



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

April 18, 1989

MEMORANDUM FOR: A. Bert Davis, Regional Administrator
Region III

FROM:

For Ben B. Hayes, Director
Office of Investigations *Eugene J. Paulik*

SUBJECT:

MINNESOTA MINING AND MANUFACTURING COMPANY: ALLEGED
FAILURE TO REPORT TO THE NRC THE NUMBER OF DAMAGED STATIC
ELIMINATORS WHICH SMEAR TESTED GREATER THAN 0.005 uCi AND
ALLEGED FAILURE TO NOTIFY THEIR CUSTOMERS OF THOSE LEAKING
DEVICES AS REQUIRED BY DISTRIBUTION LICENSE CONDITION
(CASE NO. 3-88-003)

Enclosed is the Office of Investigations (OI) Report of Investigation (Case No. 3-88-003) concerning the above matter.

On March 16, 1988, you requested that OI conduct an investigation of an alleged failure by Minnesota Mining and Manufacturing Company (3M) to report to the NRC damaged leaking static eliminators as required pursuant to their specific distribution license.

In 1979, the NRC renewed 3M's static eliminator distribution license subsequent to negotiating several changes to that program. Specifically, 3M had committed to 100% leak testing of all static eliminators returned to them and to annually report to the NRC the number of devices which leak tested greater than 0.005 uCi. That commitment was consistent with NRC regulations which require either 3M or their customers (NRC general licensees) to report such leaking devices. The 100% leak testing would also provide 3M with the opportunity to prove the acceptability of their static eliminator product for continued general use.

3M established a quality control inspection program to perform the required leak testing for returned static eliminators. 3M designed that inspection program to categorize practically every returned device that was leaking as damaged from customer abuse. 3M then, without consulting the NRC, interpreted their license to only require them to report to the NRC undamaged static eliminators leaking in excess of 0.005 uCi. By so doing, from 1979 to 1988, 3M only reported a handful of undamaged leaking devices.

3M's static eliminator distribution license also committed them to notifying their customers of damaged and leaking static eliminators. The 3M Regulatory Affairs Manager (RAM), who was responsible for that notification, set up a program whereby the 3M Static Analysts (salesmen) were assigned the responsibility to perform that notification. The inherent problem in that process was that static analysts were not consistently provided with smear test data on returned static eliminators. Therefore, the 3M RAM failed to systematically notify 3M customers of all damaged leakers in excess of 0.005 uCi, thereby causing 3M customers to be in violation of NRC regulations.

This investigation has developed evidence indicating that at least one 3M RAM knowingly failed to report to the NRC damaged static eliminators which smear tested greater than 0.005 uCi, and knowingly failed to notify 3M customers (general licensees) of those leaking units. That individual characterized 3M's distribution license as ambiguous and unclear, but failed to seek clarification of license requirements from NRC. Rather, the RAM chose to follow a reporting format established in 1979 and written in such a manner as to suggest to the NRC that not only was the 3M static eliminator product design safe for general distribution, but also that damaged leaking devices rarely occurred, and in those rare instances, customer abuse, not product failure, was the reason for the deficiency.

This investigation has been closed by OI. This report has been forwarded to you for your information and whatever action you deem appropriate. You should also be aware that a copy of this investigation has been forwarded to both the U.S. Attorney for the Judicial District of Minnesota and the U.S. Department of Justice for possible criminal prosecution. Neither this memorandum nor report contents may be released outside the NRC without the permission of the Director, OI. Internal NRC access and dissemination should be on a right- and need-to-know basis. Treat as "Official Use Only."

Enclosure:

As stated

cc w/encl:

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cc w/o encl:

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