuant to the general license in 10 CFR 31.5(a) shall comply with the provisions of 10 CFR 20.2201 for reporting radiation incidents, theft or loss of licensed material.

10 CFR 20.2201(a)(1)(ii) provides, in part, that each licensee shall report by telephone to the NRC Operations Center within 30 days after the occurrence of any lost, stolen, or missing licensed material becomes known to the licensee, all licensed material in a quantity greater than 10 times the quantity specified in Appendix C, to 10 CFR Part 20, that is still missing at this time.

Contrary to the above, the licensee discovered that an exit sign was missing which contained nominally 23 curies of tritium, a quantity greater than 10 times the quantity amount specified in Appendix C to 10 CFR Part 20, and failed to notify the NRC operations center within 30 days after the occurrence became known. Specifically, the occurrence became known to the licensee on January 10, 2006, and the licensee notified the NRC on April 10, 2006.

This is a Severity Level IV violation (Supplement VI)

Pursuant to the provisions of 10 CFR 2.201, the Clement J. Zablocki Medical Center is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the

Enclosure 1

Regional Administrator and the Enforcement Officer, Region III, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level, (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. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response.

If you contest this enforcement action, 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, DC 20555-0001.

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>, 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. 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 information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

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

Dated this 16th day of October 2006.

E. Lynn McGuire, Director,
National Health Physics Program (115HP/NLR)
Department of Veterans Affairs
Veterans Health Administration
National Health Physics Program
2200 Fort Roots Drive
North Little Rock, Arkansas 72114