

October 25, 2010

EA-10-189

Mr. Gary E. Williams, Director  
National Health Physics Program (115HP/NLR)  
Department of Veterans Affairs  
Veterans Health Administration  
2200 Fort Roots Drive  
North Little Rock, AR 72114

SUBJECT: EXERCISE OF ENFORCEMENT DISCRETION – DEPARTMENT OF  
VETERANS AFFAIRS

Dear Mr. Williams:

This letter refers to a reactive inspection conducted by your National Health Physics Program (NHPP) staff at the Veterans Affairs (VA) Ann Arbor Healthcare System, located in Ann Arbor, Michigan. The inspection was conducted on October 28, 2009, to review the circumstances of an incident related to a package containing radioactive materials being left uncontrolled and without constant surveillance in an unrestricted area for over an hour. Additionally, your staff determined that the radiation levels on the surface of the package exceeded U.S. Nuclear Regulatory Commission (NRC) requirements for an unrestricted area. Your staff closed the inspection on November 20, 2009, and issued Inspection Report 506-09-102 and a Notice of Violation to the permittee via a memorandum dated November 23, 2009. The Notice of Violation documented two violations, including a Severity Level III violation for failing to control the radioactive material.

The NRC reviewed the circumstances of the issue as outlined in your report and determined that a violation of NRC requirements, specifically Title 10 of the Code of Federal Regulations (10 CFR) 20.1802, occurred. The circumstances surrounding the violation are described in detail in the NHPP report and are synopsised above. The failure to control and maintain constant surveillance over radioactive material is of concern to the NRC because of the potential for a member of the public to receive a radiation dose above NRC limits. In this case, you were able to determine that no member of the public received an overexposure.

The NRC evaluated the actions taken by the NHPP in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The NRC determined that the NHPP appropriately identified, processed, and ensured corrective actions for the violations in accordance with the enforcement procedures described in the NRC Master Materials License.

Therefore, after consultation with the Director, Office of Enforcement and in recognition of the enforcement action taken under the VA's NRC Master Materials License, the NRC is exercising enforcement discretion in accordance with Section 3.5 of the NRC Enforcement Policy and is not issuing a Notice of Violation or proposing a civil penalty in this matter. However, significant violations in the future could result in the issuance of a Notice of Violation or civil penalty.

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and to prevent recurrence, and the date when full compliance was achieved have already been adequately addressed on the docket in the NHPP inspection report dated November 23, 2009. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to An Exercise of Enforcement Discretion, EA-10-189," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator, Region III, and a copy to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 30 days of the date of this letter.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Sincerely,

*/RA/*

Mark A. Satorius  
Regional Administrator

Docket No. 030-34325  
License No. 03-23853-01VA

cc: Charles Anderson, Chair  
National Radiation Safety Committee  
Milton Gross, M.D., Chair Elect  
National Radiation Safety Committee

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Sincerely,  
**/RA/**  
 Mark A. Satorius  
 Regional Administrator

Docket No. 030-34325  
 License No. 03-23853-01VA

cc: Charles Anderson, Chair  
 National Radiation Safety Committee  
 Milton Gross, M.D., Chair Elect  
 National Radiation Safety Committee

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Letter to Gary E. Williams from Mark A. Satorius dated October 25, 2010

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VETERANS AFFAIRS

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