



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

January 11, 2023

EA-22-053

Stephanie Whalen, Executive Director
Hawaii Agriculture Research Center
P.O. Box 100
Kunia, HI 96759

SUBJECT: HAWAII AGRICULTURE RESEARCH CENTER, NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTIES - \$16,000, NRC INSPECTION REPORT 030-06839/2022-001

Dear Stephanie Whalen:

This letter refers to the inspection conducted on April 8, 2022, at your facility in Waipahu, Hawaii, with in-office review through July 28, 2022. The purpose of the inspection was to examine activities conducted under your license as they relate to public health and safety and to confirm compliance with the U.S. Nuclear Regulatory Commission (NRC) rules and regulations and the conditions of your license. A final exit briefing was conducted by videoconference with Dr. Blake Vance and Ronald Frick on August 22, 2022. Details of the inspection and seven apparent violations were provided to you in the subject inspection report, dated September 21, 2022, Agencywide Documents Access and Management System (ADAMS) Accession No. ML22256A324.

In the September 21, 2022, letter transmitting the inspection report, we informed you that seven apparent violations were being considered for escalated enforcement action. In the letter, we provided you the opportunity to address the apparent violations identified in the report by either attending a predecisional enforcement conference, engaging the NRC in alternative dispute resolution (ADR) mediation, or by providing a written response before we made our final enforcement decision. In a letter dated October 21, 2022 (ML22299A014), you provided your response to the apparent violations.

Based on the information developed during the inspection and the information that you provided in your written response to the inspection report, the NRC has determined that seven violations of NRC requirements occurred. These violations are cited in Enclosure 1, "Notice of Violation and Proposed Imposition of Civil Penalties" (Notice).

The NRC considers Violations A, B, and C to be significant violations because they involved the possession of radioactive material not authorized under your NRC license, the failure to perform an inventory to account for radioactive material possessed under your NRC license, and the improper storage of unsealed radioactive material and other radioactively contaminated waste items. Therefore, these three violations have been categorized collectively in accordance with

the NRC Enforcement Policy as a Severity Level III problem. The Enforcement Policy can be found on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

The NRC considers Violation D to be a significant violation because it involved the failure to develop and implement a radiation protection program commensurate with the scope and extent of your NRC licensed activities. Therefore, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III.

The NRC considers Violations E, F, and G to be of low safety significance. Therefore, these violations have been categorized in accordance with the NRC Enforcement Policy at Severity Level IV.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$8,000 is considered for the Severity Level III problem. Separately, a base civil penalty in the amount of \$8,000 is considered for the Severity Level III Violation D.

Because your facility has not been the subject of escalated enforcement actions within the last two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. The NRC determined that for both the Severity Level III problem and Severity Level III Violation D, *Corrective Action* credit is not warranted. The *Corrective Action* credit evaluation is documented in Enclosure 2.

Therefore, to emphasize the importance of maintaining an adequate radiation protection program and the comprehensive correction of violations, I have been authorized, after consultation with the Director, Office of Enforcement, to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalties in the base amount of \$8,000 for the Severity Level III problem and in the base amount of \$8,000 for Severity Level III Violation D, for a total of \$16,000 in civil penalties. In addition, issuance of this Notice constitutes escalated enforcement action that may subject you to increased inspection effort.

Within 30 days of the date of this letter, you may choose to pay the proposed civil penalties by submitting your payment with the invoice enclosed to this letter (Enclosure 3), to the following address:

Office of the Chief Financial Officer
U.S. Nuclear Regulatory Commission
P.O. Box 979051
St. Louis, MO 63197

In addition, you may pay the proposed civil penalties in accordance with NUREG/BR-0254 "Payment Methods," Enclosure 4 or ADAMS Accession No. ML19163A244. When using NUREG/BR-0254 to pay the civil penalties, the bill number, EA-22-053, should be used as the "enforcement action identifier" when submitting your payment through one of the approved methods listed in the brochure. The NRC may consider a request for additional time to pay the proposed civil penalties, including the option to enter into an installment agreement, if payment of the civil penalties as a lump sum in the required timeframe would pose a financial hardship. To request additional time to pay, you must submit a written request, with appropriate justification explaining your financial hardship, to NRCCollections.Resource@nrc.gov. All

requests should be submitted in sufficient time to allow the NRC the ability to review your request for additional time to pay before the 30-day payment period expires.

If you disagree with this enforcement sanction, you may deny the violations, as described in the Notice, or you may request ADR mediation with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflicts using a neutral third party. The technique that the NRC has decided to employ is mediation. Mediation is a voluntary, informal process in which a trained neutral mediator works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC's ADR program can be found at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>.

The Institute on Conflict Resolution at Cornell University has agreed to facilitate the NRC's ADR program as a neutral third party. If you are interested in pursuing this issue through the ADR program, please contact: (1) the Institute on Conflict Resolution at 877-733-9415; and (2) Dr. Lizette Roldán-Otero at 817-200-1455 within 10 days of the date of this letter. Your submitted signed agreement to mediate using the NRC ADR program will stay the 30-day period for payment of the civil penalties and the required written response, as identified in the enclosed Notice, until the ADR process is completed.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. As part of your response, provide specific details regarding any actions you have taken or plan to take to promptly and properly dispose of all remaining NRC licensed materials, decommission your facility, and request to terminate your NRC license, including specifying a timeline for completion of these activities. If you have additional information that you believe the NRC should consider, you may provide it in your response to the Notice. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements as well as for the NRC to determine whether criteria have been met for the NRC to renew your license for possession and storage only with intent to dispose of the licensed materials.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter, its enclosures, and your response will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's ADAMS, accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy or proprietary information so that it can be made available to the public without redaction. The NRC also includes significant enforcement actions on its website at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

If you have any questions concerning this matter, please contact Dr. Lizette Roldán-Otero of my staff, at 817-200-1455.

Sincerely,



Monninger, John signing on behalf
of Morris, Scott
on 01/11/23

Scott A. Morris
Regional Administrator

Docket No. 030-06839
License No. 53-00515-01

Enclosures:

1. Notice of Violation and Proposed Imposition of Civil Penalties
2. Corrective Action Credit Evaluation
3. Civil Penalty Invoice
4. NUREG/BR-0254 "Payment Methods"

cc w/Enclosures:

Thomas Lileikis, Chief
Indoor and Radiological Health Branch
State Department of Health
99-945 Halawa Valley Street
Aiea, HI 96701

HAWAII AGRICULTURE RESEARCH CENTER, NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTIES - \$16,000, NRC INSPECTION REPORT 030-06839/2022-001- DATED JANUARY 11, 2023

DISTRIBUTION:

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Document: [https://usnrc.sharepoint.com/teams/Region-IV-ACES/ACES S Drive/ENFORCEMENT/_EA CASES - OPEN/HARC EA-22-053/Final action/NOVCP_EA-22-053_HARC.docx](https://usnrc.sharepoint.com/teams/Region-IV-ACES/ACES%20S%20Drive/ENFORCEMENT/_EA%20CASES%20-OPEN/HARC%20EA-22-053/Final%20action/NOVCP_EA-22-053_HARC.docx)

ADAMS ACCESSION NUMBER: **ML22363A566**

SUNSI Review By: JGK		ADAMS <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Publicly Available <input type="checkbox"/> Non-Publicly Available	<input checked="" type="checkbox"/> Non-Sensitive <input type="checkbox"/> Sensitive	Keyword: NRC-002	
OFFICE	SES:ACES	C:MIB	TL:ACES	RC	NMSS	OE
NAME	JKramer	LRoldanOtero	JGroom	DCylkowski	MBurgess	DJones
SIGNATURE	/RA/ E	/RA/ E	/RA/ E	/RA/ E	/RA/ E	/RA/ E
DATE	12/01/22	12/15/22	12/15/22	12/15/22	12/28/22	12/28/22
OFFICE	OGC	D:DRSS	RA			
NAME	TSteinfeldt	MMuessle	SMorris			
SIGNATURE	/NLO/ E	/RA/ E	/RA/ E JDM for			
DATE	12/29/22	01/06/23	01/11/23			

OFFICIAL RECORD COPY

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTIES

Hawaii Agriculture Research Center
Kunia, Hawaii

Docket No. 030-06839
License No. 53-00515-01
EA-22-053

During an NRC inspection conducted on April 8, 2022, with in-office review through July 28, 2022, seven violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the NRC proposes to impose civil penalties 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 penalties are set forth below:

I. Violations Assessed a Civil Penalty

- A. 10 CFR 30.3(a) requires, in part, that no person shall own or possess byproduct material except as authorized in a specific license issued in accordance with the regulations in 10 CFR Chapter I.

License Condition 6.D, of NRC Materials License No. 53-00515-01, Amendment No. 75 authorized a maximum of 15 millicuries total of nickel-63 foils for possession and storage only with intent to dispose.

Contrary to the above, on April 8, 2022, the licensee possessed byproduct material that was not authorized in a specific license issued in accordance with the regulations in 10 CFR Chapter I. Specifically, the licensee possessed approximately 35 millicuries of nickel-63 foils and was only authorized to possess 15 millicuries of nickel-63 foils in accordance with License Condition 6.D of NRC Materials License No. 53-00515-01.

- B. License Condition 15 of NRC Materials License No. 53-00515-01, Amendment No. 75 requires, in part, that the licensee shall conduct its program in accordance with the statements, representations, and procedures contained in the documents, including any enclosures to the application for license renewal dated January 29, 2020.

In the application dated January 29, 2020, Item 10, "Radiation Safety Program," states, in part, that the radiation safety program is documented in the Radiation Safety Manual. The Radiation Safety Manual, section "Laboratory Operation Procedures," Item 13, and section "Radioactive Materials Inventory," Item 2, states, in part, that an inventory of all radioactive materials in storage shall be performed every six months.

Contrary to the above, from July 14, 2020, to April 8, 2022, the licensee failed to conduct its program in accordance with the statements, representations, and procedures contained in the documents, including any enclosures to the application for license renewal dated January 29, 2020. Specifically, the licensee failed to perform an inventory of all radioactive materials in storage every 6 months. The licensee failed to inventory its radioactive materials in storage, including carbon-14 unsealed byproduct material contained in a refrigerator/freezer in the Radioisotope Room.

- C. License Condition 15 of NRC Materials License No. 53-00515-01, Amendment No. 75 requires, in part, that the licensee shall conduct its program in accordance with the statements, representations, and procedures contained in the documents, including any enclosures to the application for license renewal dated January 29, 2020.

In the application dated January 29, 2020, Item 11, "Waste Management," states, in part, that waste is being held in six 55-gallon steel drums plus one trash compactor that does not fit into a 55-gallon drum.

Contrary to the above, from July 14, 2020, to April 8, 2022, the licensee failed to conduct its program in accordance with the statements, representations, and procedures contained in the documents, including any enclosures to the application for license renewal dated January 29, 2020. Specifically, the licensee failed to hold or store all its waste in six 55-gallon steel drums and one trash compactor. The licensee stored unsealed carbon-14 waste and other radioactively contaminated waste items in a refrigerator/freezer.

This is a Severity Level III Problem (Enforcement Policy 6.3).
Civil Penalty - \$8,000. EA-22-053

- D. 10 CFR 20.1101(a) requires, in part, that each licensee shall develop, document, and implement a radiation protection program commensurate with the scope and extent of licensed activities and sufficient to ensure compliance with the provisions of 10 CFR Part 20.

License Condition 9.A.-D. of NRC license No. 53-00515-01, Amendment No. 75, authorized licensed material for possession and storage only with intent to dispose.

Contrary to the above, from July 14, 2020, to April 8, 2022, the licensee failed to develop, document, and implement a radiation protection program commensurate with the scope and extent of licensed activities and sufficient to ensure compliance with the provisions of 10 CFR Part 20. Specifically, the licensee failed to develop, document, and implement a radiation protection program that provides a pathway to disposal commensurate with its authorized use of licensed material for possession and storage only with the intent to dispose.

This is a Severity Level III Violation (Enforcement Policy Section 6.3).
Civil Penalty - \$8,000. EA-22-053

II. Violations Not Assessed a Civil Penalty

- E. License Condition 13.B. of NRC Materials License No. 53-00515-01, Amendment Nos. 73, 74, and 75 requires, in part, that no sealed source shall be stored for a period of more than 10 years without being tested for leakage and/or contamination.

Contrary to the above, from 2019 to April 8, 2022, the licensee stored sealed sources for a period of more than 10 years and failed to perform a test for leakage and/or contamination. Specifically, on April 8, 2022, the licensee had three electron capture detectors containing nickel-63 sealed sources that were placed into storage in 2009 and the sources were last tested for leakage/contamination on July 13, 2007. Thus, the

licensee stored sealed sources for more than 10 years without performing a required test for leakage and/or contamination.

This is a Severity Level IV violation (Enforcement Policy Section 6.7).

- F. License Condition 15 of NRC Materials License No. 53-00515-01, Amendment No. 75 requires, in part, that the licensee shall conduct its program in accordance with the statements, representations, and procedures contained in the documents, including any enclosures to the application for license renewal dated January 29, 2020.

In the application dated January 29, 2020, Item 10, "Radiation Safety Program," states, in part, that the radiation safety program is documented in the Radiation Safety Manual. The Radiation Safety Manual, section "Laboratory Operation Procedures," Item 10, requires, in part, that monthly radiation and wipe surveys be conducted in areas where radioactive materials are used or stored.

Contrary to the above, from July 14, 2020, to April 8, 2022, the licensee failed to conduct its program in accordance with the statements, representations, and procedures contained in the documents, including any enclosures to the application for license renewal dated January 29, 2020. Specifically, the licensee failed to conduct monthly radiation and wipe surveys in the Radioisotope Room, an area where radioactive materials were stored.

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

- G. 10 CFR 20.1101(c) requires that licensees shall periodically (at least annually) review the radiation protection program content and implementation.

Contrary to the above, from January 15, 2020, to April 8, 2022, the licensee failed to periodically (at least annually) review the radiation protection program content and implementation. Specifically, as of the April 8, 2022, NRC inspection, the licensee had not reviewed the radiation protection program content and implementation since the previous NRC inspection in January 2020, a span of greater than one year.

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

Pursuant to 10 CFR 2.201, Hawaii Agriculture Research Center is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 1600 East Lamar Blvd., Arlington, Texas 76011-4511, and email it to R4Enforcement@nrc.gov within 30 days of the date of the letter transmitting this Notice of Violation and Proposed Imposition of Civil Penalties (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation and Proposed Imposition of Civil Penalties, EA-22-053" and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken; and (4) the date when full compliance will be achieved.

Your response may reference or include previous docketed correspondence if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, the NRC may issue an order or a demand for

information requiring you to explain why your license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

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.

You may pay the civil penalties proposed above through one of the following two methods:

1. Submit the payment with the enclosed invoice for Civil Penalty EA-22-053, issued to Hawaii Agriculture Research Center, to the following address:

Office of the Chief Financial Officer
U.S. Nuclear Regulatory Commission
P.O. Box 979051
St. Louis, MO 63197

OR

2. Submit the payment in accordance with NUREG/BR-0254.

You may protest the imposition of the civil penalties in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice. Should you elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalties, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation, EA-22-053," and may: (1) deny the violation(s) 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 penalties should not be imposed. In addition to protesting the civil penalties in whole or in part, such answer may request remission or mitigation of the penalties. Should you fail to answer or pay the civil penalties within 30 days of the date of this Notice, the NRC may issue an order imposing the civil penalties.

In requesting mitigation of the proposed penalties, the response should address the factors addressed in Section 2.3.4 of the Enforcement Policy. Any written answer addressing these factors pursuant to 10 CFR 2.205 should be set forth separately from the statement or explanation provided 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 the civil penalties.

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

The responses noted above, i.e., "Reply to a Notice of Violation and Proposed Imposition of Civil Penalties, EA-22-053" and "Answer to a Notice of Violation, EA-22-053," should be addressed to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 1600 East Lamar Blvd., Arlington, TX 76011-4511, and

emailed to R4Enforcement@nrc.gov. Your response will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's ADAMS, accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy or proprietary information so that it can be made available to the public 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 that such material is withheld from public disclosure, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information).

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

Dated this 11th day of January 2023

CORRECTIVE ACTION CREDIT EVALUATION

The NRC performed a *Corrective Action* credit evaluation of the Severity Level III problem and Severity Level III Violation D identified in the cover letter and Enclosure 1 as part of the civil penalty assessment process in Section 2.3.4 of the NRC Enforcement Policy.

The purpose of the *Corrective Action* factor is to encourage licensees to: (1) take the immediate actions necessary upon discovery of a violation that will restore safety, security, and compliance with the license, regulation(s), or other requirement(s) and (2) develop and implement (in a timely manner) the lasting actions that will not only prevent recurrence of the violation at issue, but will be appropriately comprehensive, given the significance and complexity of the violation, to prevent occurrence of violations with similar root causes.

Regardless of other circumstances (e.g., past enforcement history, identification), the NRC evaluates the licensee's corrective actions as part of the civil penalty assessment process. As a reflection of the importance given to this factor, an NRC judgment that the licensee's corrective action has not been prompt and comprehensive will result in the issuance of a civil penalty.

When assessing *Corrective Actions*, the NRC considers the timeliness of the corrective action (including the promptness in developing the schedule for long-term corrective action), the adequacy of the licensee's root cause analysis for the violation, and, given the significance and complexity of the issue, the comprehensiveness of the corrective action (i.e., whether the action is focused narrowly on the specific violation or broadly on the general area of concern).

Severity Level III problem evaluation

The violations associated with the Severity Level III problem involved: (1) the possession of radioactive material not authorized under the NRC license; (2) the failure to perform an inventory to account for radioactive material possessed and stored under the NRC license; and (3) the storage of unsealed radioactive material and other radioactively contaminated waste items in a manner that was inconsistent with NRC license commitments.

The NRC Inspection Report described that the NRC inspector identified that a licensee refrigerator/freezer contained various items that were labeled as being radioactively contaminated or as containing radioactive material. The licensee was unaware that these materials were stored in the refrigerator/freezer because the required physical inventories had not been performed by the licensee.

The licensee's October 21, 2022, response stated that the items in the refrigerator/freezer were transferred to the existing radioactive waste drums in the licensee's Radioisotope Room. The licensee's corrective actions did not address whether it searched the cabinets, boxes, and drawers in the Radioisotope Room for other unknown radioactive materials. Therefore, the licensee's corrective actions to address the performance of a physical inventory were not sufficiently comprehensive to demonstrate compliance.

Furthermore, in its response, the licensee stated that an inventory of "the remaining sources will be performed semiannually." However, semiannually is defined as twice a year but the licensee's Radiation Safety Manual specifically requires the physical inventory to be performed every 6 months. Additionally, the licensee's plan to perform an inventory of "the remaining sources" implies that it intends to only inventory the items "outside" of the drums (i.e., exempt sources and the generally licensed source in the broken liquid scintillation counter), but does not

address how it will perform a physical inventory of the items “inside” the drums. The licensee did not describe any alternative corrective actions to account for the items and materials in the drums, such as utilizing tamper indicators.

The licensee’s corrective actions did not provide a description of the items that it relocated from the refrigerator/freezer, such as the radioisotope type, its chemical or physical form, or its activity. In its response, the licensee did not provide an updated inventory list or other information to support that the type, form, and quantity of materials relocated from the refrigerator/freezer were authorized to be possessed under the NRC license.

Accordingly, *Corrective Action* credit is not warranted because: the licensee’s corrective actions were not adequate to demonstrate that it does not possess any additional radioactive material not authorized under the NRC license; the actions taken by the licensee to physically inventory its radioactive material were not adequate or comprehensive to account for all material possessed and stored under the NRC license; the licensee’s planned physical inventory process and schedule do not assure that the violations would not recur; and the licensee’s corrective actions did not demonstrate that the storage of all unsealed radioactive material and other radioactively contaminated waste items was consistent with NRC license commitments.

Severity Level III Violation D evaluation

The licensee’s October 21, 2022, response indicates a continued lack of understanding of the authorized use of the radioactive materials in the NRC license issued to Hawaii Agriculture Research Center, which is for “possession and storage only with intent to dispose.” In its response, the licensee describes its NRC license as a “possession-only” or a “storage-only” license. This description fails to acknowledge that the NRC license authorizes the possession and storage of the radioactive materials with the understanding that the licensee intends to promptly dispose of the radioactive materials. In other words, the authorized use of radioactive materials in the NRC license is not for the licensee to possess and store the radioactive materials indefinitely but rather for the licensee to possess and store the radioactive materials safely and securely as it prepares and takes actions to properly dispose of the radioactive materials in a timely manner.

Violation D is related, in part, to the licensee’s failure to develop, document, and implement a radiation protection program commensurate with the scope and extent of licensed activities. As noted, the NRC licensed activities are “possession and storage only with intent to dispose.” Although the licensee’s response describes actions it has taken to address the “possession and storage” of radioactive materials, the licensee failed to describe any corrective actions that it has taken or plans to take in order to fulfil the “intent to dispose” aspect of its NRC authorized licensed activities.

Accordingly, *Corrective Action* credit is not warranted because the licensee’s revised radiation protection program is not commensurate with the full scope and extent of its NRC licensed activities and its corrective actions failed to address its intent to dispose of the radioactive materials.

NRC *Corrective Action* Credit Conclusion

The NRC concluded that for the Severity Level III problem and the Severity Level III Violation described above, *Corrective Action* credit is not warranted.

Civil Penalty Invoice



01/11/2023

Address/Customer Information

Hawaii Agriculture Research Center
P.O. BOX 100
KUNIA, HI 96759

Customer Codes

Account Code: L00000937/1

Bill Information

Bill Number: EA-22-053
Amount Due: \$16,000.00
Due Date: 02/10/2023

Contact Us

Phone Number: 301-415-7554
Fax Number: 301-415-4135
Email Address: Fees.Resource@nrc.gov

Remit to Address

Office of the Chief Financial Officer
U.S. Nuclear Regulatory Commission
P.O. Box 979051
St. Louis, MO 63197

Bill Summary

Initial Charges	\$16,000.00
Discount	0.00
Surcharge	0.00
Interest Charges	0.00
Penalty Charges	0.00
Admin Charges	0.00
Bill Amount	\$16,000.00
Collected	0.00
Applied Credit	0.00
Adjustments	0.00
Amount Due	\$16,000.00

Credit Summary

Applied Credit	\$0.00
Unapplied Credit	0.00
Credit Total	\$0.00

Comments:

For questions, contact (301) 415-7554 or by email at Fees.Resource@nrc.gov. For NRC debt collection procedures, including interest and penalty provisions, see 31 U.S.C. 3717, 4 CFR 101-105, AND 10 CFR 15.

Customer Information

L00000937/1
Hawaii Agriculture Research Center
P.O. BOX 100
KUNIA, HI 96759

Change of Address:

Phone: _____

Remittance Information

Office of the Chief Financial Officer
U.S. Nuclear Regulatory Commission
P.O. Box 979051
St. Louis, MO 63197

This Payment References the following Bill:

EA-22-053

Outstanding Amount Due: \$16,000.00

Amount Enclosed: _____

NUREG/BR-0254
Payment Methods

QUESTIONS?

If you have questions, please visit <https://www.nrc.gov> and search for "License Fees."

Questions may also be directed to the NRC Accounts Receivable Help Desk by e-mail at nrc@fiscal.treasury.gov, by phone at (301) 415-7554, or by writing to the address below:

U.S. NUCLEAR REGULATORY COMMISSION
OCFO/DOC/ARB
Mail Stop T9-E10
Washington, DC 20555-0001



Payment Methods

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OCFO/DOC/ARB
Mail Stop T-9-E10
Washington, DC 20555-0001
PH (301) 415-7554



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Estimated burden per response to comply with this voluntary collection request: 10 minutes. This brochure provides information about available payment methods. Forward comments about to burden estimate to the Records Management Branch (T6-F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to the Paperwork Reduction Project (3150-0190), Office of Management and Budget, Washington, DC 20503. If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

NRC accepts the methods described below.

PAYMENT BY AUTOMATED CLEARINGHOUSE

To pay by Automated Clearinghouse/Electronic Data Interchange (ACH/EDI), provide a copy of NRC Form 628 to your financial institution. You may obtain a copy of NRC Form 628 from the NRC Web site at <http://www.nrc.gov> by searching for "NRC Form 628." You can also obtain a form by calling the NRC Accounts Receivable Help Desk at (301) 415-7554.

PAYMENT BY CREDIT CARD

The NRC is currently accepts credit card payments of up to \$24,999.99. For payment by credit card, go to Pay.gov, search for "U.S. Nuclear Regulatory Commission Fees" and enter the required information.

You may also mail or fax NRC Form 629 following the directions on the form. To obtain a copy of NRC Form 629 go to <http://www.nrc.gov> and search for "NRC Form 629" or call the NRC Accounts Receivable Help Desk at (301) 415-7554.



PAYMENT BY FEDWIRE DEPOSIT SYSTEM

The NRC can receive funds through the U.S. Department of the Treasury (Treasury) Fedwire Deposit System. The basic wire message format below complies with the Federal Reserve Board's standard structured third-party format for all electronic funds transfer (EFT) messages.

See the sample EFT message to Treasury below. Each numbered field is described below.

The diagram shows a structured EFT message format with the following fields and their corresponding numbers:

- 1**: TO (021030004)
- 2**: FROM (021030004)
- 3**: ORDERING BANK AND RELATED DATA
- 4**: REF (16-character reference number)
- 5**: AMOUNT (transfer amount)
- 6**: ORDERING BANK AND RELATED DATA (Treasurer's name)
- 7**: ORDERING BANK AND RELATED DATA (Agency location code)
- 8**: ORDERING BANK AND RELATED DATA (Agency location code)
- 9**: ORDERING BANK AND RELATED DATA (Agency location code)
- 10**: ORDERING BANK AND RELATED DATA (Agency location code)

1 RECEIVER-DFI# – Treasury's ABA number for deposit messages is 021030004.

2 TYPE-SUBTYPE-CD – The sending bank will provide the type and subtype code.

3 SENDER-DFI# – The sending bank will provide this number.

4 SENDER-REF# – The sending bank will insert this 16-character reference number at its discretion.

5 AMOUNT – The transfer amount must be punctuated with commas and decimal point; use of the "\$" is optional. The depositor will provide this item.

6 SENDER-DFI-NAME – The Federal Reserve Bank will automatically insert this information.

7 RECEIVER-DFI-NAME – Treasury's name for deposit messages is "TREAS NYC". The sending bank will enter this name.

8 PRODUCT CODE – A product code of "CTR" for customer transfer should be the first item in the receiver text field. Other values may be entered, if appropriate, using the ABA's options. A slash must be entered after the product code.

9 AGENCY LOCATION CODE (ALC) – THIS ITEM IS OF CRITICAL IMPORTANCE. IT MUST APPEAR ON THE FUNDS TRANSFER DEPOSIT MESSAGE IN THE PRECISE MANNER AS STATED TO ALLOW FOR THE AUTOMATED PROCESSING AND CLASSIFICATION OF THE FUNDS TRANSFER MESSAGE TO THE AGENCY LOCATION CODE OF THE APPROPRIATE AGENCY. The ALC identification sequence can, if necessary, begin on one line and end on the next line; however, the field tag "BNF=" must be on one line and cannot contain any spaces. The NRC's 8-digit ALC is: BNF=/AC-31000001

10 THIRD-PARTY INFORMATION – The Originator to Beneficiary Information (OBI) field tag "OBI=" signifies the beginning of the free-form third-party text. All other identifying information intended to enable the NRC to identify the deposit—for example, NRC annual fee invoice number, description of fee, 10 CFR 171 annual fee, and licensee name—should be placed in this field.

The optimum format for fields 7, 8, 9, and 10 using an 8-digit ALC is as follows:

TREAS NYC/CTR/BNF=/AC-31000001 OBI=

The optimum format, shown above, will allow 219 character positions of information following the "OBI=" indicator.

If the licensee's bank is not a member of the Federal Reserve System, the nonmember bank must transfer the necessary information and funds to a member bank, which then must transfer the information and funds to the local Federal Reserve Bank.

For a transfer of funds from local Federal Reserve Banks to be recorded on the same day, the transfer must be received at the New York Federal Reserve Bank by 4 p.m., EST. Otherwise, the deposit will be recorded on the next workday.

PAYMENT BY CHECK

Checks should be made payable to the U.S. Nuclear Regulatory Commission with the invoice number, Enforcement Action number, or other information that identifies the payment, written on the check. Mail the check to the following address:

U.S. Nuclear Regulatory Commission
U.S. Bank
P.O. Box 979051
St. Louis, MO 63197-9000

FedEx or overnight mailings must be delivered to the following address:

U.S. Nuclear Regulatory Commission
U.S. Bank Government Lockbox
SL-MO-C2GL
1005 Convention Plaza
St. Louis, MO 63101

TAXPAYER IDENTIFICATION NUMBER

You must file your Taxpayer Identification Number (TIN) with the NRC. Use NRC Form 531 to provide your TIN. You may obtain NRC Form 531 from the NRC Web site at <http://www.nrc.gov> by searching for "NRC Form 531" or by calling the NRC Accounts Receivable Help Desk at (301) 415-7554.