



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

April 14, 2023

EA-22-114

Karen Beckley, Director
U.S. Environmental Protection Agency
National Center for Radiation Field Operations
4220 South Maryland Parkway, Building D
Las Vegas, NV 89119-7533

SUBJECT: U.S. ENVIRONMENTAL PROTECTION AGENCY - NOTICE OF VIOLATION,
NRC INSPECTION REPORT 030-06981/2022-002

Dear Karen Beckley:

This letter refers to the announced routine inspection performed on October 12, 2022, at your facility in Las Vegas, Nevada, with continued in-office review through December 14, 2022. The inspection was conducted 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 with the conditions of your license. A final exit meeting was conducted with you and your staff on January 24, 2023. The results of the inspection and two apparent violations were provided to you in the subject inspection report, dated February 9, 2023, Agencywide Documents Access and Management System (ADAMS) Accession No. ML23030B926.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violation by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In a letter dated March 15, 2023 (ML23089A207), you provided a written response to the apparent violation.

Based on the information developed during the inspection and the information you provided in your March 15, 2023, written response to the inspection report, the NRC has determined that two violations of NRC requirements occurred. The violations are cited in the enclosed Notice of Violation (Notice), and the circumstances surrounding them are described in detail in the subject inspection report. The violations involved the failures to: (A) control and maintain constant surveillance of licensed materials that were not in storage, and (B) correctly perform physical inventories of licensed materials.

The NRC considers Violation A to be a significant violation because the failure to secure or maintain constant surveillance of licensed material created the potential for an overexposure to members of the public from its misuse. Therefore, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III. The Enforcement Policy can be found on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$8,750 is considered for a Severity Level III violation.

Because your facility has not been the subject of an escalated enforcement action within the last two routine 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 NRC Enforcement Policy. The NRC has determined that *Corrective Action* credit is warranted based on the prompt and comprehensive corrective actions you implemented. Your corrective actions to address the violation are documented in NRC Inspection Report 030-06981/2022-002 and in your letter dated March 15, 2023.

Therefore, to encourage prompt and comprehensive correction of violations and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III violation constitutes escalated enforcement action that may subject you to increased inspection effort.

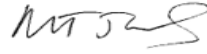
The NRC considers Violation B to be a violation that resulted in relatively inappreciable potential safety or security consequences but is more than a minor concern. Therefore, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level IV.

The NRC has concluded that information regarding: (1) the reason for the violations; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in NRC Inspection Report 030-06981/2022-002 and in your letter dated March 15, 2023. Therefore, you are not required to respond to this letter unless the description therein 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 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter, the enclosure, and your response, if you choose to provide one, 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,



Signed by Lewis, Robert
on 04/14/23

Robert J. Lewis
Regional Administrator (Acting)
Region IV

Docket No. 030-06981
License No. 27-05861-02

Enclosure:
Notice of Violation

cc w/enclosure:
John Follette, Manager
Radiation Control Program
Nevada Department of Health and Human Services
Division of Public and Behavioral Health
2080 E. Flamingo Road, Suite 319
Las Vegas, Nevada 89119
jfollette@health.nv.gov

U.S. ENVIRONMENTAL PROTECTION AGENCY - NOTICE OF VIOLATION, NRC
INSPECTION REPORT 030-06981/2022-002 - DATED APRIL 14, 2023

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NOTICE OF VIOLATION

U.S. Environmental Protection Agency
Las Vegas, NV

Docket No. 030-06981
License No. 27-05861-02
EA-22-114

During an NRC inspection conducted on October 12, 2022, with continued in-office review through December 14, 2022, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 20.1802 requires that the licensee shall 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, from February 14-15, 2022, the licensee failed to control and maintain constant surveillance of licensed material that was in a controlled or unrestricted area and was not in storage. Specifically, the licensee did not maintain control and constant surveillance of five radioactive sources that were transported to a non-licensee facility.

This is a Severity Level III Violation (Enforcement Policy Section 6.7.c.10(a)).

- B. License Condition 18 of NRC Materials License No. 27-05861-02, Amendments 55-58, requires, in part, that the licensee shall conduct a physical inventory every 6 months to account for all sealed sources possessed under the license.

Contrary to the above, from September 16, 2020, to November 9, 2022, the licensee failed to conduct a physical inventory every 6 months to account for all sealed sources possessed under the license. Specifically, the licensee did not physically confirm that 11 cesium-137 sources were within their shielded containers every 6 months, but instead only verified that the source holder containers were present, since conducting the March 2020 inventory.

This is a Severity Level IV Violation (Enforcement Policy Section 6.3.d.3).

The NRC has concluded that information regarding: (1) the reason for the violations; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in NRC Inspection Report 030-06981/2022-002 and in your letter dated March 15, 2023.

However, if the description therein does not accurately reflect your position or your corrective actions, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 within 30 days of the date of the letter transmitting this Notice of Violation. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation; EA-22-114," and send it 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.

Enclosure

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.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or in the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the 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).

Dated this 14th day of April 2023