



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

REGION III  
801 WARRENVILLE ROAD  
LISLE, ILLINOIS 60532-4351

September 4, 1997

EA 97-338

Nico J. Meiland  
Senior Vice President  
Manufacturing and Procurement  
Worldwide Consumer Products  
S.C. Johnson & Sons, Inc.  
1525 Howe Street  
Racine, WI 53403

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY  
- \$2,500 (NRC Inspection Report No. 030-06740/96001(DNMS) and  
Investigation Report No. 3-96-053)

Dear Mr. Meiland:

This refers to the inspection conducted from November 21 through December 5, 1996, and the investigation conducted by the NRC Office of Investigations (OI) from December 2, 1996 through June 11, 1997, at S.C. Johnson & Sons, Inc., Mt. Pleasant, Wisconsin. The purpose of the inspection was to determine whether activities authorized by the license were conducted safely and in accordance with NRC requirements. The inspection report was sent to you by letter dated December 19, 1996, and the synopsis of the OI findings was sent to you by letter dated July 11, 1997. A predecisional enforcement conference was held on August 1, 1997 to discuss the violations, their causes, and proposed corrective action.

Based on the information developed during the inspection, the investigation, and the information provided during the conference, the NRC has determined that violations of NRC requirements occurred. These violations are cited in the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) and the circumstances surrounding them are described in detail in the subject inspection report. Four violations were identified; unauthorized disposal of licensed material, removal of licensed material from service by unauthorized persons, inadequate security of licensed material, and failure to report lost or missing licensed material in a timely matter.

The violation in Section I of the Notice, unauthorized disposal of licensed material, occurred as the result of (1) improper storage of the nuclear gauges, (2) poor judgement on the part of plant personnel participating in the scrapping program, and (3) inadequate direction provided to staff regarding the scrapping program. The lack of basic radiation safety instruction for employees frequenting areas where nuclear gauges are installed contributed to this incident which resulted in the loss of a 300 millicurie americium-241 source.

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Incumbent upon each company possessing byproduct material is the responsibility to protect public health and safety by ensuring that radioactive materials are controlled at all times. Furthermore, the failure to effectively control material is a significant safety concern because it can lead to the inadvertent release of radioactive material in the public domain. Although the licensee is reasonably certain that the source is buried in a local landfill, this violation is of significant regulatory concern because several S. C. Johnson & Sons, Inc. employee's failed to follow established procedures regarding the handling of nuclear gauges. This failure resulted in loss of control of licensed material. Therefore, the violation in Section I of the Notice is categorized in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, at Severity Level III.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$2,500 is considered for a Severity Level III violation. Because your facility has not been the subject of escalated enforcement actions within the last two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section VI.B.2 of the Enforcement Policy. Credit was warranted in that your actions were prompt and comprehensive. The NRC recognizes that application of the civil penalty assessment process would normally not result in a civil penalty in this case because we want to encourage prompt and comprehensive corrective action. Nevertheless, the NRC is exercising discretion in accordance with Section VII.A.1(g) of the Enforcement Policy and is proposing a civil penalty of \$2,500 for the violation identified in Section I of the Notice. Discretion is being exercised because licensed material was not controlled and is currently believed to be in a landfill.

Therefore, to emphasize the need to strictly control licensed material, I have been authorized, after consultation with the Director, Office of Enforcement, to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) in the base amount of \$2,500 for the Severity Level III violation.

Violation's A. and B. in Section II of the Notice, addressing the removal of nuclear gauges from service by unauthorized individuals and failure to secure the devices once removed, were the precursors of the violation addressed in Section I. If licensee personnel had notified the radiation safety officer before removing the device, as prescribed by the procedure, and awaited instructions before removing the devices the radioactive material would likely not have found its way to a landfill. Therefore, the violations are classified in the aggregate in accordance with the "General Statement of Policy and Procedure of NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, as a Severity Level III problem.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$2,500 is considered for a Severity Level III problem. Because your facility has not been the subject of escalated enforcement actions within the last two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section VI.B.2 of the Enforcement Policy. Credit for corrective actions is warranted because your corrective actions were prompt and comprehensive. These actions included: (1) cessation of informal scrapping practices; (2) installation of security locks on remaining nuclear gauges; and (3) training of employees concerning the nuclear gauge

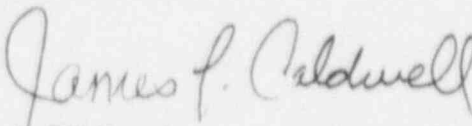
hazards, postings and procedures. Therefore, to encourage prompt and comprehensive correction of violations, I have been authorized after consultation with the Director, Office of Enforcement, not to propose a civil penalty for this severity level III problem.

Violation C in Section II of the Notice, which addresses the failure to report the loss of licensed material in a timely manner, has been categorized as a Severity Level IV violation in accordance with the Enforcement Policy.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements. In addition, issuance of this Notice constitutes escalated enforcement action that may subject you to increased inspection effort.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response will be placed in the NRC Public Document Room (PDR).

Sincerely,

*for*   
A. Bill Beach  
Regional Administrator

Docket No. 030-00740  
License No. 48-06453-01

Enclosure: Notice of Violation and  
Proposed Imposition  
of Civil Penalty

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