



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

February 8, 2012

Docket No. 03038340  
EA-11-285

License No. 06-31418-01

Jedd Levine, M.D.  
Managing Partner  
Connecticut Oncology & Hematology  
220 Kennedy Drive  
Torrington, CT 06790

**SUBJECT: NRC INSPECTION REPORT NO. 03038340/2011001, CONNECTICUT ONCOLOGY & HEMATOLOGY, TORRINGTON, CONNECTICUT SITE; EXERCISE OF ENFORCEMENT DISCRETION AND NOTICE OF VIOLATION**

Dear Dr. Levine:

Connecticut Oncology & Hematology (COH) recently became an NRC licensee, due to the Energy Policy Act of 2005 (EPAAct), which expanded the definition of byproduct material to include Naturally Occurring and Accelerator Produced Radioactive Materials (NARM) and placed the material under the NRC's jurisdiction. In accordance with the EPAAct, persons in Connecticut who possessed and used NARM were required to comply with NRC regulations as of August 8, 2009, and to submit an application for an NRC license within 12 months. COH possessed and used NARM prior to August 8, 2009, submitted a license application on August 4, 2010, and the license was issued on November 4, 2010.

On September 27, 2011, October 21, 2011, and January 11, 2012, Sandra Gabriel, Ph.D. of this office conducted a safety inspection at the above address of activities authorized by the above listed NRC license. 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 selective examination of representative records. Additional information provided in your correspondence dated October 12, 2011, and received on November 30, 2011, was also examined as part of the inspection. The findings of the inspection were discussed with you and Cathy Coleman of your staff of your organization at the conclusion of the inspection in an exit meeting on January 11, 2012.

Based on the results of this inspection and in accordance with the NRC Enforcement Policy, the NRC has determined that three violations of NRC requirements occurred, as described below.

The first violation involved the failure to periodically (at least annually) review the radiation program content and implementation, as required by 10 CFR 20.1101(c). The second violation involved the failure to perform sealed source leak tests at intervals not to exceed six months or at other intervals approved in the Sealed Source and Device Registry, as required by 10 CFR 35.67(b)(2).

J. Levine

These two violations were identified during the first inspection after the effective date of the NARM requirements. In accordance with NRC Enforcement Guidance Memorandum 09-004, dated May 13, 2009, although such violations are normally characterized at Severity Level IV, NRC is exercising enforcement discretion and not issuing violations because the violations resulted in no actual health, safety, or security consequences; the violations were not willful; COH provided a reasonable argument that you had reason to believe that the new requirement did not apply to COH until after the license was issued on November 4, 2010; and you immediately corrected the violations. Your corrective actions for the violation of 10 CFR 20.1101(c) included performing a review of the radiation program content and implementation on October 4, 2011, and your commitment in a letter dated October 12, 2011, to perform a program review in September 2012 and annually thereafter. Your corrective actions for the violation of 10 CFR 35.67(b)(2) included performing leak tests on May 18, 2011, and your commitment in a letter dated October 12, 2011, to perform leak tests at semi-annual intervals in the future.

The third violation involved the failure to post current copies of 10 CFR Parts 19 and 20 as required by 10 CFR 19.11(a) and NRC Form 3, "Notice to Employees," as required by 10 CFR 19.11(e). The violation is cited in the enclosed Notice of Violation (Notice), because the violation was identified by the NRC. Your corrective actions included immediately posting NRC Form 3 in a prominent location in the hot lab during the on-site inspection on September 27, 2011, and your commitment in a letter dated October 12, 2011 to post current copies of 10 CFR Parts 19 and 20. The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence is already adequately addressed in our records and in your correspondence dated October 12, 2011. Therefore, you are not required to respond to this letter unless the description of your corrective actions in this letter and your October 12, 2011, correspondence do not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, 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 document system (ADAMS), accessible from the NRC website 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.

Current NRC regulations and guidance are included on the NRC's website at [www.nrc.gov](http://www.nrc.gov); select **Nuclear Materials; Med, Ind, & Academic Uses**; then **Regulations, Guidance and Communications**. The current Enforcement Policy is included on the NRC's website at [www.nrc.gov](http://www.nrc.gov); select **About NRC, Organizations & Functions; Office of Enforcement; Enforcement documents**; then **Enforcement Policy (Under 'Related Information')**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 8:00 a.m. to 5:30 p.m. EST, Monday through Friday (except Federal holidays).

J. Levine

Please contact Dr. Gabriel at 610-337-5182 if you have any questions regarding this matter.

Sincerely,

*/RA/*

Raymond K. Lorson, Director  
Division of Nuclear Materials Safety

Enclosure:  
Notice of Violation

cc:  
Sadek Nehmeh, Ph.D., Radiation Safety Officer  
State of Connecticut

J. Levine

3

Please contact Dr. Gabriel at 610-337-5182 if you have any questions regarding this matter.

Sincerely,

*/RA/*

Raymond K. Lorson, Director  
Division of Nuclear Materials Safety

Enclosure:  
Notice of Violation

cc:  
Sadek Nehmeh, Ph.D., Radiation Safety Officer  
State of Connecticut

Distribution:  
R1Enforcement

DOCUMENT NAME: G:\WordDocs\Current\Insp Letter\L06-31418-01.2011001.doc

ML120390574

**SUNSI Review Complete:** SGabriel

After declaring this document "An Official Agency Record" it will be released to the Public.

To receive a copy of this document, indicate in the box: "C" = Copy w/o attach/encl "E" = Copy w/ attach/encl "N" = No copy

OFFICE	DNMS/RI	N	DNMS/RI		ORA/RI		DNMS/RI	
NAME	SGabriel/slg		JNick/pl f/		ADeFrancisco via email		RLorson/rkl	
DATE	02/01/12		02/01/12		2/1/2012		02/08/12	

OFFICIAL RECORD COPY

## NOTICE OF VIOLATION

Connecticut Oncology & Hematology  
Torrington, CT

Docket No. 03038340  
License No. 06-31418-01

During an NRC inspection conducted September 2011 through January 2012, for which an exit was conducted on January 11, 2012, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 19.11(a) requires that the licensee post current copies of Parts 19 and 20; the license, license conditions, and documents incorporated into the license; license amendments; operating procedures applicable to licensed activities; any notice of violation involving radiological working conditions, proposed imposition of civil penalty, or order issued pursuant to subpart B of part 2; and any response from the licensee.

10 CFR 19.11(d) allows the licensee to post a notice which describes the documents identified in 19.11(a), indicating where such documents may be examined, if posting of these documents is not practical.

10 CFR 19.11(e) requires, in part, that the licensee post NRC Form 3, "Notice to Employees," dated August 1997, or within 30 days of receiving a revised version.

Contrary to the above, as of September 27, 2011, Connecticut Oncology & Hematology did not post current copies of 10 CFR Part 19, 10 CFR Part 20, and NRC Form 3.

This is a Severity Level IV violation (Section 6.3).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when full compliance will be achieved is already adequately addressed on the docket. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if 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 a Notice of Violation," and send it 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).

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

Notice of Violation  
Connecticut Oncology & Hematology

2

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 of receipt.

Dated This 8<sup>th</sup> day of February 2012