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U.S. Nuclear Regulatory Commission
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Washington D.C. 20555

Subject: License STC-133 Reply to Notice of Violation

Reference: Letter, Judith A. Joustra (NRC) to Gary Porter (DLA Strategic Materials), "NRC INSPECTION REPORT NO. 0400034/2013001, DEFENSE LOGISTICS AGENCY, DNSC SCOTIA, SCOTIA, NEW YORK, AND NOTICE OF VIOLATION"

To whom it may concern:

This letter is in response to the NRC Inspection Report No. 0400034/2013001, Defense Logistics Agency (DLA), DNSC Scotia, Scotia, New York, and Notice of Violation signed by Ms. Judith A. Joustra. The inspection report identified two Severity Level IV violations of NRC requirements:

- 1) Failure to notify the NRC of no principal activities under the license for a period of 24 months; and
- 2) Failure to periodically review the radiation protection program content and implementation.

Please see the attached document containing a response to the violations, as requested. If you have any questions, please contact Mr. Robert Skruck at (330) 652-1456.

Sincerely,


Gary D. Porter
Chief, Operations and Logistics

Attachments:

Response to NRC Inspection Report No. 0400034/2013001 and Notice of Violation

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Response to NRC Inspection Report No. 0400034/2013001 and Notice of Violation

The NRC conducted a safety inspection at the DLA Strategic Materials Scotia Depot, Route 5, Scotia, New York beginning May 21, 2013 to assess activities authorized by NRC license STC-133. The findings were discussed with Mr. Robert Skruck at the conclusion of the inspection on September, 16, 2013 in which two violations of NRC requirements were identified. This attachment contains DLA Strategic Material's response to the Inspection Report and two NOVs.

NOV 1

In the letter DLA Strategic Materials received from the NRC, notice of violation 1 was listed as it is below:

"10 CFR 40.42(d) requires, in part, that licensees provide notification to the NRC in writing within 60 days of any of the following occurrences:

- (1) The license has expired,
- (2) The licensee has decided to permanently cease principal activities at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with NRC requirements,
- (3) No principal activities under the license have been conducted for a period of 24 months, or
- (4) No principal activities have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with NRC requirements.

Contrary to the above, as of March 23, 2009, no principal activities under the license have been conducted for a period of 24 months under Source Material License No. STC-133, the license failed to notify the NRC in writing within 60 days of this occurrence.

This is a Severity Level IV violation (6.3)."

DLA Strategic Materials Response to NOV 1

- 1) *Reason for violation:* DLA Strategic Materials (SM) recognizes that we have failed to notify the NRC in writing per this regulation; this was not our intention. Although DLA Strategic Materials is no longer conducting principal activities under the license STC-133, a Final Status Survey cannot be completed at the Scotia Depot until a very substantial amount of unlicensed material is removed from the building. The material now stored there emits some radiation, which would fail any final status survey, but the amount of radiation is not enough to be licensable. The largest obstacle at this time is the fact that there is no place to relocate the material in order to complete the survey. Additionally, DLA continues to experience Congressional interest in a variety of materials considered to have supply chain vulnerabilities.

It is conceivable that the DLA will at some time in the future be required by legislation to acquire licensable material for storage in the National Defense Stockpile Strategic Materials.

- 2) *Corrective Action*: DLA Strategic Materials will respond to the NRC in writing *immediately*, noting that no principle activity under license STC-133 has been conducted due to the fact we have no more licensable material at DLA Strategic Materials Scotia Depot.
- 3) *Corrective steps to avoid further violations*: A section will be incorporated in the annual radiation review that will address regulation 10 CFR 40.42(d) and its compliance from this date forward.
- 4) *Date when full compliance will be achieved*: The annual radiation review at Scotia was scheduled for the week of October 21, 2013. Under the current furlough circumstances, travel at DLA Strategic Materials is suspended until further notice. Therefore, we will schedule the annual radiation review as soon as possible. The NRC will then be notified in writing immediately that no principal activities under the license have been conducted for a period of 24 months.

NOV 2

In the letter DLA Strategic Materials received from the NRC, notice of violation 2 was listed as it is below:

“10 CFR 20.1101(c) requires that the licensee shall periodically (at least annually) review the radiation protection program content and implementation.

Contrary to the above, as of May 21, 2013, the licensee did not periodically (at least annually) review the radiation protection program content and implementation. Specifically a radiation protection program content and implementation review had not been completed since June 2007.

This is a Severity Level IV violation (Section 6.7).”

DLA Strategic Materials response to NOV 2

- 1) *Reason for violation*: In DLA Strategic Materials radiation protection program section 4.5, last updated in June 2009, it states:

“The RSO’s shall make, at a minimum, one survey per year at each depot **containing licensed materials** to review 1) records, 2) inventories of instruments, check sources and licensed materials, 3) instrument calibration, 4) dosimetry services, and 5) Emergency Protection Plans. During the survey they shall also monitor all licensed material and evaluate radiation safety procedures through observation and discussion with the Depot RPO’s, managers, supervisors, and other employees. Further, they shall prepare a comprehensive report detailing their annual survey and forward the same to the ORPM. The survey reports shall also: 1) Utilize a format and include the checklists provided by the ORPM; 2) contain a written evaluation of public dose compliance as noted in 10 CFR 20.1302 and 3) note the specific range of employee accumulated doses for the past year.”

Since DLA Strategic Materials radiation protection plan states that an annual survey will be conducted at each depot *containing licensed materials*, we were unaware that we needed to continue to review the radiation protection program content and implementation each year. DLA Strategic Materials no longer has licensed materials at the Scotia, NY Depot.

- 2) *Corrective Action:* An annual radiation protection program review will be completed at the Scotia, NY Depot once DLA Strategic Materials employees are authorized to travel.
- 3) *Corrective steps to avoid further violations:* An annual radiation review will be scheduled at Scotia every October. DLA Strategic Materials will place this review on the Internal Control Schedule which will be sent to the reviewer (RSO, Mr. Robert Skruck) each month via e-mail as a reminder.
- 4) *Date when full compliance will be achieved:* The annual radiation review was to be completed by October 25, 2013, but under the current furlough circumstances travel at DLA Strategic Materials is suspended until further notice. Full compliance will be achieved once we have authorization to travel to the depot and complete the annual radiation review.