



DEPARTMENT OF THE NAVY
NAVY ENVIRONMENTAL HEALTH CENTER
2510 WALMER AVENUE
NORFOLK, VIRGINIA 23513-2617



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Ser 31/ 4254
JUL 09 1992

From: Commanding Officer, Navy Environmental Health Center
Subj: NAVY RADIOACTIVE MATERIAL PERMIT PROGRAM INFORMATION NOTICE 92-2
Encl: (1) NRC Information Notice 92-37: "Implementation of the Deliberate Misconduct Rule"

1. Enclosure (1) is forwarded. We recommend that it be reviewed by the Radiation Safety Officer, Radiation Safety Committee, Authorized Users, and personnel working under the supervision of Authorized Users.
2. The information contained in enclosure (1) reinforces the significance of the radiation safety program. The fact that individuals can be subject to criminal prosecution and civil penalties for deliberately violating or causing the command to violate Nuclear Regulatory Commission regulations is discussed.
3. Point of contact for additional information is LCDR G. I. Snyder, MSC, USN, Head, Radiation Health Department, DSN: 564-4657 or Commercial: (804) 444-4657, Ext. 413.

G. I. Snyder
G. I. SNYDER
By direction

Distribution:

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	NAVMEDRSCHINSTITUTE Bethesda MD



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NAVDENTALSCHOOL Bethesda MD
(LCDR L. Giambarresi, MSC, USN)
NAVDENTALRSCHINSTITUTE Great Lakes IL
(Attn: HMC P. B. Mangaran)
NAVAEROMEDRSCHLAB Pensacola FL
(Attn: LT J. J. King, MSC, USN)
NAVMEDRSCHU TWO Manila RP
NAVMEDRSCHU TWO DET Jakarta ID
NAVMEDRSCHU THREE Cairo EG
NAVMEDRSCHINSTITUTE DET Lima PE
NAVENPVNTMEDU TWO Norfolk VA
(Attn: CIHL)
NAVENPVNTMEDU FIVE San Diego CA
(Attn: CIHL Mare Island)
(Attn: CIHL San Diego)
NAVENPVNTMEDU SIX Pearl Harbor HI
(Attn: CIHL)

Copy to:
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BUMED (MED-211)
NAVSEADET RASO Yorktown, VA

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS
WASHINGTON, D.C. 20555



May 8, 1992

NRC INFORMATION NOTICE 92-37: IMPLEMENTATION OF THE DELIBERATE
MISCONDUCT RULE

Addressees

All Nuclear Regulatory Commission Materials Licensees

Purpose

The U.S. Nuclear Regulatory Commission is issuing this notice to describe to licensees a recent enforcement action and to alert licensees and their employees that, under the Deliberate Misconduct Rule, they can be subject to criminal prosecution and penalties for deliberately violating or causing a licensee to violate NRC requirements, or deliberately submitting to the NRC, a licensee or its contractor, information that is materially incomplete or inaccurate. It is expected that recipients will review this notice, distribute it to responsible staff, and consider actions, as appropriate, to ensure compliance with NRC requirements. However, suggestions contained in this information notice are not new NRC requirements; therefore no written response is required.

Description of Circumstances

The Department of Justice recently initiated a prosecution resulting in an indictment against a licensee and the licensee's president. The licensee's president pled guilty to conspiring to improperly dispose of three scales containing nuclear byproduct material and was sentenced to 3 years probation and fined \$30,000. Criminal proceedings involving the licensee's president are ongoing. These findings were based on an investigation conducted by NRC's Office of Investigation (OI) which concluded that the scales had been improperly disposed of through burial and that several individuals may have conspired to deceive NRC about the disposal of the scales.

The OI investigation followed special inspections conducted by NRC. The inspections involved several unsuccessful attempts to find three nuclear weigh scales. Based on the results of these inspections and the subsequent investigation, NRC determined that certain of the licensee's activities were not conducted in full compliance with NRC requirements as they involved the unauthorized and improper disposal of licensed material and that certain individuals had provided inaccurate and misleading information to NRC.

Discussion

NRC requires a high standard of compliance and accountability from licensees. NRC also requires all licensees to provide NRC with complete and accurate

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IN 92-37
May 8, 1992
Page 2 of 2

information, and that records required to be kept, and information provided to the Commission, both oral and written, be accurate and complete in all material aspects.

Deliberate misconduct, by licensed or unlicensed individuals, resulting in violations, such as the unauthorized disposal of licensed material, falsification of records, or false or misleading statements, undermines the NRC's confidence that these individuals will conduct themselves in a manner that adequately protects public health and safety, when participating in future licensed activities. The "Deliberate Misconduct" rule (56 FR 40664) provides a basis for enforcement action directly against any person, licensed or unlicensed, who deliberately causes a violation of NRC requirements or deliberately submits information that is materially incomplete or inaccurate. Actions against individuals involved in such violations may include civil penalties, orders to modify, suspend, or revoke licenses, and orders to the individuals restricting future involvement by the individual in any licensed activities. The aforementioned case is an example of a situation where such enforcement actions will be applied, in future cases, against specific individuals. Furthermore, the NRC intends to refer to the U.S. Department of Justice for consideration for criminal prosecution cases involving individuals who deliberately cause a violation of NRC requirements. Licensees and their employees should refer to the Deliberate Misconduct rule for a more complete discussion of its scope.

This information notice requires no specific action or written response. If you have any questions about the information in this notice, please call one of the technical contacts listed below, or the appropriate regional office.

Richard E. Cunningham

Richard E. Cunningham, Director
Division of Industrial and
Medical Nuclear Safety
Office of Nuclear Material Safety
and Safeguards

Technical contacts: James L. Cameron, RIII
(708) 388-5636
Susan L. Greene, NMSS
(301) 504-2686

Attachments:

1. List of Recently Issued NMSS Information Notices
2. List of Recently Issued NRC Information Notices