



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION III
2443 WARRENVILLE RD. SUITE 210
LISLE, IL 60532-4352

August 14, 2015

Mr. Joe Oliverio, President
Positron Corporation
1777 Maryland Ave
Niagara Falls, NY 14305

**SUBJECT: TERMINATION OF YOUR NRC RADIOACTIVE MATERIALS LICENSE
NUMBER 13-32765-01 AND NOTICE OF VIOLATION**

Dear Mr. Oliverio:

By letter dated January 28, 2015, Mr. Lawrence Pitt of your staff contacted the U.S. Nuclear Regulatory Commission (NRC) and indicated that you wished to terminate your NRC radioactive material license. The NRC staff has reviewed your final status surveys and concluded that all licensable radioactive material has been removed from your facility and residual radioactive material attributable to licensed activities does not exceed current NRC criteria.

Based on these conclusions no further remediation or actions with respect to NRC regulated material is required. Your facility is suitable for unrestricted use and NRC License Number 13-32765-01 is hereby terminated.

During our review of your request to terminate your license, the NRC has determined that one Severity Level IV violation of NRC requirements occurred. The violation was evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violation concerned the licensee's failure to perform a leak test of three sealed sources before they were transferred to another person, and the sources had not been leak tested within the required leak test interval, as required by License Condition No. 17A. and D. of your license. The violation is cited in the enclosed Notice of Violation (Notice). The NRC is citing the violation in the enclosed Notice because it was identified by our staff.

As corrective action, Mr. Pitt contracted with RAM Services, Inc., a State of Wisconsin licensee who received the sources, to conduct the leak-testing. The sources were tested for leakage on July 17, 2015, and the results were submitted to our office on July 22, 2015. The results were within regulatory requirements.

The NRC has concluded that the corrective action taken was adequately addressed in letters dated April 29, 2015, and July 28, 2015, and e-mail dated July 21, 2015, with attached leak test

J. Oliverio

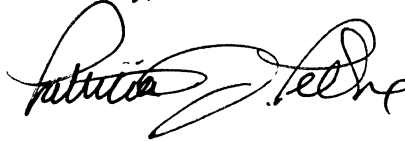
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results. Therefore, you are not required to respond to this letter unless the description herein does not accurately reflect your corrective action or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with Title 10 of the *Code of Federal Regulations* (CFR) 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be available electronically for public inspection in the NRC's Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC's website at <http://www.nrc.gov/reading-rm/adams.html>.

If you have any questions, please contact Kevin Null of my staff at 630-829-9854.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patricia J. Pelke', with a stylized flourish at the end.

Patricia J. Pelke, Chief
Materials Licensing Branch

License No. 13-32765-01
Docket No. 030-38150

Enclosures:

1. Amendment No. 05
2. Notice of Violation

cc w/encl: Lawrence Pitt,
Radiation Safety Officer

**MATERIALS LICENSE
SUPPLEMENTARY SHEET**

License Number

13-32765-01

Docket or Reference Number

030-38150

Amendment No. 05

Positron Corporation

9715 Kincaid Drive

Suite 1000

Fishers, IN 46038

In accordance with NRC Form 314 Certificate of Disposition dated January 28, 2015, License Number 13-32765-01 is hereby terminated.

FOR THE U.S. NUCLEAR REGULATORY COMMISSION

Date AUG 14 2015

By



Kevin G. Null
Materials Licensing Branch
Region III

NOTICE OF VIOLATION

Positron Corporation
Fishers, Indiana

License No. 13-32765-01
Docket No. 030-38150

During a U.S. Nuclear Regulatory Commission (NRC) license review of the information submitted by the licensee on NRC Form 314, "Certificate of Disposition of Materials" dated January 28, 2015, for license termination, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

License Condition No. 17.A. requires, in part, that sealed sources be tested for leakage and/or contamination at intervals specified in the certificate of registration issued by the NRC or an Agreement State. Additionally, License Condition No. 17.D. requires, in part, when sealed sources are transferred to another person, and have not been leak tested within the required leak test interval, they shall be leak tested before transfer.

Contrary to the above, on January 7, 2015, the licensee transferred one 5.53 millicurie cobalt-57 sealed source, one 0.298 millicurie barium-133 sealed source, and one 0.207 millicurie cesium-137 sealed source to another person and each source had not been leak tested within the required leak test interval or leak tested before transfer. Each source had a required leak test interval of six months and had not been leak tested since at least June 13, 2012, an interval greater than six months.

This is a Severity Level IV violation (Section 6.3).

The NRC has concluded that information regarding the violation, the corrective action taken to correct the violation, and the date when full compliance was achieved is adequately addressed on the docket in letters dated April 29, 2015, and July 28, 2015, and e-mail dated July 21, 2015. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective action or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation" and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, Region III, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you choose to respond, your response will be made available electronically for public inspection in the NRC's Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC's website at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated this 14th day of August, 2015.

Enclosure 2

J. Oliverio

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In accordance with 10 *Code of Federal Regulations* 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

If you have any questions, please contact Kevin Null of my staff at 630-829-9854.

Sincerely,

/RA/

Patricia J. Pelke, Chief
Materials Licensing Branch

License No. 13-32765-01
Docket No. 030-38150

Enclosures:

1. Amendment No. 05
2. Notice of Violation

cc w/encs: Lawrence Pitt,
Radiation Safety Officer

DISTRIBUTION w/encs:

Darrell Roberts
Patrick Loudon
Julio Lara
Richard Skokowski
Carole Ariano
Paul Pelke
Jim Clay
Carmen Olteanu
MIB Inspectors
MLB Reviews

ADAMS Accession Number: ML15229A131

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