



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

April 28, 1998

EA 98-145

Mr. Oliver Crump
Vice President, Ambulatory & Clinical Affairs
Washington Hospital Center
110 Irving Street
Washington, DC 20010-2975

**SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY -
\$2,750
(NRC Inspection Report No. 030-01325/98-001)**

Dear Mr. Crump:

This refers to the NRC inspection conducted on February 24-26, 1998, at your facility in Washington, D.C., to determine whether activities authorized by your license were conducted safely and in accordance with NRC requirements. The inspection was continued in the Region I office on February 27, 1998 to review additional information provided in a telephone conversation on that date between Dr. Joyce Johnson of your staff and this office. As described in the NRC inspection report sent to you on March 27, 1998, several apparent violations of NRC requirements were identified during the inspection. On April 13, 1998, a predecisional enforcement conference was conducted with you, Dr. Johnson, other members of the Washington Hospital Center staff, and your consultant, to discuss the apparent violations, their causes, and your corrective actions. A copy of the enforcement conference report is enclosed.

Based on the information developed during the inspection, and the information provided during the conference, six violations of NRC requirements are being cited. The violations are described 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. The violations being cited include: (1) the disposal of NRC licensed radioactive material (RAM) by incineration, a method not authorized by your license; (2) failure to perform adequate surveys of the NRC licensed RAM waste to identify the type and activity of the material whenever the process radiation detector in the incinerator room alarmed; (3) failure to train ancillary personnel who were handling RAM waste; (4) failure by workers to wear gloves when handling RAM waste; and (5) two violations related to the failure to maintain appropriate security and control of RAM waste at the facility. With respect to the last two violations, in one case, control was lost when, in February 1996, RAM waste was inadvertently given to a commercial waste hauler who did not have authorization to receive the material. In the other case, the RAM waste was observed, during the February 1998 inspection, to be stored in a trailer near the incinerator area and the trailer was neither locked nor attended.

These violations demonstrate that a significant weakness existed with respect to the attention to, and control of, RAM waste activities at the Washington Hospital Center. The need for appropriate attention and control is particularly important since approximately 5,000 pounds of waste material is collected daily from various locations within the Washington Hospital Center. During the inspection, the NRC learned that radioactive waste was often mixed with other waste generated at the facility, and then taken to the incinerator facility. Since 1996, the waste taken to the incinerator room has been monitored by a process radiation detector located therein. That detector has often alarmed, indicating the presence of RAM. However, the workers who responded to the alarms were neither qualified nor trained, and they often attempted to identify the cause of the radiation alarm by sorting through the waste bags and boxes, creating the potential for contamination of the workers. Also, an inspector observed a worker handling radioactive waste without protective gloves.

These findings represent a significant regulatory concern for which the NRC issued a Confirmatory Action Letter (CAL) on March 2, 1998, documenting your commitments to correct the identified deficiencies and take appropriate actions to prevent recurrence. While you have taken several significant actions since the inspection to address this concern, the NRC is particularly concerned that management in general, and the Radiation Safety Officer in particular, were aware of the waste handling problems, but did not take sufficient action, including the addition of needed resources, to address these problems until after the NRC inspection. Therefore, the violations collectively represent a breakdown in control of licensed activities at your facility, and have been classified in the aggregate as a Severity Level III problem in accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$2,750 is considered for a Severity Level III violation or problem. Because your facility has been the subject of an escalated enforcement action within the last two inspections¹, the NRC considered whether credit was warranted for *Identification and Corrective Action* in accordance with the civil penalty assessment process in Section VI.B.2 of the Enforcement Policy. Credit for identification is not warranted since the violations were identified by the NRC. Credit for corrective actions is warranted because your corrective actions, subsequent to the inspection, were both prompt and comprehensive. These actions, which were described at the enforcement conference, included, but were not limited to (1) retention of a consultant to, in part, evaluate the conditions at your facility; (2) increase in the radiation safety staff; (3) appointment of a new Chair of the Radiation Safety Committee; (4) suspension of incineration activities; and (5) retraining of staff.

Therefore, to emphasize the importance of appropriate control and oversight of activities at your facility, I have been authorized to propose a civil penalty in the amount of \$2,750 in this case. But for your corrective actions, the civil penalty would have been higher. In addition, since this is the third civil penalty issued to your facility since 1994, any similar problems in the future may result in more significant action.

¹ On April 10, 1997, a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$5,000 was issued to Washington Hospital Center for five violations of NRC requirements, including a violation for inadequate training of workers regarding the measurement of thyroid burdens, which contributed to multiple instances of workers not performing these measurements. (Reference: EA 96-385)

Three other apparent violations identified during the inspection are either being withdrawn, or are not being cited, for the reasons provided in the enforcement conference report.

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 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 (PDR).

Sincerely,


Hubert J. Miller
Regional Administrator

Docket No. 030-01325
License No. 08-03604-03

Enclosures:

1. Notice of Violation and Proposed Imposition of Civil Penalty
2. Enforcement Conference Report

cc w/encls:
District of Columbia

ENCLOSURE 1

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

Washington Hospital Center
Washington, DC

License No. 08-03604-03
Docket No. 030-01325
EA 98-145

During an NRC inspection conducted on February 24-27, 1998, violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy), NUREG-1600, the NRC proposes 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 violations and associated civil penalty are set forth below:

- A. 10 CFR 20.2002 requires that a licensee apply for authorization to dispose of licensed material, in a manner, not otherwise authorized in the regulations.

Contrary to the above, on January 3, 1998, RAM waste containing unquantified amount of RAM was incinerated at the licensee's facility, a method of disposal not authorized in the license. Prior to the incineration, the licensee had not applied for or received authorization to dispose of licensed material in this manner. (01013)

- B. 10 CFR 20.1501 requires that the licensee conduct surveys that may be necessary to evaluate the extent of radiation levels and concentrations or quantities of RAM.

Contrary to the above, as of February 26, 1998, surveys were not conducted to evaluate the extent of radiation levels, concentrations and quantities of RAM. Specifically, surveys were not performed to identify the type or activity of the RAM in the waste once the process radiation detector in the incinerator room alarmed indicating the presence of RAM in the waste; and surveys were not performed prior to release of RAM waste to a commercial waste hauler. The latter failure contributed to the loss of control of RAM. (01023)

- C. Condition 28 of license No. 08-03604-03 requires that the licensee conduct its business in accordance with the application dated August 26, 1994 and letters dated January 12, July 5, 6, 7, and October 4, 1995, January 21, and September 15, 1997.

1. The application dated August 26, 1994 requires that Appendix A of 10.8 Reg Guide Rev. 2 be followed for training. Appendix A, in part, requires that personnel be instructed: before assuming duties with, or in the vicinity of, radioactive materials; whenever there is a significant change in duties, regulations, or the terms of the license in the applicable regulations and license conditions; of areas where RAM is used or stored; in the potential hazards associated with RAM in each area where the employee will work; and in appropriate radiation safety procedures.

Contrary to the above, as of February 26, 1998, workers in the incinerator facility handling radioactive material (RAM) waste were not adequately trained in the hazards associated with handling RAM waste and appropriate radiation safety procedures. Specifically, the workers were not adequately instructed in the requirement to not incinerate RAM, and the workers did not understand the hazards associated with their work. (01033)

2. The application dated August 26, 1994, requires that " General Rules for Safe Handling of RAM be followed. The Rules for Safe Handling require that disposable gloves be worn when handling RAM.

Contrary to the above, on February 24, 1998, an incinerator worker handled RAM in the incinerator without wearing gloves. (01043)

- D. 10 CFR 20.1802 requires that the licensee control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage.

Contrary to the above, in February 1996, the licensee did not control or maintain constant surveillance over licensed material (radioactive material) that was not in storage. Specifically, on two occasions during February 1996, RAM waste was inadvertently given to a commercial waste hauler (BFI) who did not have authorization (NRC license) to receive the material. (01053)

- E. 10 CFR 20.1801 requires that the licensee secure from unauthorized removal or access licensed materials that are stored in controlled or unrestricted areas.

Contrary to the above, on February 24, 25, & 26, 1998, licensed materials were not secured from unauthorized removal or access. Specifically, RAM waste stored in the trailer near the incinerator area was not secured against unauthorized removal in that on February 24, 25 and 26, 1998, the trailer was neither locked nor attended. (01063)

These violations are categorized in the aggregate as a Severity Level III problem (Supplement VI).

Civil Penalty - \$2,750.

Pursuant to the provisions of 10 CFR 2.201, Washington Hospital Center is 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 of Violation and Proposed Imposition of Civil Penalty (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each alleged violation: (1) admission or denial of the alleged violation, (2) the reasons for the violation if admitted, and if denied, the reasons why, (3) the corrective steps that have been taken and the results achieved, (4) the corrective steps that 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 or a Demand for Information may be issued as 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, money order, or electronic transfer 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 violation 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 in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the factors addressed in Section VI.B.2 of the Enforcement Policy 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 any civil penalty due which subsequently has been 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. 2282c.

The response noted above (Reply to Notice of Violation, letter with payment of civil penalty, and Answer to a Notice of Violation) should be addressed to: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region I.

Because your response will be placed in the NRC Public Document Room (PDR), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide

Enclosure 1

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the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

**Dated at King of Prussia, Pennsylvania
this 28th day of April 1998**