

March 22, 2000

Mr. David M. Main
Vice President - Counsel
Arvin Industries, Inc
One Noblitt Plaza
Box 3000
Columbus, IN 47202-3002

SUBJECT: REPORT OF MISSING AMERICIUM FIXED GAUGE

Dear Mr. Main:

Thank you for your May 11, 1999, letter notifying the NRC Region III office of the loss of a fixed gauge containing americium-241. You reported that the gauge, a Loral Xact Ray thickness gauge Serial Number 48761-1, containing 1 curie (37 gigabecquerels) of americium-241, had been identified as missing on April 9, 1999.

Since your report, Arvin has conducted an investigation into the missing device, the NRC conducted inspections of the circumstances surrounding the device's disappearance, and the NRC's Office of Investigation conducted an investigation into the missing device (synopsis enclosed). Based on the results of those activities, we have concluded that the gauge was deliberately taken; however, no specific individual or organization could be identified as having taken the gauge.

The NRC is not taking enforcement action for the lost gauge. Under the Interim Enforcement Policy for Generally Licensed Devices, 63 FR 66492, enforcement action normally will not be taken for violations of 10 CFR 31.5 if they are identified by the general licensee and reported to the NRC if reporting is required, provided (among other things) that the general licensee takes appropriate corrective action to address the specific issues and prevent recurrence of similar problems. This approach is intended to encourage general licensees to determine if applicable requirements have been met, to search their facilities to assure that sources are located, and to develop appropriate corrective action when deficiencies are found. The NRC recognizes your cooperation in this regard.

In Accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, and enclosure will be placed in the NRC Public Document Room.

B-33

D. Main

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We will gladly discuss any questions you have concerning this matter.

Sincerely,

Cynthia D. Pederson, Director
Division of Nuclear Materials Safety

Docket No: 9999003
General Licensee: 10 CFR 31

bcc: PUBLIC IE-07

DOCUMENT NAME: G:\SEC\ARV9999003.DNM.WPD

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IE07

D. Main

-2-

We will gladly discuss any questions you have concerning this matter.

Sincerely,

/s/ R.J. Caniano for

Cynthia D. Pederson, Director
Division of Nuclear Materials Safety

Docket No: 9999003
General Licensee: 10 CFR 31

Enclosure: As stated

bcc w/encl: PUBLIC IE-07

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SYNOPSIS

On May 6, 1999, U.S. Nuclear Regulatory Commission, Office of Investigations, Region III, initiated an investigation to determine if a nuclear gauge had been transferred in violation of 10 CFR Part 31 and possessed by an unlicensed person in violation of the Atomic Energy Act.

Based on the evidence developed during this investigation, it is concluded that a nuclear gauge, possessed on a general domestic license for byproduct material, was inadvertently transferred to an unknown unlicensed person in violation of 10 CFR Part 31, and deliberately possessed by an unknown unlicensed person in Violation of the Atomic Energy Act.