



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

November 27, 2006

Docket Nos. 03029333  
99990001

License Nos. 29-19276-02  
General

Vincent J. Pugliese  
President/Chief Executive Officer  
Accutest Laboratories  
2235 Route 130, Building B  
Dayton, New Jersey 08810

SUBJECT: INSPECTIONS 03029333/2006001 AND 99990001/2006050, ACCUTEST LABORATORIES, DAYTON, NEW JERSEY SITE AND NOTICE OF VIOLATION

Dear Mr. Pugliese:

On November 13 and 27, 2006, Steven Courtemanche of this office conducted a safety inspection at the above address of activities authorized by the above listed NRC licenses. The inspection was an examination of your licensed activities as they relate to radiation safety and to compliance with the Commission's regulations and the license conditions. The inspection consisted of observations by the inspector, interviews with personnel, and a selected examination of representative records. The findings of the inspection were discussed with you at the conclusion of the inspection.

Based on the results of this inspection, it appears that your activities were not conducted in full compliance with NRC requirements. A Notice of Violation is enclosed that categorizes each violation by severity level. You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. After reviewing your response to this Notice, including your proposed corrective actions and the results of future inspections, the NRC will determine whether further NRC enforcement action is necessary to ensure compliance with NRC regulatory requirements. It is our understanding, that you may be requesting termination of your license. If this is the case, an alternative to providing a response to the enclosed Notice would be to provide a written request for termination of your license using the enclosed NRC Form 314, "Certificate of Disposition of Materials," and to provide written confirmation from the recipient of the electron capture detector that he received the device in 1995 and a copy of the Florida State License.

Current NRC regulations are included on the NRC's website at [www.nrc.gov](http://www.nrc.gov); select **Nuclear Materials; Medical, Academic, and Industrial Uses of Nuclear Material**; then **Toolkit Index Page**. The current Enforcement Policy is included on the NRC's website at [www.nrc.gov](http://www.nrc.gov); select **What We Do, Enforcement**, then **Enforcement Policy**. Or you may obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-888-293-6498. The GPO is open from 7:00 a.m. to 8:00 p.m. EST, Monday through Friday (except Federal holidays).

V. Pugliese  
Accutest Laboratories

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Your cooperation with us is appreciated.

Sincerely,

***Original signed by James P. Dwyer***

James P. Dwyer, Chief  
Commercial and R&D Branch  
Division of Nuclear Materials Safety

Enclosures:

1. Notice of Violation
2. NRC Form 314, Certificate of Disposition of Materials

cc:

Jamie Yakes, Health and Safety Manager  
State of New Jersey

Distribution:  
D. J. Holody, RI

DOCUMENT NAME: C:\FileNet\ML063320037.wpd

**SUNSI Review Complete: SCourtemanche**

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OFFICE	DNMS/RI	<input checked="" type="checkbox"/> N	DNMS/RI	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
NAME	Scourtemanche/jpd f/		JDwyer/jpd				
DATE	11/27/2006		11/27/2006				

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## NOTICE OF VIOLATION

Accutest Laboratories  
Dayton, NJ

Docket No. 03029333  
License No. 29-19276-02

During an NRC inspection conducted on November 13 and 27, 2006, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 30.41 requires, in part, that before transferring byproduct material to a specific licensee of an Agreement State, prior to receipt of the byproduct material, the licensee transferring the material shall verify that the transferee's license authorizes the receipt of the type, form, and quantity of byproduct material to be transferred.

Contrary to the above, in 1995, the licensee transferred an electron capture detector (ECD) containing 15 millicuries of nickel-63, a byproduct material, and did not verify that the recipient was authorized to possess the licensed material prior to transfer of the ECD.

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

- B. License Condition 11.B of NRC License No. 29-19276-02 requires that the Radiation Safety Officer for the license be Scott M. Hybiske.

Contrary to the above, as of October 2005, Scott M. Hybiske left the employ of the company and was no longer performing the duties of the Radiation Safety Officer.

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

Pursuant to the provisions of 10 CFR 2.201, Accutest Laboratories is hereby required to submit a written statement or explanation 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). 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, (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 an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

If you contest this enforcement action, you should also provide a copy of your response to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001. Under the 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.

Your response will be placed in the NRC Public Document Room (PDR) and on the NRC Web site. To the extent possible, it should, therefore, not include any personal privacy, proprietary, or safeguards information so that it can be made publically available without redaction. However, if you find it necessary to include such information, you should clearly indicate the specific information that you desire not to be placed in the PDR, and provide the legal basis to support your request for withholding the information from the public.

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

Dated This 27 day of November 2006