

February 11, 2013

EA-12-259
EN 48523
NMED 120693 (Open)

Mr. Patrick J. Kelley
TACOM LCMC Safety Director
Department of the Army
6501 East 11 Mile Road
Warren, MI 48397-5000

SUBJECT: RESPONSE TO NOTICE OF VIOLATION DATED DECEMBER 28, 2012 –
DEPARTMENT OF THE ARMY

Dear Mr. Kelley:

The purpose of this letter is to acknowledge receipt of the letter from the Department of the Army, dated January 24, 2013, in response to the U.S. Nuclear Regulatory Commission's (NRC) letter dated December 28, 2012, transmitting a Notice of Violation.

In the letter, you identified the corrective actions that the Department of the Army has taken or plans to take to address the violation. The NRC has reviewed the corrective actions, which appear to be adequate, and has no further questions at this time. The corrective actions to address the violation will be examined during a future inspection.

In the letter, you also provided additional information regarding a second violation involving the late reporting of a lost improved chemical agent detector, which the NRC dispositioned as a Non-Cited Violation. We appreciate the clarification and understand the complexity of the Department of the Army's reporting structure. As discussed with Mr. Thomas Gizicki, the Department of the Army's Radiation Safety Officer, on February 4, 2013, the additional information does not change the NRC's position that a violation of Title 10 of the Code of Federal Regulations (CFR) 20.2201(a)(ii) occurred, because individuals in the organization were aware of the loss of the monitor as early as March 2012. The NRC considers all individual users of radioactive material in an organization part of "the licensee"; therefore, the NRC assesses compliance with the reporting requirements from the initial discovery of an incident to promote timely internal communications of incidents in all licensed organizations, including large and complex organizations such as the Department of the Army.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from 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>.

P. Kelley

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Please feel free to contact Aaron McCraw of my staff if you have any questions. Mr. McCraw can be reached at (630) 829-9650 or Aaron.McCraw@nrc.gov.

Sincerely,

/RA/

Tamara E. Bloomer, Chief
Materials Inspection Branch
Division of Nuclear Materials and Safety

Docket No. 030-38500
License No. 21-32838-01

cc: Thomas G. Gizicki, RSO

P. Kelley

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cc: Thomas G. Gizicki, RSO

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