



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
2443 WARRENVILLE ROAD, SUITE 210
LISLE, ILLINOIS 60532-4352

EA-23-089

November 15, 2023

Scott Elliott
President - Radiation Safety Officer
Prime NDT Services, Inc.
10119 State Route 21 NW
Strasburg, OH 44680

SUBJECT: NOTICE OF VIOLATION; NRC ROUTINE INSPECTION REPORT
No. 03020982/2022001(DRSS) – PRIME NDT SERVICES, INC.

Dear Scott Elliott:

This letter refers to the U.S. Nuclear Regulatory Commission (NRC) inspection conducted on October 27 and 28, 2022, at your field office in Mount Pleasant, Michigan and at a temporary job site in Hemlock, Michigan, with continued in-office review through August 8, 2023. The purpose of the inspection was to review activities performed under your NRC license to ensure that activities were being performed in accordance with NRC requirements. An exit meeting was held on August 21, 2023, with you by telephone to discuss apparent violations involving the failure to report transactions involving nationally tracked sources and to submit annual reports of individual monitoring. Inspection Report No. 03020982/2022001(DRSS) (non-public) was issued on September 7, 2023.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violations identified in the report by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In a letter dated October 4, 2023, you provided a written response to the apparent violations.

Based on the information developed during the inspection and the information that you provided in your October 4, 2023, response to the inspection report, the NRC has determined that two violations of NRC requirements occurred. These violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in detail in the subject inspection report.

Violation A involved the failure to report transactions involving nationally tracked sources when the sources were moved from your Agreement State License location to your Mount Pleasant, Michigan location, which is under NRC jurisdiction. The root cause of the violation was a lack of understanding of regulatory requirements when moving nationally tracked sources from one location to another. The failure to report transactions between licenses significantly impacts the traceability of sources used and stored in NRC jurisdiction and diminishes the effectiveness of the National Source Tracking System (NSTS) as the United States' national register of radioactive sources. Therefore, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$17,500 is considered for a Severity Level III violation. Because your facility has not been the subject of escalated enforcement actions within the last two years, 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. Corrective actions included: (1) developed a procedure for transferring a source to respective licenses through the NSTS, including that when signing out sources on the utilization log, the source will be transferred in NSTS at the same time; and (2) understanding that the tracking system needs to be updated when transferring sources from one license to another as described in the new procedure. Based on the above corrective actions, credit for *Corrective Action* is warranted.

Therefore, to encourage prompt identification 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 also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

The NRC has also determined that a Severity Level IV violation of NRC requirements occurred (Violation B). The violation involved the failure to submit an annual report of the results of individual monitoring carried out by the licensee for each individual for whom monitoring was required by Title 10 of the *Code of Federal Regulations* (CFR) CFR 20.1502 during that year. This violation was also categorized in accordance with the NRC Enforcement Policy. The violation is cited in the enclosed Notice and the circumstances surrounding it are described in detail in the subject inspection report. The violation is being cited in the Notice because it was identified by the inspector.

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 Inspection Report No. 03020982/2022001(DRSS) and your letter dated October 4, 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, its enclosure, and your response will be made available electronically for public inspection in the NRC Public Document Room and in the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or Security-Related 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, 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 information, 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 the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If you choose to respond and Security-Related Information is necessary to provide an acceptable response, please mark your entire response Security-Related Information in accordance with 10 CFR 2.390(d)(1) and follow the instructions for withholding in 10 CFR 2.390(b)(1).

Sincerely,



Signed by Giessner, Jack
on 11/15/23

John B. Giessner
Regional Administrator

Docket No. 030-20982
License No. 37-23370-01

Enclosure: Notice of Violation

Letter to S. Elliott from J. Giessner dated November 15, 2023.

SUBJECT: NOTICE OF VIOLATION; NRC ROUTINE INSPECTION REPORT
No. 03020982/2022001(DRSS) – PRIME NDT SERVICES, INC.

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NOTICE OF VIOLATION

Prime NDT Services, Inc.
Mount Pleasant, Michigan

Docket No. 030-20982
License No. 37-23370-01
EA-23-089

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on October 27 and 28, 2022, at your field office in Mount Pleasant, Michigan and at a temporary job site in Hemlock, Michigan violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. Title 10 of the *Code of Federal Regulations* (CFR) 20.2207(c) requires, in part, that each licensee that receives a nationally tracked source shall complete and submit a National Source Tracking Transaction Report.

Contrary to the above, between February 9, 2022, and February 16, 2023, Prime NDT Services, Inc., did not complete and submit a National Source Tracking Transaction Report for three sources received under its NRC Radioactive Materials License from its State of Ohio Radioactive Materials License. Specifically, the licensee received nationally tracked sources under its NRC license for extended interim storage at a facility in Mount Pleasant, Michigan on February 9, 2022, October 9, 2022, and December 21, 2022, and did not complete a Transaction Report for these transfers. The sources remained in NRC jurisdiction until transfer or decay through March 1, 2022, November 13, 2022, and February 16, 2023, respectively.

This is a Severity Level III violation (NRC Enforcement Policy Section 6.9.c.3).

- B. Title 10 CFR 20.2206(a) requires, in part, that this section applies to each person licensed by the Commission to possess or use byproduct material for purposes of radiography pursuant to Part 30 and 34 of this chapter.

Title 10 CFR 20.2206(b) requires that the licensees identified in paragraph (a), submit an annual report of the results of individual monitoring carried out by the licensee for each individual for whom monitoring was required by 10 CFR 20.1502 during that year, on or before April 30 of each year.

Contrary to the above, as of October 27, 2022, although Prime NDT Services, Inc., is subject to the reporting requirement in 10 CFR 20.2206, the licensee had not previously submitted the required report in any calendar year.

This is a Severity Level IV violation (NRC Enforcement Policy Section 6.9.d.2).

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 03020982/2022001(DRSS) and the licensee's letter dated October 4, 2023. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, (EA-23-089)," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional

Enclosure

Administrator, Region III, 2443 Warrenville Road, Suite 210, Lisle, IL 60532-4352 within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

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, United States 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 Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.]

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

Dated this 15th day of November 2023.