

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTIES

Morgan County Memorial Hospital
Martinsville, Indiana

Docket No. 030-12775
License No. 13-17449-01
EA 93-250

During an NRC inspection conducted on September 28, 1993, violations of NRC requirements were identified. In accordance with the "Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR Part 2, Appendix C (1993), the Nuclear Regulatory Commission proposes to impose civil penalties pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violations and associated civil penalties are set forth below:

I. Violations Assessed a Civil Penalty

- A. 10 CFR 35.70 (a) requires, that a licensee survey with a radiation detection survey instrument at the end of each day of use all areas where radiopharmaceuticals are routinely prepared for use or administered.

10 CFR 35.70 (b) requires that a licensee survey with a radiation detection survey instrument at least once each week all areas where radiopharmaceuticals or radiopharmaceutical waste is stored.

10 CFR 35.70 (e) requires that a licensee survey for removable contamination once each week all areas where radiopharmaceuticals are routinely prepared for use, administered, or stored.

10 CFR 35.70 (h) requires, in part, that a licensee retain a record of each survey for three years.

10 CFR 30.9 (a) requires, in part, that information required by the Commission's regulations to be maintained by the licensee shall be complete and accurate in all material respects.

1. Contrary to the above, between April 3, 1991 and September 28, 1993, the licensee failed to perform, at the end of each day of use, daily radiation detection surveys of areas where radiopharmaceuticals were prepared for use and administered, and a licensee technologist created radiation survey records to make it appear that the surveys had, in fact, been performed. (01012)
2. Contrary to the above, between April 3, 1991 and September 28, 1993, the licensee, on 32 occasions,

failed to perform weekly radiation detection surveys in areas where radiopharmaceuticals or radiopharmaceutical waste was stored, and a licensee technologist created radiation survey records to make it appear that the surveys had, in fact, been performed. (01022)

3. Contrary to the above, between April 3, 1991 and September 28, 1993, the licensee, on 32 occasions, failed to perform weekly removable contamination surveys in areas where radiopharmaceuticals were routinely prepared for use, administered, or stored, and a licensee technologist created removable contamination survey records to make it appear that the surveys had, in fact, been performed. (01032)

This is a Severity Level II problem (Supplements VI and VII).

Civil Penalty - \$6,000

- B. 10 CFR 35.21(a) requires, in part, that the licensee, through the Radiation Safety Officer, ensure that radiation safety activities are being performed in accordance with approved procedures. The licensee's procedures are described in the licensee's application dated June 30, 1992 and were approved by License Condition 15 on September 11, 1992.

Item 10.4 of the June 30, 1992 license application, states that the licensee will establish and implement the model safety rules published in Appendix I to Regulatory Guide 10.8, Revision 2.

Appendix I of Regulatory Guide 10.8, Revision 2, "Model Procedure for Safe Use of Radiopharmaceuticals," prohibits, in part, 1) eating, drinking, smoking, and the application of cosmetics in areas where radioactive material is stored or used, and 2) the storage of food, drink, or personal effects in areas where radioactive material is stored or used.

Contrary to the above, as of September 28, 1993, the licensee, through its management and Radiation Safety Officer, failed to ensure that radiation safety activities were being performed in accordance with the above procedures. Specifically, licensee staff routinely drank and stored beverages in the nuclear medicine department imaging room and hot laboratory areas, areas where radioactive materials were stored or used. THIS IS A REPEAT VIOLATION. (02013)

This is a Severity Level III violation (Supplement VI).
Civil Penalty - \$3,750

II. Violation Not Assessed a Civil Penalty

10 CFR 35.21(a) requires, in part, that the licensee, through the Radiation Safety Officer, ensure that radiation safety activities are being performed in accordance with approved procedures. The licensee's procedures are described in the licensee's applications dated April 1, 1987 and June 30, 1992 and were approved as License Condition 15 on September 9, 1987 and September 11, 1992.

Item 10.7 of the June 30, 1992 license application, states that the licensee will establish and implement the model procedure for opening packages published in Appendix L to Regulatory Guide 10.8, Revision 2.

Appendix L to Regulatory Guide 10.8, Revision 2, "Model Procedure for Safely Opening Packages Containing Radioactive Material," requires, in part, that the licensee will measure the exposure rate from a package at 1 meter and at the package surface prior to opening the package of byproduct material.

Contrary to the above, as of September 28, 1993, the licensee, through its Radiation Safety Officer, failed to ensure that radiation safety activities were being performed in accordance with the above procedures. Specifically, licensee staff routinely opened packages of byproduct material prior to measuring the exposure rate from the package at 1 meter and at the package surface. (03014)

This is a Severity Level IV violation (Supplement VI).

Pursuant to the provisions of 10 CFR 2.201, Morgan County Memorial Hospital (Licensee) is hereby required to submit a written statement or explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice of Violation and Proposed Imposition of Civil Penalties (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each alleged violation: (1) admission or denial of the alleged violation, (2) the reasons for the violation if admitted, and if denied, the reasons why, (3) the corrective steps that have been taken and the results achieved, (4) the corrective steps that will be taken to avoid further violations, and (5) the date when full compliance will be achieved.

If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued

to show cause why the license should not be modified, suspended, or revoked or why such other action as may be proper should not be taken. Consideration may be given to extending the 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.

Within the same time as provided for the response required above under 10 CFR 2.201, the Licensee may pay the civil penalties by letter addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, with a check, draft, money order, or electronic transfer payable to the Treasurer of the United States in the amount of the civil penalties, or may protest imposition of the civil penalties in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should the Licensee fail to answer within the time specified, an Order imposing the civil penalties will be issued. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalties, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violations listed in this Notice, in whole or in part, (2) demonstrate extenuating circumstances, (3) show error in this Notice, or (4) show other reasons why the civil penalties should not be imposed. In addition to protesting the civil penalties in whole or in part, such answer may request remission or mitigation of the penalties.

In requesting mitigation of the proposed penalties, the factors addressed in Section VI.B.2 of 10 CFR Part 2, Appendix C, should be addressed. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from the statement or explanation in reply pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee 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 penalties due which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205, this matter may be referred to the Attorney General, and the penalties, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The response noted above (Reply to Notice of Violation, letter with payment of civil penalties, and Answer to a Notice of Violation) should be addressed to: Director, Office of

Notice of Violation

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Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region III.

Dated at Rockville, Maryland
this 4th day of March 1994

Morgan County Memorial
Hospital

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