



Vincent J. Pugliese

President, CEO

♦  
**Laboratory Facilities**

New Jersey

Massachusetts

Florida

Texas

CERTIFIED MAIL: 7003 1010 0002 7666 9338

December 22, 2006

U.S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, D.C. 20555

**RE: Reply to Notice of Violation From  
Inspections 03029333/2006001 and 99990001/2006050.**

To Whom It May Concern:

Accutest Laboratories of Dayton, New Jersey is in receipt of the Notice of Violation from the United States Nuclear Regulatory Commission (NRC) dated November 27, 2006. Each violation detailed in the notice has been investigated in an attempt to identify the deficiencies that led to their cause. Accutest's findings and corrective action responses follow:

- 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) contain 15 millicuries of nickel-63, a byproduct material, and did not verify that the recipient was authorized to possess the licensed material prior to the transfer of the ECD.**

Accutest Response & Corrective Action. Accutest Laboratories misinterpreted the authority granted under NRC License No. 29-19276-02 and operated under the premise that the license granted authority to possess byproduct material at both the Dayton, New Jersey facility and the Orlando, Florida facility. Accutest New Jersey transferred the byproduct material in question to the Florida facility based on that premise.

♦  
**Corporate Headquarters**

2235 Route 130

Dayton, NJ 08810

tel: 732-329-0200

fax: 732-329-3499

www.accutest.com

IE07

The gas chromatograph containing the byproduct material was never placed into operation and was stored for future use by the Florida facility. During 1997, a decision was made to donate the unit to the Chemistry Department at the University of Oklahoma in Norman, Oklahoma. Documents supporting this donation are no longer in Accutest's possession. Subsequent attempts to acquire supporting documentation from the University of Oklahoma have been unsuccessful.

Additional supporting data documenting possession of the unit containing the byproduct are unavailable. Accutest Laboratories has disposed of the leak test data from this instrument. (10 CFR 31.5(c)(4)(i) provides a three-year minimum, or a transfer of the byproduct, for retaining results).

Since the byproduct material specified in License No. 26-19276-02 has not been in Accutest Laboratories possession since 1997, the need to maintain the license is no longer necessary. NRC Form 314 has been filed requesting termination of this license.

**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.**

Accutest Response & Corrective Action. Accutest Laboratories inadvertently neglected to notify the NRC of a change in the person designated as the Radiation Safety Officer. A letter formally documenting this change has been forwarded to the main NRC offices in Washington, D.C to rectify this violation, and comply with condition 11.B of License No. 29-19276-02. A copy of this letter is enclosed for reference.

The new Radiation Safety Officer is Jamie J. Yakes, Corporate Health & Safety Manager. This change is effective immediately. In the future, Accutest Laboratories will take proper measures to promptly notify the NRC of all changes to personnel designated as Radiation Safety Officers.

Each violation has received careful consideration by the senior management staff to assure that they have been fully resolved.

Enclosed please find the NRC Form 314, RSO change letter, letter from Dr. Harry Behzadi, Laboratory Director of Accutest Laboratories Southeast, and the ALSE Radioactive Materials license from the Florida Department of Health.



We will promptly provide any additional information or perform any additional actions required to resolve these violations.

Sincerely,

ACCUTEST LABORATORIES

A large, stylized handwritten signature in black ink, appearing to read "V. Pugliese".

Vincent J. Pugliese  
President, CEO

Enclosures (4)

cc: U.S. Nuclear Regulatory Commission – Region 1  
Steven Courtemanche, U.S. Nuclear Regulatory Commission – Region 1

JJY/lrl

**NRC FORM 314**  
 (6-2004)  
 10 CFR 30.36(j)(1); 40.42(j)(1);  
 70.38(j)(1); and 72.54(j)(1)

**U.S. NUCLEAR REGULATORY COMMISSION**

**CERTIFICATE OF DISPOSITION OF MATERIALS**

**APPROVED BY OMB: NO. 3150-0028** **EXPIRES: 06/30/2007**

Estimated burden per response to comply with this mandatory collection request: 30 minutes. This submittal is used by NRC as part of the basis for its determination that the facility is released for unrestricted use. Send comments regarding burden estimate to the Records and FOIA/Privacy Services Branch (T-5 F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by internet e-mail to infocollects@nrc.gov, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0028), Office of Management and Budget, Washington, DC 20503. If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

**LICENSEE NAME AND ADDRESS**  
*Accutest Laboratories*  
*2235 Route 130*  
*Dayton, NJ 08810*

<b>LICENSE NUMBER</b> <i>29-19276-02</i>	<b>DOCKET NUMBER</b> <i>030-29333</i>
<b>LICENSE EXPIRATION DATE</b> <i>October 31, 2011</i>	

**A. LICENSE STATUS (Check the appropriate box)**

This license has expired.  This license has not yet expired; please terminate it.

**B. DISPOSAL OF RADIOACTIVE MATERIAL**

*(Check the appropriate boxes and complete as necessary. If additional space is needed, provide attachments)*

The licensee, or any individual executing this certificate on behalf of the licensee, certifies that:

1. No radioactive materials have ever been procured or possessed by the licensee under this license.

2. All activities authorized by this license have ceased, and all radioactive materials procured and/or possessed by the licensee under this license number cited above have been disposed of in the following manner:

a. Transfer of radioactive materials to the licensee listed below:  
*Accutest Laboratories South east, 4405 Vineland Rd, Orlando, FL 32811*

b. Disposal of radioactive materials:

1. Directly by the licensee:

2. By licensed disposal site:

3. By waste contractor:

c. All radioactive materials have been removed such that any remaining residual radioactivity is within the limits of 10 CFR Part 20, Subpart E, and is ALARA.

**C. SURVEYS PERFORMED AND REPORTED**

1. A radiation survey was conducted by the licensee. The survey confirms:

a. the absence of licensed radioactive materials

b. that any remaining residual radioactivity is within the limits of 10 CFR 20, Subpart E, and is ALARA.

2. A copy of the radiation survey results:

a. is attached; or  b. is not attached (Provide explanation);  c. was forwarded to NRC on: \_\_\_\_\_ Date

3. A radiation survey is not required as only sealed sources were ever possessed under this license, and

a. The results of the latest leak test are attached; and/or  b. No leaking sources have ever been identified.

The person to be contacted regarding the information provided on this form:

<b>NAME</b> <i>Jamie J. Yakes</i>	<b>TITLE</b> <i>Health and Safety Officer, RSO</i>	<b>TELEPHONE (Include Area Code)</b> <i>732-329-0200</i>	<b>E-MAIL ADDRESS</b> <i>jamiey@accutest.com</i>
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Mail all future correspondence regarding this license to:  
*Jamie J. Yakes, HSO/RSO, Accutest Laboratories, 2235 Route 130, Dayton, NJ 08810*

**C. CERTIFYING OFFICIAL**

**I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT**

<b>PRINTED NAME AND TITLE</b> <i>Jamie J. Yakes, HSO/RSO</i>	<b>SIGNATURE</b> <i>[Signature]</i>	<b>DATE</b> <i>Dec 22 2006</i>
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**WARNING: FALSE STATEMENTS IN THIS CERTIFICATE MAY BE SUBJECT TO CIVIL AND/OR CRIMINAL PENALTIES. NRC REGULATIONS REQUIRE THAT SUBMISSIONS TO THE NRC BE COMPLETE AND ACCURATE IN ALL MATERIAL RESPECT. 18 U.S.C. SECTION 1001 MAKES IT A CRIMINAL OFFENSE TO MAKE A WILLFULLY FALSE STATEMENT OR REPRESENTATION TO ANY DEPARTMENT OR AGENCY OF THE UNITED STATES AS TO ANY MATTER WITHIN ITS JURISDICTION.**



December 22, 2006

U.S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, D.C. 20555

**RE: Reply to Notice of Violation From Inspections 03029333/2006001 and 99990001/2006050.**

To Whom It May Concern:

Accutest Laboratories Southeast of Orlando, Florida confirms the receipt of the byproduct material identified in License No. 26-19276-02 from Accutest Laboratories Dayton, New Jersey facility during the year of 1995. The byproduct material was contained in a Perkin Elmer gas chromatograph. The gas chromatograph containing the byproduct material was never placed into operation and was placed in storage for future use.

During the calendar year 1997, the gas chromatograph containing the byproduct material specified in the license was donated to the Chemistry Department at the University of Oklahoma in Norman, Oklahoma. Records of this donation no longer exist.

Sincerely,

A handwritten signature in cursive script, appearing to read 'H Behzadi'.

Harry Behzadi, Ph.D.  
Laboratory Director  
Accutest Laboratories Southeast  
JJY

Enclosure 3-1  
Sent 01/16



Jeb Bush  
Governor

M. Rony François, M.D., M.S.P.H., Ph.D.  
Secretary

**THIS IS AN INVOICE**  
May 8, 2006

\$ 300.00  
12 Devices

Agatrest Southeast  
Norman Farmer  
405 Vineyard Road  
Suite 214  
Orlando, FL 32811

Dear General Licensee:

Our records indicate that you currently possess radioactive materials under General License Number ~~60424~~. Chapter 64E-5, "Control of Radiation Hazards," Florida Administrative Code, (F.A.C.), provides for a General License authorizing receipt, possession and use of certain radioactive materials. A General Licensee is also subject to the requirements of subsections 64E-5.206(1) and (4), F.A.C., and the annual renewal fee.

According to our records, ~~10~~ devices are currently held under your general license and these devices are listed on the enclosed inventory. Review this inventory list and strike through any device that has been transferred and is no longer in your possession. Return documentation of the transfer with your updated inventory list. **If additional devices have been received, add them to the inventory.**

To renew your General License, you must submit the annual fee authorized under subparagraphs 64E-5.204(1)(c)1 and 2, F.A.C. The annual fee is \$25.00 for each device currently held under the license. If there are no changes to your inventory list, remit \$250.00 for the ~~10~~ devices and a copy of the validated inventory. If your inventory has changed, update the inventory list and submit a copy with \$25.00 for each device included on it. Retain a copy of the inventory for your files. **Be advised that the inventory cannot be reduced without documentation indicating the disposition of the devices. The annual fee for 2006 is due by June 30, 2006.** Payment may be made by check, money order or journal transfer(JT) (JT code: 64-20-2-569004-64200600-00-001903-00/ PLEASE PROVIDE THIS OFFICE WITH A COPY OF THE EXECUTED JT) and made payable to:

DOH-Bureau of Radiation Control  
Radioactive Materials Section  
4052 Bald Cypress Way, BIN C21  
Tallahassee, FL 32399-1741

**We also require you to verify the information regarding the devices containing radioactive materials. Please complete the enclosed "Certification and Verification Statement" and submit it with your payment and inventory.** You should retain a copy of this for your records. If you have any questions, please call us at (850) 245-4545.

Sincerely,

Kimberly Farmer  
Regulatory Specialist I  
Radioactive Materials Section

Enclosures

## Certification and Verification Statement

**License Number: G0748-1**

A. Submit the name, title and phone number of the individual who has authority to take required action to ensure day to day compliance with applicable regulations.

<i>Norman Farmer</i>	<i>Technical Director</i>	<i>407-425-6700</i>
NAME	TITLE	Phone Number

B. Submit the general licensee name and mailing address: Check if correct or submit corrections.

Accutest Southeast; 4405 Vineland Road Suite C-15  
Orlando, FL 32811

NAME

Address	City,	State	Zip
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C. Verify manufacturer's name, model number, serial number, radioisotope and activity for EACH device listed on the enclosure by a physical inventory and checking the label on the device.

Check if the enclosed inventory list is correct; OR

Check if corrections are made on the inventory list and enclosed with payment.  
*2 Devices added*

D. Provide the address or location of EACH device used or stored. For portable devices list the address of the primary place of storage.

Check if this information is included on the inventory list and enclosed with payment; OR

List location/address for each device below (Use additional sheets as needed).

1. *All 12 devices are located at*
2. *4405 Vineland Road*
3. *Suite C-9*
4. *Orlando, FL 32811*
5. \_\_\_\_\_

I certify that the information concerning the devices has been verified through a physical inventory and checking with the label information and that the responsible individual is aware of the requirements of the general license.

<i>Norman Farmer</i>	<i>Technical Director</i>	<i>6/1/6</i>
NAME	TITLE	Date

(Must be signed by responsible individual (A above) or certifying official for the company.)

General License Number: G0748-1

Inventory Sheet

05/05/2006

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Manufacturer: Agilent Technologies  
Model Number: G2397  
Serial Number: U2325 ✓  
Gauge Type: Electron Capture Detector  
Isotope: Nickel-63  
Activity: 15.00 Unit: milliCurie Devices: 1

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Manufacturer: Agilent Technologies  
Model Number: G2397  
Serial Number: U2326 ✓  
Gauge Type: Electron Capture Detector  
Isotope: Nickel-63  
Activity: 15.00 Unit: milliCurie Devices: 1

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Manufacturer: Agilent Technologies  
Model Number: G2397-65505  
Serial Number: U5858 ✓  
Gauge Type: ECD  
Isotope: Ni-63  
Activity: 15.00 Unit: milliCurie Devices: 1

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Manufacturer: Agilent Technologies  
Model Number: G2397-65505  
Serial Number: U5859 ✓  
Gauge Type: ECD  
Isotope: Ni-63  
Activity: 15.00 Unit: milliCurie Devices: 1

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Manufacturer: Hewlett Packard Company  
Model Number: G2397  
Serial Number: U1320 ✓  
Gauge Type: ECD  
Isotope: Nickel-63  
Activity: 15.00 Unit: milliCurie Devices: 1

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Manufacturer: Hewlett Packard Company  
Model Number: 19233  
Serial Number: L5775 ✓  
Gauge Type: Electron Capture Detector  
Isotope: Nickel 63  
Activity: 15.00 Unit: milliCurie Devices: 1

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General License Number: G0748-1

Inventory Sheet

05/05/2006

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Manufacturer: Hewlett Packard Company  
 Model Number: G1223A  
 Serial Number: F2696 ✓  
 Gauge Type: Electron Capture Detector  
 Isotope: Nickel 63  
 Activity: 15.00 Unit: milliCurie Devices: 1

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Manufacturer: Hewlett Packard Company  
 Model Number: G1223A  
 Serial Number: F4995 ✓  
 Gauge Type: Electron Capture Detector  
 Isotope: Nickel 63  
 Activity: 15.00 Unit: milliCurie Devices: 1

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Manufacturer: Hewlett Packard Company  
 Model Number: 19233 ✓  
 Serial Number: F1343 ✓  
 Gauge Type: Electron Capture Detector  
 Isotope: Nickel 63  
 Activity: 15.00 Unit: milliCurie Devices: 1

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Manufacturer: Hewlett Packard Company  
 Model Number: G2397  
 Serial Number: U1066 ✓  
 Gauge Type: ECD  
 Isotope: Nickel-63  
 Activity: 15.00 Unit: milliCurie Devices: 1

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Total Number of Devices: ~~10~~ 12

Manufacturer: Agilent Technologies  
 Model Number: G2397-65505  
 Serial Number: U9991  
 Gauge Type: ECD  
 Isotope: Ni-63  
 Activity: 15.00 Unit: milliCurie Devices: 1

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*New*

Manufacturer: Agilent Technologies  
 Model Number: G2397-65505  
 Serial Number: U9992  
 Gauge Type: ECD  
 Isotope: Ni-63  
 Activity: 15.00 Unit: milliCurie Devices: 1

*New*



December 22, 2006

U.S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, D.C. 20555

**RE: Radiation Safety Officer**

To Whom It May Concern:

As of February 2006, Jamie J. Yakes has been assigned the responsibility of Radiation Safety Officer (RSO) for Accutest Laboratories in Dayton, New Jersey.

The former RSO, Scott M. Hybiske, left the employ of the Company in October 2005.

Sincerely,

David N. Speis  
Director, Corporate Quality Assurance  
Accutest Laboratories

CC: Document Control Desk, U.S.-NRC  
Regional Administrator, Region 1, U.S. NRC  
Steven Courtemanche, Region 1, U.S. NRC