

April 19, 2010

EA-10-029

Ms. Jackie Kavanagh  
Manager, Facility and Transportation  
Licensing and Compliance  
MDS Nordion  
447 March Road  
Ottawa, Ontario K2K 1X8  
Canada

SUBJECT: NOTICE OF VIOLATION

Dear Ms. Kavanagh:

This refers to the inspection conducted on December 16, 2009, at the MDS Nordion facility in Ottawa, Canada. The purpose of the inspection was to review records associated with your U.S. Nuclear Regulatory Commission License No. CBP3-5 to determine your compliance with the requirements of 10 CFR 110.53(c) concerning your export and import shipments of NRC licensed materials. At the conclusion of the inspection, the findings were discussed with you.

Based on the results of the inspection, the NRC has determined that a Severity Level IV violation of NRC requirements occurred. The violation was evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at (<http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>).

The violation involved the failure to provide prior notifications of shipments of Cobalt (Co)-60 from January 2006 until August 2009 as specified in your combined import and export license and in accordance with 10 CFR Part 110.50(b)(4). This failure was discovered on July 17, 2009, when the Canadian Nuclear Safety Commission (CNSC) informed the NRC of MDS Nordion's failure to submit prior notification to the CNSC and NRC regarding nine export shipments of Co-60 in quantities specified in 10 CFR 110 Appendix P from the U.S. to Canada in 2008 and 2009. Additional inspection revealed that none of the approximately 50 Co-60 exports made by MDS Nordion since 2006 were conducted in accordance with the stated NRC requirements.

The violation is cited in the enclosed Notice of Violation (Notice) (enclosure 1). The violation is being cited in the Notice in accordance with Section VI.A.8 of the Enforcement Policy because MDS Nordion failed to identify the violation and correct it within a reasonable time.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice. NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action" (enclosure 2) is provided to assist you in preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements. In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, and your response, will be made available electronically for public inspection in the NRC Public

Ms. Kavanagh

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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>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

Sincerely,

*/RA/*

Roy P. Zimmerman, Director  
Office of Enforcement

Enclosures:

1. Notice of Violation EA-10-029
2. NRC Information Notice 96-28

cc: (See page 3)

Ms. Kavanagh

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cc:

National Nuclear Security Administration,  
Office of International Regimes and  
Agreements  
U.S. Department of Energy  
ATTN: Sean Oehlbert, Team Leader  
1000 Independence Avenue, SW  
Washington, D.C. 20585-1615

Office of Nuclear Energy, Safety and  
Security Affairs, Room 3320 HST  
Bureau of International Security  
and Nonproliferation  
U.S. Department of State  
ATTN: Robin DeLaBarre  
2201 C Street, NW  
Washington, D.C. 20520

National Nuclear Security Administration,  
Office of International Regimes and  
Agreements  
U.S. Department of Energy  
ATTN: Mr. Richard S. Goorevich, Director  
1000 Independence Avenue, SW  
Washington, D.C. 20585-1615

Dept of Health & Environmental Control  
Bureau of Radiological Health  
Attn: Aaron A. Gantt, Chief  
2600 Bull Street  
Columbia, S.C. 29201

National Nuclear Security Administration,  
Office of International Regimes and  
Agreements  
U.S. Department of Energy  
ATTN: Ms. Jessica Norles  
1000 Independence Avenue, SW  
Washington, D.C. 20585-1615

Canadian Nuclear Safety Commission  
Non-Proliferation and Export Controls  
Division  
Directorate of Security and Safeguards  
ATTN: Mr. Larry Chamney, Director  
P.O. Box 1046, Station B  
280 Slater Street  
Ottawa, Ontario  
Canada

LSS Technical Data Assessment &  
Teleforensics Center, DHS/CBP  
Attn: Christopher Baugues, MSC Physical  
Scientist  
12825 Worldgate Plaza, Bldg 3  
Herndon, VA 20170

Office of Nuclear and Missile Technology,  
Bureau of Industry and Security  
U.S. Department of Commerce  
ATTN: Steve Clagett  
14th Street & Penn Avenue, NW, Room  
2631  
Washington, D.C. 20230

NAC International/Nuclear Materials  
Management Safeguards System  
ATTN: Peter Dessaulles, Program Manager  
DOE/NMMSS  
1000 Independence Ave., SW  
Washington, D.C. 20585-1290

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Sincerely,

*/RA/*

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Office of Enforcement

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2. NRC Information Notice 96-28

cc: (See page 3)

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J. Owens, OIP  
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OE Case File EA-10-029  
OE Day File

**ADAMS ACCESSION NOS.:**

TEMPLATE NO.: OIP-004

**Package: ML101100569**  
**Letter: ML10110704**  
**Enclosure 1: ML101110745**  
**Enclosure 2: ML10110750**

\*\*concurred via email

\*previously concurred

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