

DMB



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV

611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064

January 23, 1997

EA 97-016

Mr. Michael Brian, Administrative Officer
Department of Health & Human Services
National Institute of Diabetes and
Digestive and Kidney Diseases
4212 North 16th Street
Phoenix, Arizona 85016

SUBJECT: NOTICE OF VIOLATION

Dear Mr. Brian:

This refers to the written report by Dr. David Mott of your staff dated November 20, 1996, regarding the loss and presumed disposal of 750 microcuries of P-32 contained in laboratory waste materials. Your letter described actions taken in response to your discovery of the lost material and corrective actions to preclude recurrence. This matter had been previously reported by telephone on October 22, 1996, to Mr. Frank Wenslawski of the Region IV, Walnut Creek Field Office.

From discussions with your staff and information provided in your written report, it appears that reasonable efforts had been in place to control the material. The waste was collected in a properly labeled trash container and stored in a locked laboratory with a key card required for entry. A specific individual was assigned responsibility of caring for the trash, and this individual discovered the missing material. Your report infers that the waste was removed by a new, untrained janitorial staff and probably transferred to an outside trash bin and transported to the local landfill.

Based on our review of this matter, the improper disposal of the waste material and the failure to train janitorial staff members have been identified as violations of NRC requirements, as specified in the enclosed Notice of Violation (Notice).

The NRC generally considers the loss of byproduct material to be a significant concern because of the potential for members of the public to receive unintended and possibly significant radiation exposures, the potential for contamination of other material, and the impact on the environment of improper disposal of byproduct material. However, in this case the material was dispersed among two cubic feet of laboratory waste materials, was not ingestible or otherwise likely to result in a significant radiation dose, and the loss did not result in a spread of contamination. Therefore, we have classified these violations at a Severity Level IV. Please be advised that any future loss of control or improper disposal of licensed material could be viewed as a higher Severity Level violation and considered for escalated enforcement action.

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January 23, 1997

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence are already adequately addressed in your written report to the NRC. We consider your response to this matter to be responsible and your corrective actions to be comprehensive. Therefore, you are not required to respond to this letter unless the description in your written report does not accurately reflect your corrective actions 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 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response (if any) will be placed in the NRC Public Document Room (PDR).

Should you have any questions concerning this letter, please contact Frank Wenslawski at (510) 975-0219.

Sincerely,

Charles L. Cain

for Ross A. Scarano, Director
Division of Nuclear Materials Safety

Docket No.: 030-01211
License No.: 02-13990-01

Enclosure:
Notice of Violation

cc w/enclosure:
State of Arizona Radiation Control Program Director

January 23, 1997

bcc to DMB (IEO7)

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JLieberman, OE (O-7H5)

DACool, NMSS (T-8F5)

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WCFO Materials File (2)

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January 23, 1997

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*Previously concurred

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