

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

United Hospital Center
Clarksburg, West Virginia

Docket No. 030-033375
License No. 47-01458-01
EA 87-214

During an NRC inspection conducted on October 22, 1987, violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR Part 2, Appendix C (1987), the Nuclear Regulatory Commission proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violations and associated civil penalty are set forth below:

- A. License Condition 19 requires that the licensee shall conduct its program in accordance with the statements, representations, and procedures contained in the application dated April 17, 1983, and in letters dated January 20, 1984; February 28, September 4, September 16, December 29, 1986; and May 8, June 10, and August 25, 1987.

1. Item 7 of the application states, in part, that the Medical Isotopes Committee shall meet not less than once in each calendar quarter.

Contrary to the above, the Medical Isotopes Committee did not meet during the period between January 16, 1986, and August 6, 1986.

This is a repeat violation.

2. Item 7 of the application states, in part, that the Medical Isotopes Committee shall review the entire Radiation Safety Program at least annually.

Contrary to the above, the Medical Isotopes Committee did not perform an annual review of the Radiation Safety Program in 1985 and 1986.

3. Item 12 of the application states, in part, that the personnel training program will be given to all personnel who work with or in the vicinity of radioactive materials and that the training program will be of sufficient scope to ensure that all personnel, including clerical, housekeeping, and security personnel, receive proper instruction in the items specified in 10 CFR 19.12 before assuming duties with or in the vicinity of radioactive materials, and during annual refresher training.

Contrary to the above, as of October 22, 1987 and for an indeterminate period of time prior to that date, the licensee did not conduct a training program for clerical, housekeeping, and security personnel.

- D. Item 10 of the application states, in part, that survey meters will be calibrated on a quarterly basis.

Contrary to the above, the licensee failed to calibrate survey meters consisting of the Eberline Model E-520 (S/N 685) and the Texas Nuclear Model 9122 (S/N 44) during the fourth quarter of 1986 (October 1 - December 31, 1986).

5. Item 10 of the application states, in part, that tests for geometrical variation on dose calibrator will be conducted upon installation and after maintenance and/or repair.

Contrary to the above, as of October 22, 1987, the licensee failed to perform geometrical variation tests on the dose calibrator upon installation and after maintenance and/or repair.

6. Item 17 of the application states in part that all elution, preparation, and injection areas will be surveyed daily.

Contrary to the above, the licensee failed to perform daily surveys of the elution, preparation, or injection areas on November 22, 1986; December 6 and 20, 1986; January 10 and 17, 1987; March 26, 1987; and May 16, 1987.

7. Item 17 of the application states that all other laboratory areas will be surveyed weekly.

Contrary to the above, the licensee failed to perform weekly surveys of various laboratory areas during the weeks of January 7 and 14, 1987; February 4, 1987; and March 4, 1987.

- B. 10 CFR 20.203(b) states that each radiation area shall be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words: CAUTION RADIATION AREA. 10 CFR 20.202(b)(2) states that a radiation area means any area, accessible to personnel in which there exists radiation at such levels that a major portion of the body could receive in any one hour a dose in excess of 5 millirems or in any 5 consecutive days a dose in excess of 100 millirems.

Contrary to the above, as of October 22, 1987, the licensee failed to properly post the "hot lab", a radiation area, with a sign as described above.

- C. 10 CFR 20.105(b)(1) states, in part, that no licensee shall possess, use or transfer licensed material in such a manner as to create in any unrestricted area radiation levels which, if an individual were continuously present in the area, could result in his receiving a dose in excess of two millirems in any one hour.

Contrary to the above, as of October 22, 1987, the licensee failed to properly use licensed material in the hot lab in that radiation levels in the adjacent unrestricted area (a waiting room) were measured at three millirems per hour.

- D. 10 CFR 20.402(a)(1) requires, in part, that each licensee shall report to the Commission, by telephone, immediately after it determines that a loss or theft of licensed material has occurred in such quantities and under such circumstances that it appears to the licensee that a substantial hazard may result to persons in unrestricted areas.

10 CFR 20.402(b) requires, in part, that each licensee who makes a report under 10 CFR 20.402(a) shall, within 30 days after learning of the loss or theft, make a report in writing to the U.S. Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555, with a copy to the appropriate NRC Regional Office.

Contrary to the above, on July 21, 1982, 14 Iridium-192 seeds used during a brachytherapy treatment and containing approximately 1.1 millicuries each were lost by the licensee. In addition, nine additional Iridium-192 seeds, containing approximately 0.9 millicuries each, were lost in January 1983. No immediate report was made by the licensee nor was the required 30 day written report filed in either case.

These violations have been categorized in the aggregate as a Severity Level III problem (Supplements IV and VI).

Cumulative Civil Penalty - \$1,250 (assessed equally among the violations)

Pursuant to the provisions of 10 CFR 2.201, United Hospital Center is hereby required to submit a written statement or explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice. This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each violation: (1) admission or denial of the violation, (2) the reasons for the violation if admitted, (3) the corrective steps that have been taken and the results achieved, (4) the corrective steps which will be taken to avoid further violations, and (5) the date when full compliance will be achieved. If an adequate reply is not received within the time specified in this Notice, an order may be issued to show cause why the license should not be modified, suspended, or revoked or why such other action as may be proper should not be taken. Consideration may be given to extending the response time for good cause shown. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

Within the same time as provided for the response required above under 10 CFR 2.201, the Licensee may pay the civil penalty by letter addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, with a check, draft, or money order payable to the Treasurer of the United States in the amount of the civil penalty proposed above, or the cumulative amount of the civil penalties if more than one civil penalty is proposed, or may protest imposition of the civil penalty in whole or in part by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should the Licensee fail to answer within the time specified, an order imposing the civil penalty will be issued. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violations listed in this Notice in whole or in part, (2) demonstrate extenuating circumstances, (3) show error in this Notice, or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty, such answer may request remission or mitigation of the penalty.

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In requesting mitigation of the proposed penalty, the five factors addressed in Section V.B of 10 CFR Part 2, Appendix C (1987), should be addressed. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from the statement or explanation in reply pursuant to 10 CFR 2.201 but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205 regarding the procedure for imposing a civil penalty.

Upon failure to pay the penalty due, which has been subsequently determined in accordance with the applicable provisions of 10 CFR 2.205, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282.

The responses to the Director, Office of Enforcement, noted above (Reply to a Notice of Violation, letter with payment of civil penalty, and Answer to a Notice of Violation) should be addressed to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, Region II.

FOR THE NUCLEAR REGULATORY COMMISSION

ORIGINAL SIGNED BY:
J. NELSON GRACE

J. Nelson Grace
Regional Administrator

Dated at Atlanta, Georgia
this 30th day of January 1988

United Hospital Center

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