

DCU/DCB
(RDS)

August 2, 1991

Docket No. 030-13907
License No. 21-18589-01
EA 91-090

American Fibril, Inc.
ATTN: C. Roger Davisson, President
76 Armstrong Road
Battle Creek, MI 49015-1079

Dear Mr. Davisson:

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY - \$1,500
(NRC INSPECTION REPORT NO. 030-13907/91001)

This refers to the routine safety inspection conducted on June 24 and July 3, 1991, at American Fibril, Inc., Battle Creek, Michigan. During the inspection, violations of NRC requirements were identified, and on July 16, 1991, an enforcement conference was held in the Region III office between Mr. James D. Schwoebel of your staff, Mr. William L. Axelson, Deputy Director, Division of Radiation Safety and Safeguards, and other members of our respective staffs. A copy of the enforcement conference report was mailed to you on July 18, 1991.

The inspection found four violations, which are described in the enclosed Notice of Violation, including the failure: (1) to have an individual designated as the Radiation Protection Officer; (2) to lock out nuclear gauges when employees entered the digester vessel; (3) to perform leak tests at three year intervals; and (4) to maintain records of the physical inventory of sealed sources. These violations taken collectively, demonstrate a significant lack of management attention to, and control of, activities authorized by your NRC license. Therefore, in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy) 10 CFR Part 2, Appendix C (1991), the violations are classified in the aggregate as a Severity Level III problem.

The violations involve potentially significant events and represent a serious breakdown in the management of your radiation safety program. The NRC recognizes that the radiation exposure to workers on the 10 occasions they entered the digester vessel without locking out of the gauges was unlikely to affect their health because the exposures were low. Nonetheless, the violation is significant because your staff was unaware of the hazard.

The root causes of the violations and the subsequent corrective action were discussed during the July 16, 1991, enforcement conference. The NRC recognizes that corrective actions have been initiated and appear acceptable. The major factor contributing to the violations appeared to be the inadequate supervision

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of radiation safety practices as demonstrated by the failure in 1987 to replace the designated Radiation Protection Officer upon his departure. The failure to have a Radiation Protection Officer trained in the various aspects of radiation safety caused the failure to lock out the nuclear gauges when workers entered the digester vessel to perform maintenance. Management's lack of oversight of the radiation safety program was demonstrated in July 1990 when management received an internal memorandum indicating that the person occupying the position of Radiation Protection Officer was not qualified for the position. In addition, management has been ineffective in assuring effective corrective action for previously identified violations, as evidenced by the violations associated with the lack of leak testing of sealed sources and maintenance of records of sealed source inventories. Both of these violations were also found during the previous NRC inspection in 1983.

American Fibrit, Inc., must effectively manage its radiation safety program. Incumbent on American Fibrit, Inc. is the responsibility to protect the health and safety of employees and the public by assuring that all requirements of the NRC license are met and that potential violations of NRC requirements are not only identified on a timely basis, but are also promptly corrected. To have allowed the internally identified violation involving the qualifications of your Radiation Protection Officer to exist uncorrected for one year and to have repetitive violations from a previous inspection, are indicative of ineffective management control. The staff recognizes that your Radiation Protection Officer designee is now sensitive to NRC requirements and license conditions and has established postings and lock out procedures for entry into the digester where the nuclear gauges are located.

To emphasize the importance of effectively managing your radiation safety program to assure the health and safety of your workers and the public, I have been authorized to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) in the amount of \$1,500 for the Severity Level III problem.

The base value of a civil penalty for a Severity Level III problem is \$500. The civil penalty adjustment factors in the Enforcement Policy were considered and the amount of the base civil penalty was increased 200 percent. The amount of the base civil penalty was initially mitigated 50 percent for the comprehensive actions you took to correct not only the individual violations but also the deficiencies in management's oversight of the radiation safety program. The broader corrective actions consisted of inclusion of leak test and inventory requirements in your preventive maintenance computer program and implementing audits by the quality assurance department of the radiation safety program. Also, your requirement that the Radiation Protection Officer report his activities to management on a monthly basis was noteworthy.

However, the amount of the base civil penalty was escalated 250 percent for the following reasons. The civil penalty was escalated 50 percent because the violations were identified by the NRC during this inspection. Although you also identified the violations associated with the unqualified Radiation Protection

Officer and the failure to maintain records of sealed source inventories, you failed to take action to correct those violations of NRC requirements. The civil penalty was escalated 100 percent for the prior notice of similar events when considered with your past performance of two repetitive violations (the failures to conduct leak tests and maintain records of inventories of sealed sources). The specific notice given by your July 1990 internal memorandum, which identified: (1) the lack of a qualified Radiation Protection Officer; (2) and the failure to maintain sealed source inventory records, gave you ample notice of potentially significant problems in your radiation safety program. The penalty was also increased an additional 100 percent for the duration of the violations. In particular, since 1987 you have not had a trained, qualified and authorized Radiation Protection Officer to manage your radiation safety program. This is especially significant because your staff was not aware of the radiation hazard associated with the entries into the digester vessel. The remaining factor, multiple occurrence, in the enforcement policy was also considered and no further adjustment to the base civil penalty is considered appropriate.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. In addition you should also describe in your response why you believe your current actions will be more effective and lasting in light of the repetitiveness of violations noted during this inspection. After reviewing your response to this Notice, including your proposed corrective actions and the results of future inspections, the NRC will determine whether further NRC enforcement action is necessary to ensure compliance with NRC regulatory requirements.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," 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, Pub. L. No. 96-511.

Sincerely,

/s/ H. J. Miller for

A. Bert Davis
Regional Administrator

Enclosure:
Notice of Violation and Proposed
Imposition of Civil Penalty

cc w/enclosure:
DCD/DCB(RIDS)
J. Lieberman, Director
Office of Enforcement
State of Michigan

(SEE ATTACHED CONCURRENCE)

RIII

Weil/db
07/ /91

RIII

Norelius
07/ /91

RIII

Berson
07/30/91

RIII

Pederson
07/30/91

RIII

Paperie Mo
07/30/91

RIII

Davis
07/30/91

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cc w/enclosure:
DCD/DCB(RIDS)
J. Lieberman, Director
Office of Enforcement
State of Michigan

COPY TO CRILL

RIII <i>[Signature]</i> Weil/db 07/27/91	RIII <i>[Signature]</i> Nurenius 07/28/91	RIII Berson 07/ /91	RIII <i>[Signature]</i> Pederson 07/29/91	RIII Paperiello 07/ /91	RIII Davis 07/ /91
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UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
738 ROOSEVELT ROAD
GLEN ELLYN, ILLINOIS 60137

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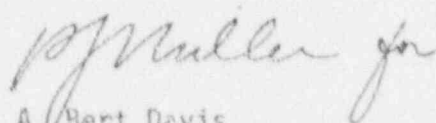
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