



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION III
2443 WARRENVILLE RD. SUITE 210
LISLE, IL 60532-4352

April 15, 2015

EA-15-023

Mr. Thomas Moenster
Radiation Safety Officer
Missouri Baptist Medical Center
3015 North Ballas Road
St. Louis, MO 63131

**SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 03008325/2014001(DNMS) AND
EXERCISE OF DISCRETION – MISSOURI BAPTIST MEDICAL CENTER**

Dear Mr. Moenster:

On December 17 and 18, 2014, an inspector from the U.S. Nuclear Regulatory Commission (NRC) conducted a routine inspection at your facility in St. Louis, Missouri, with continued in-office review through March 12, 2015. The purpose of the inspection was to review activities performed under your NRC license to ensure that activities were being performed in accordance with NRC requirements. The in-office review included a review of your request for a license amendment authorizing possession of the contaminated materials. A final exit meeting was held between you and Mr. Geoffrey Warren of my staff by telephone on April 7, 2015, to discuss the inspection findings.

During this inspection, the NRC staff examined activities conducted under your license related to public health and safety. Additionally, the staff examined your compliance with the Commission's rules and regulations as well as 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.

During the inspection, you informed the inspector that a box contaminated with radium-226 had been in your long-term waste storage area for a long time, since well before the NRC had authority to regulate such materials. As discussed during the inspection and the preliminary exit meeting on December 18, 2014, a potential violation of Title 10 of the *Code of Federal Regulations* (CFR) Part 30.3(c)(2) was identified concerning the failure to obtain an amendment to your license to possess radium-226.

The Energy Policy Act of 2005 (EPAAct) expanded the definition of byproduct material to include naturally occurring and accelerator produced radioactive materials (NARM) and placed the material under NRC's jurisdiction. In accordance with the EPAAct, the NRC issued a waiver on August 31, 2005, allowing the continued use and possession of NARM while the NRC developed a regulatory framework for the regulation of the new byproduct material. On October 1, 2007, the NRC published a Federal Register Notice informing licensees of amendments to NRC's regulation regarding the possession and use of NARM. On

September 30, 2008, the NRC published a Notice of Waiver Termination for licensees in the State of Missouri which stated, in part, that the NRC was terminating the waiver for persons possessing accelerator-produced radioactive material or discrete sources of radium-226. The Notice further stated that the final rule allowed an additional 6-month period from the effective date of the final rule to apply for a license amendment (i.e., March 30, 2009).

Based on the above, the NRC has determined that a violation of 10 CFR 30.3(c)(2) occurred. The violation involved the failure to apply for a license amendment by March 30, 2009, and amend your NRC license to include the possession of radium-226. The violation was evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The possession of this type and quantity of radioactive material not authorized on an NRC license is normally characterized as a Severity Level IV violation in accordance with the NRC Enforcement Policy. Because (1) this was the first occurrence of a violation of this requirement at your facility after the termination date of the waiver, (2) the failure to add this material to your license did not result in any safety or health consequence, (3) the failure was not willful, (4) your explanation that you had not considered that this material required authorization on your license appears to be reasonable, and (5) you submitted an amendment request within 30 days after you were notified that such an amendment was required, the NRC is using discretion to disposition this violation as a non-cited violation (NCV), in accordance with Enforcement Guidance Memorandum 09-004, "Interim Guidance for Dispositioning of Naturally Occurring and Accelerator Produced Radioactive Materials (NARM) Requirements." However, any future violations of 10 CFR 30.3(c)(2) will be categorized as cited violations and evaluated as such.

The inspector determined that the root cause of the violation was that you had not recognized that the wooden box contaminated with radium-226 was required to be authorized on your license. As corrective actions to restore compliance and to prevent recurrence, you submitted an amendment request dated March 5, 2015, to add authorization for radium-226 to your license. The NRC received the request on March 11, 2015.

The NRC has concluded that information regarding the reason for the violation, the corrective action taken and planned to correct the violation and prevent recurrence is already adequately addressed on the docket in this letter. Therefore, you are not required to respond to this letter unless the description herein does not accurately reflect your corrective actions or your position (pursuant to 10 CFR 2.201). In that case, or if you choose to provide additional information, you should clearly mark your response as a "Reply to an Exercise of Enforcement Discretion, EA-15-023" and send it to the Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with copies to: (1) the Regional Administrator and the Enforcement Officer, Region III; and (2) the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

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's Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC's 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 publicly available without redaction.

T. Moenster

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Please feel free to contact Geoffrey Warren of my staff if you have any questions regarding this inspection. Mr. Warren can be reached at 630-829-9742.

Sincerely,

/RA/

Aaron T. McCraw, Chief
Materials Inspection Branch
Division of Nuclear Materials Safety

Docket No. 030-08325
License No. 24-11128-02

cc: State of Missouri

T. Moenster

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