ALLIANCE IMAGING

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May 12, 2009

United States Nuclear Regulatory Commission
Region III
2443 Warrenville Road, Suite 210
Lisle, Illinois 60532-4352
ATTN: Kenneth J. Lambert, Acting Chief, Materials Inspection Branch

Re: Reply to a Notice of Violation
Docket No. 03037432
License No. 12-32648-01

Dear Mr. Lambert,

This correspondence and the attached enclosures will serve as the "Reply to a Notice of Violation" issued to Medical Outsourcing Services ("MOS"), by letter dated April 17, 2007 (Attached).

Background

MOS was inspected on February 18 and 19, 2009, at its facility located at 1315 Macom Dr., Naperville, Illinois, and a temporary jobsite in Crown Point, Indiana. Following that inspection, Mr. Bob Gattone of the NRC requested responses to several questionnaires regarding the ownership and operation of MOS and of another company, Shared Pet Imaging, LLC (License No. 34-30614-01)("SPI") after learning of the acquisition of the membership interests of both MOS and SPI by Alliance HealthCare Services, Inc. ("Alliance", f/k/a Alliance Imaging, Inc.). Responses to those questionnaires were provided (Attached) on a timely basis, and resulted in the issuance of the Notice of Violation from the NRC.

Specifically, the NRC determined that MOS was in violation of 10 CFR 30.34(b), when it transferred its membership interests to Alliance on July 29, 2008 without the prior written consent of the NRC. 10 CFR 30.34(b) requires, in part, that no NRC license nor any right under the license shall be transferred, assigned or in any other manner disposed of, either voluntarily or involuntarily, directly or indirectly, through a transfer of control of any license to any person, unless the Commission, after securing full information, find that the transfer is in accordance with the provisions of the Act and shall give its consent in writing.

Specific Reply to Notice of Violation

1. *Reason for the violation.*

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The reason for the violation as stated by the NRC was the failure of MOS to notify the NRC in advance of the transfer of its membership interests to Alliance, effective July 29, 2008. Given the NRC's position that the transfer of membership interests constituted a transfer of control under 10 CFR 30.34(b), MOS and/or Alliance should have prepared a Transfer of Control application prior to the July 29, 2008 transaction that resulted in a transfer of the membership interests in MOS to Alliance, but failed to do so.

As indicated in prior responses to Mr. Gattone, Alliance and MOS believe that Alliance's acquisition of the membership interests of MOS was not a change of control of MOS's NRC license under 10 CFR 30.34(b). However, in the spirit of cooperation neither Alliance nor MOS have chosen to appeal the NRC's determination. Alliance and MOS's basis for its determination that there was no change of control is the basis for the violation.

As indicated previously to Mr. Gattone, 10 CFR 30.34(b) provides as follows:

> No license issued or granted pursuant to the regulations in this part and parts 31 through 36, and 39 nor any right under a license shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Commission shall, after securing full information, find that the transfer is in accordance with the provisions of the Act and shall give its consent in writing.

It was, and is our understanding that in interpreting this regulation the NRC is primarily concerned with ensuring the following:

- Radioactive materials are possessed, used, or controlled only by persons who have valid NRC licenses;
- Materials are properly handled and secured;
- Persons using these materials are competent and committed to implementing appropriate radiological controls;
- A clear chain of custody is established to identify who is responsible for disposition of records and licensed material;
- The transferee has the financial resources to decommission the license, if necessary; and
- Public health and safety are not compromised by the use of such materials.

On review of these concerns we believed that following Alliance's acquisition of the membership units of MOS that each of these concerns was satisfied. In other words, following the acquisition of the membership units by Alliance:

- MOS's radioactive materials continued to be possessed, used, and controlled under its existing valid NRC license;

- MOS's daily use of radioactive materials continued under the same policies and procedures and supervision and control of the same RSO;
- The persons using the radioactive materials on a daily basis did not change.
- MOS continued to provide the same mobile PET/CT services at the same sites with the same facilities and equipment;
- The chain of custody establishing who is responsible for disposition of records and licensed material remained the same;
- MOS continued to operate as a business entity under the same name, at the same business address and under the same tax identification number; and
- MOS continued to have the financial resources to decommission the license, if necessary, and in fact had even greater financial resources as a wholly owned subsidiary of Alliance.

Indeed the only real changes following the transaction were the identity of the member of MOS (Alliance), the resignation of some senior level management personnel and the inclusion of MOS's radiation safety program into the company wide radiation safety program maintained by Alliance. Under that program, the existing MOS radiation safety officer now reports up to an Alliance corporate-wide radiation safety officer. Given the nature of these few minor changes that did not affect the possession, use or control of radioactive materials Alliance and MOS determined that the public health and safety were not affected, much less compromised by Alliance's acquisition of MOS's membership interests. Accordingly, the violation arose after the NRC disagreed with our reasoned interpretation that a change of control did not arise.

2. *The corrective steps that have been taken and the results achieved.*

- As indicated previously, MOS was inspected on February 18 and 19, 2009, at its facility located at 1315 Macom Dr., Naperville, Illinois, and a temporary jobsite in Crown Point, Indiana. Following that inspection, Mr. Bob Gattone requested responses to several questionnaires regarding the ownership and operation of MOS and SPI, two of which were questionnaires containing the same questions that are included in the NRC's change of control application. Responses to those questionnaires were provided on March 4, 2009 and March 9, 2009.

  In preparing responses to those questionnaires Alliance and MOS undertook an in depth analysis of the NRC change of control regulations in light of the acquisition of the membership interests of MOS and SPI to determine whether its original position that a change in control did not arise was correct. That analysis involved multiple layers of management personnel (including senior level management personnel, the corporate RSO and the MOS RSO) within Alliance and MOS, Alliance's in-house legal staff, and external legal counsel. While the results of that analysis supported the original interpretation that a change of control did not exist, Alliance and MOS understand and appreciate the NRC's position and have elected to abide by it rather than to appeal it.

- In light of the NRC's analysis and findings, Alliance reconsidered its interpretation of the NRC's change of control regulations. That reconsideration resulted in a renewed

outlook as to how to address and analyze potential acquisitions that include NRC licensed facilities. Namely, Alliance determined that in the context of future acquisitions with a potential change of control Alliance will complete the NRC change of control application and submit it to the NRC pre-closing in order to receive a formal determination from the NRC as to whether a change of control exists; especially when Alliance acquires all, or a majority of the stock or membership interests of an NRC licensed facility, or when an acquisition will result in a change in the corporate structure responsible for the management, oversight, control or radiological safety of licensed materials.

Alliance also drafted a new policy, which is applicable to all of its subsidiaries including MOS and SPI, designating the change of control/change of ownership process to be followed when Alliance acquires an entity licensed by the NRC and/or state nuclear regulatory agencies (Attached).

- In February of this year Alliance requested that Region I of the NRC consolidate the NRC licenses held by Alliance, MOS and SPI in Region I under the current Alliance NRC license. A copy of that request is attached to this corrective action plan. It is anticipated this request will be approved by Region I the week of May 15th, and that a new NRC license covering all facilities operated by Alliance, MOS and SPI will be issued by Region I. As part of that request, Alliance was directed by Region I to terminate the NRC licenses separately maintained by MOS and SPI when the new NRC license is received. If requested, we will forward a copy of the new NRC license upon receipt from Region I, and a copy of the requests to terminate the separate NRC licenses for MOS and SPI. Consolidating these licenses under the current Alliance NRC license in this manner will eliminate the need for MOS and SPI to amend their current NRC certificates by filing NRC Form 313.

3. *The corrective steps that will be taken to avoid further violations.*

Additional corrective steps that will be taken to avoid further violations include the following:

- Upon receipt of approval to consolidate the separate NRC licenses for Alliance, MOS, and SPI in Region I, Alliance will approach the remaining NRC Regions and similarly pursue consolidation of all NRC licenses held by Alliance and its various subsidiaries across the country under one solitary NRC license. That one NRC license will then be the only NRC license maintained by Alliance and its subsidiaries across all NRC regions.

- On a go forward basis, and as indicated above Alliance will treat future acquisitions of NRC licensed entities as potential changes of control and complete the NRC change of control application and submit it pre-closing in order to receive a formal determination from the NRC.

  Moreover, Alliance by and through its in-house legal counsel will educate its mergers and acquisitions team on the importance of analyzing a potential acquisition in light

of the NRC's change of control regulations and the necessity to seek a formal determination from the NRC on the existence of a change of control of NRC licensed facilities by preparing and submitting of a change of control application to the NRC in advance of closing. Then, based on that determination, if a change in control is found Alliance and the target acquisition will prepare the necessary amendments and/or terminations to the NRC licenses post closing in pursuit of Alliance's goal of maintaining one NRC license.

4. *The date when full compliance will be achieved.*

Full compliance will be achieved when Alliance receives its consolidated license in Region I, thereby merging the currently separate licenses for Alliance, SPI and MOS under Alliance's existing NRC license. The actual date will depend on the date the consolidated NRC license is received for Region I and the date the current MOS and SPI NRC licenses are terminated. While we anticipate the consolidated NRC license will be received the week of May 15th, we are not able ensure receipt by that time frame, but do anticipate that within 30 days of submission of this correspondence the consolidated NRC license will be issued by Region I and the NRC licenses for MOS and SPI will be terminated.

If you have any further questions, or are in need of additional materials please contact Mr. Mike Culley, Corporate RSO, Alliance HealthCare Services, Inc., at 978-852-3527 or by email at mculley@alliancehealthcareservices-us.com .

Sincerely,

Lisa Price
Senior Vice President, Central Region

Enclosures

cc: Mike Culley, Corp. RSO (w/enc.)
Rob Polisky, Esq. (w/enc.)
Ross E. Sallade, Esq. (w/enc.)

Attachments

1. Correspondence dated April 17, 2009 from the USNRC to Lisa Price.
2. Correspondence dated February 2, 2009 from Alliance Imaging to USNRC, Region I.
3. Email correspondence dated March 23, 2009 from Mr. Michael Culley to Mr. Robert Gattone.
4. Email correspondence regarding Medical Outsourcing Services, LLC, dated March 9, 2009 from Mr. Michael Culley to Mr. Robert Gattone.
5. Email correspondence regarding Shared Pet Imaging, LLC, dated March 9, 2009 from Mr. Michael Culley to Mr. Robert Gattone.

ALLIANCE IMAGING

March 23, 2009

Responses
Letter dated 3/9/09

Q: Did Alliance Imaging lawyers contribute to the subject letter?

A: Yes, the Alliance legal team edited and reviewed responses.

Q: Please submit, in writing, the basis for Alliance Imaging's position that the information contained in the subject letter does not constitute a change of control in the context of 10 CFR 30.34(b). You may reference the subject letter, as applicable.

A: Alliance Imaging (Alliance) believes that its acquisition of the membership interests of Medical Outsourcing Services, LLC (MOS) was not a change of control of MOS's NRC license under 10 CFR 30.34(b). That regulation provides as follows:

> No license issued or granted pursuant to the regulations in this part and parts 31 through 36, and 39 nor any right under a license shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Commission shall, after securing full information, find that the transfer is in accordance with the provisions of the Act and shall give its consent in writing.

It is our understanding that in interpreting this regulation the NRC is primarily concerned with ensuring the following:

- Radioactive materials are possessed, used, or controlled only by persons who have valid NRC licenses
- Materials are properly handled and secured
- Persons using these materials are competent and committed to implementing appropriate radiological controls
- A clear chain of custody is established to identify who is responsible for disposition of records and licensed material
- The transferee has the financial resources to decommission the license, if necessary
- Public health and safety are not compromised by the use of such materials.

P.O. Box 6600
Newport Beach CA 92660
Tel: 800.544.3215 Fax: 888.662.2730
www.allianceimaging.com

On review of these concerns Alliance believes that following the acquisition of the membership units of MOS that each of these concerns was satisfied. In other words, following the acquisition of the membership units:

- MOS's radioactive materials continued to be possessed, used, and controlled under its existing valid NRC license.
- MOS's daily use of radioactive materials continued under the same policies and procedures and supervision and control of the same RSO.
- The persons using the radioactive materials on a daily basis did not change.
- MOS continued to provide the same mobile PET/CT services at the same sites with the same facilities and equipment.
- The chain of custody establishing who is responsible for disposition of records and licensed material remained the same.
- MOS continued to operate as a business entity under the same name, at the same business address and under the same tax identification number.
- MOS continued to have the financial resources to decommission the license, if necessary, and in fact had even greater financial resources as a wholly owned subsidiary of Alliance.

Indeed the only real changes following the transaction include the identity of the member of MOS (Alliance), the resignation of some senior level management personnel and the inclusion of MOS's radiation safety program into the company wide radiation safety program maintained by Alliance. Under that program, the existing MOS radiation safety officer now reports up to an Alliance corporate-wide radiation safety officer. Given the nature of these few minor changes that do not affect the possession, use or control of radioactive materials the public health and safety were affected, much less compromised.

Q: Please provide the organizational chart for MOS effective just prior to 7/29/08, including any relationship to Alliance Imaging, if applicable.

A: The organizational chart demonstrating the relevant reporting relationships for Operations is attached. We would also point out that prior to 7/29/08: Mr. Greg Pape was the CEO for MOS and his Vice President of Operations was Mr. Michael Roux. Ms. Amy Hunt-Reimann was the RSO.

Q: Please provide the organizational chart for MOS effective just after 7/29/08, including the relationship to Alliance Imaging.

A: The organizational chart demonstrating the relevant reporting relationships for Operations is attached. We would also point out that following the closing on 7/29/08: Mr. Greg Pape was moved to a business consultant role for MOS, Mr. Roux remained as the Manager of Operations and Ms. Amy Hunt-Reimann remained the RSO.

Q: If the organizational chart for MOS just after 7/29/08 does not represent the current organization, please provide the current organizational chart for MOS.

A: The current organizational chart demonstrating the relevant reporting relationships for Operations for MOS is attached. We would also point out since the time immediately following closing on 7/29/08: Mr. Greg Pape continues in his role as a business consultant, Mr. Roux continues in his role as the Manager of Operations and Ms. Amy Hunt-Reimann remains the RSO.

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Q: Are you authorized to represent Alliance Imaging regarding NRC matters?

A: I am the Director of Operations and corporate RSO for Alliance. As the corporate RSO I am authorized to represent Alliance regarding:

- Alliance's possession, use or control of radioactive materials,
- Matters relating to Alliance's compliance with the terms and conditions of its NRC licenses,
- Amendment requests to Alliance's NRC licenses,
- Alliance's corporate wide radiation safety program, review of audits of compliance with that radiation safety program, and training programs to ensure that personnel are competent.

NRC matters that rise to a legal nature are handled by Alliance's General Counsel office.

Q: Are you authorized to represent MOS regarding NRC matters?

A: As indicated above, I am the corporate RSO for Alliance. Ms. Amy Hunt-Riemann is the RSO for MOS. As the RSO for MOS, Ms. Hunt-Rienmann is responsible for:

- MOS's daily operational possession, use or control of radioactive materials,
- Matters relating to MOS's daily operational compliance with the terms and conditions of its NRC license,
- MOS's compliance with its radiation safety program, including a review of audits of compliance with that radiation safety program, and training MOS personnel to ensure they are competent.

As an RSO for one of Alliance's wholly owned subsidiaries Ms. Hunt-Riemann reports to me. Ms. Hunt-Riemann has the authority to represent MOS to the NRC regarding NRC matters that pertain to daily operational matters of and concerning MOS's NRC license, but as the corporate RSO I share that authority and exceed it when NRC matters rise above daily operational matters and impact Alliance on a corporate level.

NRC matters that rise to a legal nature are handled by Alliance's General Counsel office.

If you have any questions please contact me at 879-852-3527 or by email:
mculley@allianceimaging.com

Sincerely,

Michael Culley MS CNMT
Corporate Radiation Safety Officer

MC/rlv

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Nuclear Medicine PET Policy and Procedure
Procedure Title: Change of Control
Category: Radiation Safety
Policy Number: NM RS 0028

Effective date: 4/27/2009
Reviewed date:

Notification of Transfer of Control

Policy: To ensure proper notification of a potential transfer of control of an NRC license to the Nuclear Regulatory Commission (NRC) and of a state nuclear medicine license to the responsible state agency.

Procedure:

1. *NRC Licenses*. Under regulations 10 CFR 30.34(b) and 10 CFR 35.14 licensees must provide full information and obtain NRC's written consent before transferring control of an NRC license. A transfer of control may arise as a result of a merger, buyout, when Alliance acquires all, or a majority of the stock or membership interests of an NRC licensed facility, or when an acquisition will result in a change in the corporate structure responsible for the management, oversight, control or radiological safety of NRC licensed materials.

When the EVP of Mergers and Acquisitions, or his or her designee, notifies the Corporate Radiation Safety Officer that it is reasonably foreseeable that Alliance will acquire an NRC licensed facility and it is determined that that acquisition will or could result in the transfer of control of an NRC license responses to the questions contained in Appendix G NUREG 1556 volume 9 revision 2 (Attached) must be prepared and submitted to the NRC Region responsible for the geographic area in which the acquired facility is located. Responses must be submitted to the NRC before the closing of a transaction and far enough in advance of the contemplated transfer of control to allow the NRC sufficient time to process the application, but in no event less than 15 business days prior to the closing of the transaction. In the event the NRC determines there is indeed a change of control of the NRC license, it will be necessary to complete an amendment to the licensees NRC license by the preparation and filing of NRC Form 313 (Attached).

Obtaining consent from the NRC is necessary to ensure:

- Radioactive Materials are possessed, used, or controlled only by persons who have valid NRC licenses;
- Materials are properly handled and secured
- Persons using these materials are competent. And committed to implementing appropriate radiological controls;
- A clear chain of custody is established to identify who is responsible for the final disposal of material; and

- Public health and safety are not compromised by the use of such materials.

2. *State Nuclear Medicine Licenses*. While a federal NRC license is not required in the various "agreement" states, each of those states do have similar licensure requirements with similar notification requirements when a change in control or ownership of a licensed entity is contemplated. The details for each of the individual state requirements are beyond the scope of this policy. However, any time there is a transaction in which Alliance will merge, buyout, or acquire all, or a majority of the stock or membership interests of a state licensed facility, or when an acquisition of a state licensed facility will result in a change in the corporate structure responsible for the management, oversight, control or radiological safety of state licensed materials, the individual requirements for the respective state must be determined in advance and proper notification afforded the responsible state agency.

3. Any notifications regarding a potential change in control or change of ownership provided to the NRC or the responsible state agency in advance of the closing of a transaction shall include a cover letter explaining the confidential nature of the transaction and requesting that the information contained in the request be kept confidential, and exempt from FOIA requests until at least 7 days after closing of the transaction.

4. In the event you have any questions with regards to this Policy, the completion of the Change of Control Application, submission of the application to the NRC, the completion and submission of NRC Form 313, or the individual state licensing requirements or how to locate them, please contact your Radiation Safety Officer, the Corporate Radiation Safety Officer, or a member of the of the Alliance General Counsel's office.

Source: NUREG 1556 volume 9 revision 2

References: www.nrc.gov

Attachments: Appendix G NUREG 1556 volume 9 version 2
NRC Form 313

UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
2443 WARRENVILLE ROAD, SUITE 210
LISLE, ILLINOIS 60532-4352

April 17, 2009

Lisa Price, Senior Vice President
Medical Outsourcing Services
1315 Macom Drive
Naperville, IL 60564

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 030-37432/2009-01(DNMS) AND NOTICE OF VIOLATION

Dear Ms. Price:

This refers to the inspection conducted on February 18, and 19, 2009, at your 1315 Macom Drive, Naperville, Illinois facility, and a temporary jobsite in Crown Point, Indiana, with continued NRC in-office review through March 23, 2009. The NRC in-office review included receipt and review of information regarding a transfer of control of NRC License No. 12-32648-01. This inspection was an examination of activities conducted under your license as they relate to safety and compliance with the Commission's rules and regulations and with the conditions of your license. Within these areas, the inspection consisted of selected examination of procedures and representative records, observations of activities, and interviews with personnel.

Based on the results of this inspection, the NRC has determined that a Severity Level IV violation of NRC requirements occurred. The violation involves failure to obtain NRC written consent before a transfer of control of NRC License No. 12-32648-01. The violation was evaluated in accordance with the NRC Enforcement Policy included on the NRC's Web site at www.nrc.gov; select **What We Do**, **Enforcement**, then **Enforcement Policy**.

The violation is cited in the enclosed Notice of Violation (Notice). The violation is being cited in the Notice because it was identified by the inspector.

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. 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 enclosures, 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/reading-rm/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,

Kenneth J. Lambert

Kenneth J. Lambert, Acting Chief
Materials Inspection Branch

Docket No. 03037432
License No. 12-32648-01

Enclosures:
1. Notice of Violation
2. Information Notice 96-28

NOTICE OF VIOLATION

Medical Outsourcing Services
Naperville, Illinois

Docket No. 030-37432
License No. 12-32648-01

During an NRC inspection conducted on February 18, and 19, 2009, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

> 10 CFR 30.34(b) requires, in part, that no NRC license nor any right under the license shall be transferred, assigned or in any other manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Commission, after securing full information, find that the transfer is in accordance with the provisions of the Act and shall give its consent in writing.
>
> Contrary to the above, on July 29, 2008, control of NRC License No. 12-32648-01 was transferred from Medical Outsourcing Services (MOS) to Alliance HealthCare Services, Inc. (Alliance) through Alliance's purchase of all of the membership interest of MOS without prior written consent from the Commission.
>
> This is a Severity Level IV violation (Supplement VI).

Pursuant to the provisions of 10 CFR 2.201, Medical Outsourcing Services is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator, 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 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, 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 2.390(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 17 day of April, 2009.

NOTE: The following information is an updated excerpt from NRC Information Notice 96-28 issued in 1996.

NRC INFORMATION NOTICE 96-28

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS
WASHINGTON, D.C. 20555

May 1, 1996

NRC INFORMATION NOTICE 96-28: SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION

Addressees

All material and fuel cycle licensees.

Purpose

The U.S. Nuclear Regulatory Commission (NRC) is issuing this information notice to provide addressees with guidance relating to development and implementation of corrective actions that should be considered after identification of violation(s) of NRC requirements. It is expected that recipients will review this information for applicability to their facilities and consider actions, as appropriate, to avoid similar problems. However, suggestions contained in this information notice are not new NRC requirements; therefore, no specific action nor written response is required.

Background

On June 30, 1995, NRC revised its Enforcement Policy, to clarify the enforcement program's focus by, in part, emphasizing the importance of identifying problems before events occur, and of taking prompt, comprehensive corrective action when problems are identified. Consistent with the revised Enforcement Policy, NRC encourages and expects identification and prompt, comprehensive correction of violations.

In many cases, licensees who identify and promptly correct non-recurring Severity Level IV violations, without NRC involvement, will not be subject to formal enforcement action. Such violations will be characterized as "non-cited" violations as provided in Section VI.A of the Enforcement Policy. Minor violations are not subject to formal enforcement action. Nevertheless, the root cause(s) of minor violations must be identified and appropriate corrective action must be taken to prevent recurrence.

If violations of more than a minor concern are identified by the NRC during an inspection, licensees will be subject to a Notice of Violation and may need to provide a written response, as

required by 10 CFR 2.201, addressing the causes of the violations and corrective actions taken to prevent recurrence.

In some cases, such violations are documented on Form 591 (for materials licensees) which constitutes a notice of violation that requires corrective action but does not require a written response. If a significant violation is involved, a predecisional enforcement conference may be held to discuss those actions.

The quality of a licensee's root cause analysis and plans for corrective actions may affect the NRC's decision regarding both the need to hold a predecisional enforcement conference with the licensee and the level of sanction proposed or imposed.

Discussion

Comprehensive corrective action is required for all violations. In most cases, NRC does not propose imposition of a civil penalty where the licensee promptly identifies and comprehensively corrects violations. However, a Severity Level III violation will almost always result in a civil penalty if a licensee does not take prompt and comprehensive corrective actions to address the violation.

It is important for licensees, upon identification of a violation, to take the necessary corrective action to address the noncompliant condition and to prevent recurrence of the violation and the occurrence of similar violations. Prompt comprehensive action to improve safety is not only in the public interest, but is also in the interest of licensees and their employees. In addition, it will lessen the likelihood of receiving a civil penalty. Comprehensive corrective action cannot be developed without a full understanding of the root causes of the violation.

Therefore, to assist licensees, the NRC staff has prepared the following guidance, that may be used for developing and implementing corrective action. Corrective action should be appropriately comprehensive to not only prevent recurrence of the violation at issue, but also to prevent occurrence of similar violations. The guidance should help in focusing corrective actions broadly to the general area of concern rather than narrowly to the specific violations. The actions that need to be taken are dependent on the facts and circumstances of the particular case.

The corrective action process should involve the following three steps:

1. Conduct a complete and thorough review of the circumstances that led to the violation. Typically, such reviews include:

    - Interviews with individuals who are either directly or indirectly involved in the violation, including management personnel and those responsible for training or procedure development/guidance. Particular attention should be paid to lines of communication between supervisors and workers.

    - Tours and observations of the area where the violation occurred, particularly when those reviewing the incident do not have day-to-day contact with the operation under review. During the tour, individuals should look for items that

may have contributed to the violation as well as those items that may result in future violations. Reenactments (without use of radiation sources, if they were involved in the original incident) may be warranted to better understand what actually occurred.

- Review of programs, procedures, audits, and records that relate directly or indirectly to the violation. The program should be reviewed to ensure that its overall objectives and requirements are clearly stated and implemented. Procedures should be reviewed to determine whether they are complete, logical, understandable, and meet their objectives (i.e., they should ensure compliance with the current requirements). Records should be reviewed to determine whether there is sufficient documentation of necessary tasks to provide an record that can be audited and to determine whether similar violations have occurred previously. Particular attention should be paid to training and qualification records of individuals involved with the violation.

2. Identify the root cause of the violation.

   Corrective action is not comprehensive unless it addresses the root cause(s) of the violation. It is essential, therefore, that the root cause(s) of a violation be identified so that appropriate action can be taken to prevent further noncompliance in this area, as well as other potentially affected areas. Violations typically have direct and indirect cause(s). As each cause is identified, ask what other factors could have contributed to the cause. When it is no longer possible to identify other contributing factors, the root causes probably have been identified. For example, the direct cause of a violation may be a failure to follow procedures; the indirect causes may be inadequate training, lack of attention to detail, and inadequate time to carry out an activity. These factors may have been caused by a lack of staff resources that, in turn, are indicative of lack of management support. Each of these factors must be addressed before corrective action is considered to be comprehensive.

3. Take prompt and comprehensive corrective action that will address the immediate concerns and prevent recurrence of the violation.

   It is important to take immediate corrective action to address the specific findings of the violation. For example, if the violation was issued because radioactive material was found in an unrestricted area, immediate corrective action must be taken to place the material under licensee control in authorized locations. After the immediate safety concerns have been addressed, timely action must be taken to prevent future recurrence of the violation. Corrective action is sufficiently comprehensive when corrective action is broad enough to reasonably prevent recurrence of the specific violation as well as prevent similar violations.

In evaluating the root causes of a violation and developing effective corrective action, consider the following:

1. Has management been informed of the violation(s)?

2. Have the programmatic implications of the cited violation(s) and the potential presence of similar weaknesses in other program areas been considered in formulating corrective actions so that both areas are adequately addressed?

3. Have precursor events been considered and factored into the corrective actions?

4. In the event of loss of radioactive material, should security of radioactive material be enhanced?

5. Has your staff been adequately trained on the applicable requirements?

6. Should personnel be re-tested to determine whether re-training should be emphasized for a given area? Is testing adequate to ensure understanding of requirements and procedures?

7. Has your staff been notified of the violation and of the applicable corrective action?

8. Are audits sufficiently detailed and frequently performed? Should the frequency of periodic audits be increased?

9. Is there a need for retaining an independent technical consultant to audit the area of concern or revise your procedures?

10. Are the procedures consistent with current NRC requirements, should they be clarified, or should new procedures be developed?

11. Is a system in place for keeping abreast of new or modified NRC requirements?

12. Does your staff appreciate the need to consider safety in approaching daily assignments?

13. Are resources adequate to perform, and maintain control over, the licensed activities? Has the radiation safety officer been provided sufficient time and resources to perform his or her oversight duties?

14. Have work hours affected the employees' ability to safely perform the job?

15. Should organizational changes be made (e.g., changing the reporting relationship of the radiation safety officer to provide increased independence)?

16. Are management and the radiation safety officer adequately involved in oversight and implementation of the licensed activities? Do supervisors adequately observe new employees and difficult, unique, or new operations?

17. Has management established a work environment that encourages employees to raise safety and compliance concerns?

18. Has management placed a premium on production over compliance and safety? Does

management demonstrate a commitment to compliance and safety?

19. Has management communicated its expectations for safety and compliance?

20. Is there a published discipline policy for safety violations, and are employees aware of it? Is it being followed?

This information notice requires no specific action nor written response. If you have any questions about the information in this notice, please contact one of the technical contacts listed below.

Robert C. Pierson, Director
Division of Fuel Cycle Safety and Safeguards
Office of Nuclear Material Safety
and Safeguards

Donald A. Cool, Director
Division of Industrial and Medical Nuclear
Office of Nuclear Material Safety and
and Safeguards

Technical contacts: (Updated as of November 22, 2005)

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Karla Fuller, RIV
(817) 860-8222
Internet:gsf@nrc.gov

ALLIANCEIMAGING

100 Bayview Circle
Newport Beach, CA 92660

March 9, 2009

Sent Via E-mail to Robert.Gattone@nrc.gov

Mr. Robert Gattone
United States Nuclear Regulatory Commission
Region III
2443 Warrenville Rd
Lisle IL 60532

Dear Bob:

The following is offered in response to your request for information concerning Alliance HealthCare Services, Inc.'s (formerly known as Alliance Imaging, Inc.) acquisition of Medical Outsourcing Services, LLC.

1. Provide a complete description of the transaction (transfer of stocks or assets, or merger). Indicate whether the name has changed and include the new name. Include the name and telephone number of a licensee contact whom NRC may contact if more information is needed.

Response: On July 29, 2008, Alliance HealthCare Services, Inc. ("Alliance") purchased all of the membership interest of Medical Outsourcing Services, LLC ("MOS"), thereby making MOS a wholly owned subsidiary of Alliance. MOS maintains its name, address and Radiation Safety Officer. The licensee contact is Michael Culley MS CNMT Alliance Imaging Corporate Radiation Safety Officer.
Phone number: 978-852-3527
Email: mculley@alliancehealthcareservices-us.com

2. Describe any changes in personnel or duties that relate to the licensed program. Include training and experience for new personnel.

Response: Amy Hunt-Riemann remains as the RSO on the license.

3. Describe any changes in the organization, location, facilities, equipment, or procedures that relate to the licensed program.

Response: MOS continues to provide mobile PET/CT services at mobile sites under the jurisdiction of the NRC license. The equipment and facilities are the same. The address of business has not changed. There have been management changes due to resignations and terminations. The Radiation safety program is still supervised by RSO Amy Hunt-Riemann, CNMT and she is supervised by Michael Culley MS CNMT.

4. Describe the status of the surveillance program (surveys, wipe tests, quality control) at the present time and the expected status at the time that control is to be transferred.

Response: At this time, all surveys, wipe tests, and quality control activities are current. Upon NRC approval, Alliance will assume control of all licensed activities including maintaining surveys, wipe tests and quality control and take possession and responsibility of sealed sources.

5. Confirm that all records concerning the safe and effective decommissioning of the facility will be transferred to the transferee or to NRC, as appropriate. These records include documentation of surveys of ambient radiation levels and fixed and/or removable contamination, including methods and sensitivity.

Response: There are no planned decommissioning activities as Alliance will continue regulatory activities under the Alliance NRC license.

6. Confirm that the transferee will abide by all constraints, conditions, requirements, and commitments of the transferor or that the transferee will submit a complete description of the proposed licensed program.

Response: Alliance will abide by all constraints, conditions, requirements, and commitments of the MOS license. Alliance currently operates in NRC areas of jurisdiction under license number 47-25570-01. Alliance's program should be on file with the NRC.

If the NRC requires additional information, please feel free to contact me at 879-852-3527 or by email: mculley@allianceimaging.com

Thank you for your consideration.

Regards,

Michael Culley /rlv

Michael Culley MS CNMT
Corporate Radiation Safety Officer

MC/rlv

cc: Patricia A. Williams
RAML File NRC File – Region III

March 4, 2009

Sent Via E-mail to Robert.Gattone@nrc.gov

Mr. Robert Gattone
United States Nuclear Regulatory Commission:

Dear Bob:

The following is offered in response to your request for information concerning Alliance HealthCare Services, Inc.'s (formerly known as Alliance Imaging, Inc.) acquisition of Shared PET Imaging, LLC.

1. Provide a complete description of the transaction (transfer of stocks or assets, or merger). Indicate whether the name has changed and include the new name. Include the name and telephone number of a licensee contact whom NRC may contact if more information is needed.

> **Response:** On December __, 2008, Alliance HealthCare Services, Inc. ("Alliance") purchased all of the membership interest of Shared PET Imaging, LLC ("SPI"), thereby making SPI a wholly owned subsidiary of Alliance. SPI maintains its name, address and Radiation Safety Officer. The licensee contact is Michael Culley MS CNMT Alliance Imaging Corporate Radiation Safety Officer. Phone number: 978-852-3527
> Email: mculley@alliancehealthcareservices-us.com

2. Describe any changes in personnel or duties that relate to the licensed program. Include training and experience for new personnel.

> **Response:** James Fisher remains as the RSO on the license.

3. Describe any changes in the organization, location, facilities, equipment, or procedures that relate to the licensed program.

> **Response:** SPI continues to provide mobile PET/CT services at mobile sites under the jurisdiction of the NRC license. The equipment and facilities are the same. The address of business has not changed. There have been management changes due to resignations and terminations. The Radiation safety program is still supervised by RSO James Fisher, CNMT and he is supervised by Michael Culley MS CNMT.

4. Describe the status of the surveillance program (surveys, wipe tests, quality control) at the present time and the expected status at the time that control is to be transferred.

> **Response:** At this time, all surveys, wipe tests, and quality control activities are current. Upon NRC approval, Alliance will assume control of all licensed activities including maintaining surveys, wipe tests and quality control and take possession and responsibility of sealed sources.

5. Confirm that all records concerning the safe and effective decommissioning of the facility will be transferred to the transferee or to NRC, as appropriate. These records include documentation of surveys of ambient radiation levels and fixed and/or removable contamination, including methods and sensitivity.

> **Response:** There are no planned decommissioning activities as Alliance will continue regulatory activities under the Alliance NRC license.

6. Confirm that the transferee will abide by all constraints, conditions, requirements, and commitments of the transferor or that the transferee will submit a complete description of the proposed licensed program.

> **Response:** Alliance will abide by all constraints, conditions, requirements, and commitments of the SPI license. Alliance currently operates in NRC areas of jurisdiction under license number 47-25570-01. Alliance's program should be on file with the NRC.

If the NRC requires additional information, please feel free to contact me by telephone or e-mail.

Thank you for your consideration.

Regards,

ALLIANCE IMAGING

U.S.N.R.C.
Region I
475 Allendale Road
King of Prussia, PA 19406

2/2/09 RE: License # 47-25570-01

Dear Sir/ Madam,

Alliance Imaging has purchased the assets of Shared PET Imaging, license #34-30614-01. Shared PET continues to exist as a separate entity with its own tax ID number, etc. Hence, no changes of the license for Shared PET were needed.

Alliance Imaging and Shared PET perform the same services in areas controlled by the NRC, mobile PET imaging. We now desire to combine the two licenses. This would result in greater consistency between the two groups, greater flexibility and simplify licensing changes.

In addition, Alliance Imaging has purchased the assets of Medical Outsourcing Services (MOS), license #12-32648-01. MOS continues to exist as a separate entity with its own tax ID number, etc. Hence, no changes of the license for MOS were needed.

Alliance Imaging and MOS perform the same services in areas controlled by the NRC, mobile PET imaging. We now desire to add MOS to the Alliance license. This would result in greater consistency between the two groups, greater flexibility and simplify licensing changes.

Shared PET and MOS are wholly owned subsidiaries of Alliance Imaging and will now be operated by Alliance Imaging. Shared PET and MOS will follow the instructions of Alliance Imaging regarding the use of radioactive material. Alliance Imaging will be responsible for Shared PET and MOS concerning the use of radioactive material. Shared PET and MOS will comply with the license conditions of the Alliance Imaging license. Alliance Imaging will assure that all radiation safety records that were generated by Shared PET and MOS are retained for the appropriate length of time. Alliance Imaging accepts responsibility for all sealed sources and all radioactive waste possessed by Shared PET and MOS. Alliance Imaging confirms that there is no radiological contamination created by Shared PET and MOS.

Therefore, we request an amendment of the Alliance Imaging license to add Shared PET Imaging and Medical Outsourcing Services. The names of both Shared PET and MOS should be reflected on the amended license. All of the authorized users listed on the Shared PET and MOS licenses should be added to this amended Alliance Imaging license. Once the licenses are merged the licenses for both MOS and SPI should be terminated.

Additionally, we request an amendment to the Alliance Imaging license to change the name to **Alliance Health Care Services, Inc.** Effective February 17, 2009 Alliance Imaging Inc.'s legal entity name will change to Alliance Health Care Services, Inc. This change is merely a name change and is not the result of any change of management of Alliance Imaging or any transfer of control of Alliance Imaging's Radioactive Material license.

If you have any questions please contact me at 978-852-3527 or by email at mculley@allianceimaging.com

Sincerely,

Patricia Williams
Vice President, Asset Management

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1 From
Date 5-14-09 Sender's FedEx Account Number 2335-7390-4
Sender's Name MIKE CULLEY Phone 978 852-3527
Company ALLIANCE IMAGING
Address 35 E WACKER DR #1880 Dept./Floor/Suite/Room
City CHICAGO State IL ZIP 60601

2 Your Internal Billing Reference DOCKET 03037432 LICENSE 12-32648-01

3 To
Recipient's Name K. LAMBERT, MATERIALS INSP. BRANCH Phone
Company US NUCLEAR REGULATORY COMMISSION REGION III
Recipient's Address 2443 WARRENVILLE RD
We cannot deliver to P.O. boxes or P.O. ZIP codes. Dept./Floor/Suite/Room
Address STE 210
To request a package be held at a specific FedEx location, print FedEx address here
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4a Express Package Service — Packages up to 150 lbs.
1 [X] FedEx Priority Overnight — Next business morning.* Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
5 [ ] FedEx Standard Overnight — Next business afternoon.* Saturday Delivery NOT available
6 [ ] FedEx First Overnight — Earliest next business morning delivery to select locations.* Saturday Delivery NOT available
3 [ ] FedEx 2Day — Second business day.* Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
20 [ ] FedEx Express Saver — Third business day.* Saturday Delivery NOT available
FedEx Envelope rate not available. Minimum charge One pound rate.
* To most locations.

4b Express Freight Service — Packages over 150 lbs.
7 [ ] FedEx 1Day Freight* — Next business day.** Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
8 [ ] FedEx 2Day Freight — Second business day.** Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
83 [ ] FedEx 3Day Freight — Third business day.** Saturday Delivery NOT available
* Call for Confirmation.
** To most locations.

5 Packaging
6 [X] FedEx Envelope* 2 [ ] FedEx Pak* Includes FedEx Small Pak, FedEx Large Pak, and FedEx Sturdy Pak. 3 [ ] FedEx Box 4 [ ] FedEx Tube 1 [ ] Other
* Declared value limit $500

6 Special Handling — Include FedEx address in Section 3.
3 [ ] SATURDAY Delivery — Not available for FedEx Standard Overnight, FedEx First Overnight, FedEx Express Saver, or FedEx 3Day Freight.
1 [ ] HOLD Weekday at FedEx Location — Not available for FedEx First Overnight.
31 [ ] HOLD Saturday at FedEx Location — Available ONLY for FedEx Priority Overnight and FedEx 2Day to select locations.

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6 [ ] Dry Ice Dry ice, 9, UN 1845 — kg
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8 Residential Delivery Signature Options If you require a signature, check Direct or Indirect.
[ ] No Signature Required — Package may be left without obtaining a signature for delivery.
10 [X] Direct Signature — Someone at recipient's address may sign for delivery. Fee applies.
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