



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**  
REGION I  
475 ALLENDALE RD, SUITE 102  
KING OF PRUSSIA, PA 19406-1415

January 29, 2024

EA-23-094  
EN 56591

Travis Black, Division Manager  
Apex Companies LLC  
2101 Gaither Road  
Suite #500  
Rockville, MD 20850

**SUBJECT: NOTICE OF VIOLATION – APEX COMPANIES LLC, NRC INSPECTION  
REPORT NO. 99990010/2023001**

Dear Travis Black:

This letter refers to the reactive inspection of APEX Companies, LLC (Apex) conducted by the U.S. Nuclear Regulatory Commission (NRC) on July 5, 2023, with continued in-office review through October 16, 2023. The purpose of the inspection was to review the circumstances around the event notification you submitted on June 26, 2023, regarding the theft of your lead-based paint analyzer. The inspection consisted of a selected examination of representative records and interviews with personnel. Based on the results of the inspection, the NRC identified one apparent violation (AV) of NRC requirements. The NRC discussed the AV with you during a telephonic exit meeting on October 16, 2023. The AV was described in the NRC inspection report sent to you with a letter dated November 13, 2023 ([ML23291A285](#)).

The AV involved Apex's failure to file for reciprocity prior to performing licensed activities in NRC jurisdiction. Specifically, on multiple occasions between December 21, 2022, and June 26, 2023, Apex performed licensed activities on 12 separate occasions in Washington, DC, an area within NRC jurisdiction, without having filed an initial application for reciprocity with the NRC for calendar years 2022 and 2023.

In the November 13, 2023, letter transmitting the inspection report, we informed you that the AV was being considered for escalated enforcement action. We provided you with the opportunity to address the apparent violation identified in the report by either attending a pre-decisional enforcement conference or by providing a written response before we made our final enforcement decision.

In the letters dated August 8, 2023 ([ML23291A285](#)), and December 7, 2023 ([ML23341A118](#)) you provided a response to the AV and described the actions taken and planned by Apex to address the AV and prevent reoccurrence. These actions included terminating Apex's radioactive material license with the Maryland Department of the Environment (MDE) and purchasing a lead paint analyzer that uses x-ray tubes instead of an isotope. The new device will replace the functions of the radioactive device for future Apex projects. Based on the information developed during the inspection and the information provided in Apex's responses on August 8, 2023, and December 7, 2023, the NRC determined that a violation of NRC requirements occurred. The

violation is cited in the enclosed Notice of Violation and the circumstances surrounding it are described in detail in the subject inspection report.

As described above, the violation is related to the failure to file for reciprocity with the NRC prior to performing work in NRC jurisdiction. The NRC considers the failure to file for reciprocity a significant regulatory concern because the NRC was not informed of the activities occurring in NRC jurisdiction and therefore, was not provided an opportunity to conduct inspections of licensed activities. Therefore, this violation is categorized in accordance with the NRC Enforcement Policy as a Severity Level III (SL III) violation. The NRC 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 \$9,000 is considered for a SL III violation. Because Apex 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. The NRC has concluded that credit is warranted for Apex's corrective actions taken to address the violation. Specifically, as described above, Apex terminated the MDE license and will use a non-radioactive device for future Apex projects. Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement actions, after consultation with the Director, Office of Enforcement, I have been authorized not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty.

The NRC has concluded that information regarding: (1) the reason for the violation; (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. 99990010/2023001, and in letters from Apex dated August 8, 2023, and December 7, 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, if one is provided, will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's Agency-wide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at <https://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

Travis Black

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If you have any questions concerning this matter, please contact Monica Ford of my staff at 610-337-5214 or [Monica.Ford@nrc.gov](mailto:Monica.Ford@nrc.gov).

Sincerely,

Raymond K. Lorson  
Regional Administrator

Enclosure:  
Notice of Violation

Docket No. 999-90010  
License No. MD-31-358-01 (Terminated)

cc w/ Enclosure:  
Daniel Admasu, Senior Project Manager  
Ray Guevara, Radiation Safety Officer  
State of Maryland

SUBJECT: NOTICE OF VIOLATION – APEX COMPANIES LLC, NRC INSPECTION  
 REPORT NO. 99990010/2023001; January 29, 2024

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## ENCLOSURE

### NOTICE OF VIOLATION

APEX Companies, LLC  
Rockville, Maryland

Docket No.: 99990010  
License No.: MD-31-358-01 (Terminated)  
EA-23-094

During an NRC reactive inspection conducted on July 5, 2023, with in-office review through October 16, 2023, a violation of NRC requirements was identified. In accordance with NRC Enforcement Policy, the violation is listed below:

10 CFR 30.3 requires, in part, that no person shall manufacture, produce, transfer, receive, acquire, own, possess, or use byproduct material except as authorized in a specific license issued in accordance with the regulations in 10 CFR Chapter I.

10 CFR 150.20(a)(1) states, in part, that any person who holds a specific license from an Agreement State is granted a general license to conduct the same activity in non-Agreement States subject to the provisions of 10 CFR 150.20(b).

10 CFR 150.20(b) requires, in part, that any person engaging in activities in non-Agreement States, at least 3 days before engaging in each activity for the first time in a calendar year, file a submittal containing an NRC Form 241 "Report of Proposed Activities in Non-Agreement States," a copy of its Agreement State specific license, and the appropriate fee with the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office.

Contrary to the above, on multiple occasions between December 21, 2022, and June 26, 2023, Apex Companies, LLC., which was authorized for possession and use of radioactive material under a Maryland Agreement State license, used byproduct material within NRC jurisdiction without a specific license issued by the NRC and without submitting NRC Form 241, a copy of its Maryland specific license, and the appropriate fee with the Regional Administrator of the NRC regional office for calendar years 2022 and 2023. Specifically, Apex Companies, LLC performed paint analyses using an x-ray fluorescence device on 12 separate occasions in Washington, DC, NRC jurisdiction and did not submit NRC Form 241 or obtain an NRC license.

This is a Severity Level III Violation (NRC Enforcement Policy Section 6.9).

The NRC has concluded that information regarding the reason for the violation, 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. 99990010/2023001 and in letters from Apex Companies, LLC dated August 8, 2023, and December 7, 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-23-094)," 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, Region I within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

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

Enclosure

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 29<sup>th</sup> day of January, 2024.