

DCS

January 22, 1990

License No. General License (10 CFR 31.5)
EA 89-247

General Foods Corporation
Maxwell House Division
ATTN: Mr. George Murphy
External Affairs Manager
1125 Hudson Street
Hoboken, New Jersey 07030

Gentlemen:

SUBJECT: NOTICE OF VIOLATION (NRC SPECIAL INSPECTION NO. 999-90001/89-014)

This letter refers to the NRC inspection conducted on October 12, 1989, at your facility in Hoboken, New Jersey and continued in the NRC Region I office on December 4, 1989, upon receipt of information sent to the NRC in your letter dated November 29, 1989. The inspection consisted of a review of activities authorized by an NRC general license under 10 CFR 31.5. The report of the inspection was forwarded to you on December 15, 1989.

The inspection was conducted to review the circumstances associated with a violation of NRC requirements involving the inadvertent loss of a density gauge (containing approximately 50 millicuries of cesium-137) to an unknown location. The loss apparently occurred in August 1989 when, during maintenance, contractors removed the piping to which the gauge was attached. The loss, which was identified by your staff on October 4, 1989 when they attempted to leak test the source, was reported to the NRC on that date. On December 21, 1989, an enforcement conference was held with you and Mr. R. Lawrence during which the problem, its causes, and your corrective actions were discussed.

The NRC recognizes that the loss of the material is unlikely to affect the public health and safety because the source was locked within the shielded gauge. Nonetheless, the violations described in the enclosed Notice are significant because they resulted in the loss of radioactive material which could expose members of the public to unnecessary amounts of radiation. Two violations were identified which involved: (1) permitting unlicensed individuals to perform the removal of a radioactive gauge from its installed location, and (2) transfer or disposal of a radioactive gauge to persons not authorized to receive the device, specifically, inadvertent transfer to an unknown location.

OFFICIAL RECORD COPY

GEN ENFORCEMENT - 00C1.0.0
01/19/90

9002050212 900122
REG1 QA999 EMUGENF
99990001 PDC

IE07
1/1

Because this incident demonstrates the need for you to ensure that adequate oversight and control of generally licensed material is maintained at all of your facilities to prevent the future loss or improper disposal of radioactive materials, the associated violations have been classified as a Severity Level III problem. In accordance with Supplement IV of the "General Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR Part 2, Appendix C, (Enforcement Policy) (1989). Normally, a civil penalty is considered for a Severity Level III problem; however, after consultation with the Director, Office of Enforcement, and the Deputy Executive Director for Nuclear Safety, Safeguards, and Operations Support, I have decided that a civil penalty will not be issued in this case because: (1) the loss was identified by your staff and reported to the NRC as a result of your policy of leak testing the gauge at intervals of six months instead of the required 3 years; therefore 50% mitigation of the penalty based on this factor is warranted; and (2) your corrective actions were considered prompt and extensive, and therefore, 50% mitigation of the penalty based on this factor is warranted. The other escalation/mitigation factors in the Enforcement Policy were considered and no further adjustment is warranted.

While a civil penalty is not being proposed, it is important to emphasize that loss of control of licensed material is of serious regulatory concern and that any recurrence may result in escalated enforcement action, including civil penalties and modification, suspension, or revocation of your authority under the general license. Any such future enforcement action may affect all facilities or divisions where material is used under the general license. Further, as stated in the Enforcement Policy, when a violation is discovered at one facility or location, NRC expects corporate licensees to take action as appropriate to prevent similar violations from occurring at each facility or division where licensed material is used.

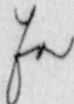
You are required to respond to the enclosed Notice, and should follow the instructions specified therein when preparing your response. In the response, General Foods should document the specific actions taken and any additional actions planned to prevent recurrence. This response should be prepared at the corporate level and should address all facilities or divisions that use material under the general license (10 CFR 31.5) in States where NRC has jurisdiction. To accommodate this process, an additional 30 days has been added to the usual response time provided in the enclosed Notice. After reviewing your response to this Notice, including your proposed corrective actions and the results of future inspections, the NRC will determine whether further action is needed to ensure compliance with regulatory requirements.

In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, a copy of this letter and its enclosure will be placed in the NRC Public Document Room.

The responses directed by this letter and the enclosed Notice are not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, PL No. 96-511.

Sincerely,

Original Signed By:
Thomas T. Martin



William T. Russell
Regional Administrator

Enclosure: Notice of Violation and
Proposed Imposition of Civil Penalty

cc w/encl:
Public Document Room (PDR)
Nuclear Safety Information Center (NSIC)
State of New Jersey

DISTRIBUTION:

PDR
 SECY
 CA
 JMTaylor, EDO
 HThompson, DEDS
 JLieberman, OE
 WTRussell, RI
 JGoldberg, OGC
 RBernero, NMSS
 RCunningham, NMSS
 Enforcement Coordinators
 RI, RII, RIII, RIV, RV
 FIngram, GPA/PA
 BHayes, OI
 DWilliams, OIG
 VMiller, SPA/SP
 EJordan, AEUD
 JDelMedico, OE
 DBurrier (G File)
 OE:Chron
 OE:EA
 DCS
 Region I Docket Room (w/concurrences)

RI:EO <i>DJM</i> Holody/gcb/pmb 12/22/89	^{<i>SLC</i>} RI:DRSS <i>Collins</i> 12/22/89	RI:DRSS Miller 12/22/89	RI:DRSS Settenhausen 12/22/89	^{<i>JMS</i>} RI:DRSS <i>for Knapp</i> 12/22/89	RI:RC <i>Smith</i> 12/ /89 <i>out of office</i>
RI: DRA Martin 12/20/89	RI:RA Russell <i>WTR</i> 12/21/89	D:OE Lieberman 12/ /89	DEDO Thompson 12/ /89		