

October 11, 2005

EA-05-083
NMED No. 050030

George Jarvis, Safety Director
Department of the Army
U.S. Army TACOM Life Cycle Management Command
AMSTA-CS-CZR
Rock Island Arsenal
Rock Island, Illinois 61299-7630

SUBJECT: NOTICE OF VIOLATION
[NRC SPECIAL INSPECTION REPORT NO. 03036428/2005-001(DNMS)]

Dear Mr. Jarvis:

On January 12, 2005, your staff notified the U.S. Nuclear Regulatory Commission (NRC) that during the period September to December 2004, two americium-241 plated sources were lost from a maintenance facility at Camp Withycombe, Clackamas, Oregon. The NRC conducted a special inspection on January 18, 2005, to determine the circumstances surrounding the loss of this NRC-licensed material. An apparent violation of 10 CFR 20.1801 and 10 CFR 20.1802, "Security of Stored Material," and "Control of Material Not in Storage," respectively, was identified during the inspection.

In a letter dated April 28, 2005, transmitting the inspection report, we provided you the opportunity to address the apparent violation identified in the report by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. On May 5, 2005, you declined the opportunity to discuss the apparent violation at a predecisional enforcement conference and on May 20, 2005, you provided a written response to the apparent violation.

Based on the information developed during the inspection and the information that you provided in your May 20, 2005, letter, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the inspection report. In summary, the staff at the Oregon National Guard's Camp Withycombe failed to secure from unauthorized removal, limit access to, or maintain constant surveillance of NRC-licensed material. As a result, two americium-241 plated sources, used in modules for M43A1 Chemical Agent Detectors, were lost from the maintenance facility during the period from September to December 2004 and were believed to have been sent to a public landfill for disposal.

In your May 20, 2005, letter, you requested that the NRC refrain from issuing a civil penalty for this matter. Your letter indicated that your basis for this request was: (1) the plated sources would not represent a risk of radiation exposure to the general public; (2) good enforcement history; (3) prompt and comprehensive response to the issue; and (4) taking disciplinary action. We considered each point during our evaluation of the violation.

The failure to secure licensed material from unauthorized access or maintain constant surveillance of the quantity of americium-241 in the two sources would normally be categorized as a Severity Level III violation in accordance with the NRC Enforcement Policy. However, the NRC staff considered the loss of NRC-licensed material in this specific instance to be of lower safety significance due to the plated form of the material. Therefore, the violation is categorized in accordance with the NRC Enforcement Policy at Severity Level IV. The current Enforcement Policy is included on the NRC's Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Enforcement Policy**.

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. 03036428/2005-001(DNMS) and in your May 20, 2005, letter. Therefore, you are not required to respond to the enclosed Notice unless the description in the inspection report or your letter 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 "Rules of Practice," a copy of this letter, its enclosure, and your response, should you choose to respond, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. If you choose to respond, your response to the extent possible should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

Please contact John Madera, Chief, Materials Inspection Branch, at telephone number (630) 829-9834 with any questions you may have.

Sincerely,

/RA/

Steven A. Reynolds, Director
Division of Nuclear Materials Safety

Docket No. 030-36428
License No. 12-00722-16

Enclosure: Notice of Violation

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¹ Concurrence received from Maria Schwartz, OE, on 10/7/2005.

NOTICE OF VIOLATION

Department of the Army
U.S. Army TACOM Life Cycle Management Command
Rock Island, IL

Docket No. 030-36428
License No. 12-00722-16
EA-05-083

During an NRC inspection conducted on January 18, 2005, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 20.1801 requires that the licensee secure from unauthorized removal or access licensed materials that are stored in controlled or unrestricted areas. 10 CFR 20.1802 requires that the licensee control and maintain constant surveillance of licensed materials that are in a controlled or unrestricted area and that are not in storage. As defined in 10 CFR 20.1003, *controlled area* means an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee for any reason; and *unrestricted area* means an area, access to which is neither limited nor controlled by the licensee.

Contrary to the above, between September and December 2004, the licensee did not secure from unauthorized removal or limit access to NRC-licensed material (two americium-241 plated sources) located in a maintenance shop at the Oregon National Guard Camp Withycombe, Clackamas, Oregon, which is a controlled area, nor did the licensee control and maintain constant surveillance of this licensed material.

This is a Severity Level IV violation (Supplement IV) (EA-05-083).

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. 03036428/2005-001(DNMS) and in the license's May 20, 2005, letter. Therefore, you are not required to respond to this Notice of Violation (Notice) unless the description in the inspection report or your letter 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-05-083," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator and Enforcement Officer, U.S. Nuclear Regulatory Commission, 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.

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 from the NRC's document 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.

Dated this 11th day of October 2005