

Appendix A
NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF A CIVIL PENALTY

Pharmaco Nuclear, Incorporated
Cleveland, Ohio

16405
License No. 34-16504-01MD
EA 81-50

As a result of an evaluation of your report, "Temporary Loss of Licensed Radioactive Medicinals Following a Minor Traffic Mishap," received March 9, 1981, and in accordance with the Interim Enforcement Policy, 45 FR 66754 (October 7, 1980), the NRC proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended ("Act"), 42 U.S.C. 2282, PL 96-295 and 10 CFR 2.205, in the amount set forth below for the following violation:

10 CFR 20.207(b) requires that licensed materials in an unrestricted area and not in storage shall be tended under the constant surveillance and immediate control of the licensee.

Contrary to the above, on February 17, 1981, seven attache cases containing licensed materials fell from the back of the licensee's delivery vehicle onto a public road. One of the cases was not retrieved by the licensee. This unattended case was left in the unrestricted area and was not under the constant surveillance and immediate control of the licensee. The case was later found by a passing motorist.

This is a Severity Level III violation (Supplement VII).

(Civil Penalty - \$2,800)

Pursuant to the provisions of 10 CFR 2.201, Pharmaco Nuclear, Incorporated is hereby required to submit to this office within thirty days of the date of this Notice, a written statement or explanation in reply, including: (1) admission or denial of the alleged violation; (2) the reasons for the violation if admitted; (3) the corrective steps which have been taken and the results achieved; (4) the corrective steps which will be taken to avoid further violations; and (5) the date when full compliance will be achieved. Consideration may be given to extending your response time for good cause shown. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

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Within the same time as provided for the response required above under 10 CFR 2.201, Pharmaco Nuclear, Incorporated may pay the civil penalty in the amount of Two Thousand Eight Hundred Dollars or may protest the imposition of the civil penalty in whole or in part by a written answer. Should Pharmaco Nuclear, Incorporated fail to answer within the time specified, this office will issue an Order imposing the civil penalty in the amount proposed above. Should Pharmaco Nuclear, Incorporated elect to file an answer protesting the civil penalty, such answer may: (1) deny the violation listed in this Notice in whole or in part; (2) demonstrate extenuating circumstances; (3) show error in the Notice; or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from your statement or explanation in reply pursuant to 10 CFR 2.201, but may incorporate by specific reference (e.g., giving page and paragraph numbers) to avoid repetition. Pharmaco Nuclear, Incorporated's attention is directed to the other provisions of 10 CFR 2.205 regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty which has been subsequently determined in accordance with the applicable provisions of 10 CFR 2.205, the matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282.

The responses directed by this 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 96-511.

FOR THE NUCLEAR REGULATORY COMMISSION

Original Signed by
V. Stello

Victor Stello, Jr., Director
Office of Inspection and Enforcement

Dated at Bethesda, Maryland
this **1st** day of **July** 1981