



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION IV
1600 E. LAMAR BLVD.
ARLINGTON, TX 76011-4511

December 11, 2015

EA-15-253

Mr. Thomas Dougherty, Manager
Technical Safety Support (RSO)
Joint Base Safety Office
ATTN: IMLM-SO (Mail Stop 66)
Building 2007A, Room 216
2007A Pendleton Avenue, North 2nd Street
Joint Base Lewis-McChord, WA 98433-9500

SUBJECT: NRC SPECIAL INSPECTION REPORT 999-90001/2015-001; AND NOTICE OF VIOLATION

Dear Mr. Dougherty:

This refers to the special inspection conducted on June 15, 2015, at your facilities located at Joint Base Lewis-McChord, Washington, with continued in-office reviews until November 23, 2015. The purpose of the inspection was to review the Joint Base Safety Office's loss of control of generally licensed devices containing nickel-63. The enclosed report presents the results of the inspection. The inspectors discussed the preliminary inspection findings with you and one member of your staff at the conclusion of the onsite portion of the inspection. A final exit briefing was conducted telephonically with you on December 2, 2015.

Based on the results of this inspection, the NRC has determined that one Severity Level IV violation of NRC requirements was identified. The violation was evaluated in accordance with the NRC Enforcement Policy which is found at the NRC's Web site at www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html. The violation involved the failure to transfer or dispose of devices containing byproduct material only by transfer to another general licensee, or to a person authorized to receive the device by a specific license, as required by Title 10 *Code of Federal Regulations* (CFR) 31.5(c)(8). The violation is being cited in the enclosed Notice of Violation (Notice) because it was identified by the NRC during the inspection.

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 will be achieved, is already adequately addressed on the docket in your letter dated March 25, 2015 (available electronically for public inspection in the NRC's Agencywide Document Access and Management System (ADAMS) at ML15097A438). Therefore, you are not required to respond to this letter unless the description herein 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 any, will be made available electronically for public inspection in the NRC Public Document Room or in the NRC's ADAMS, accessible from the NRC's Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy or proprietary information so that it can be made available to the public without redaction.

Should you have any questions concerning this inspection, please contact Randy Erickson, at (817) 200-1143 or the undersigned at (817) 200-1456.

Sincerely,

/RA/

Brooke G. Smith, Acting Chief
Nuclear Materials Safety Branch-A

Docket No.: 999-90001
NRC Inspection Report 999-90001/2015-001

Enclosures:

1. Notice of Violation (Notice)
2. NRC Special Inspection Report
999-90001/2015-001

cc w/enclosures:
Washington Radiation Control Program Director
Texas Radiation Control Program Director

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Docket No.: 999-90001
NRC Special Inspection Report 999-90001/2015-001

Enclosures:

1. Notice of Violation (Notice)
2. NRC Special Inspection Report
999-90001/2015-001

cc w/enclosures:

Washington Radiation Control Program Director
Texas Radiation Control Program Director

DISTRIBUTION w/encl:

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ADAMS ACCESSION NUMBER: ML15345A125

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OFFICE	RIV:DNMS/NMSB-A	AC:NMSB-A		
NAME	RRErickson	BGSmith		
SIGNATURE	N/A	/RA/		
DATE		12/9/15		

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Department of the Army
Joint Base Lewis-McChord, Washington

Docket: 999-90001
License: General
EA-15-253

During the U.S. Nuclear Regulatory Commission (NRC) inspection conducted on June 15, 2015, with continued in-office review through November 23, 2015, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 CFR 31.5(c)(8) requires, in part, that any person who acquires, receives, possesses, uses or transfers byproduct material in a device pursuant to the general license in this part shall transfer or dispose of the device containing byproduct material only by transfer to another general licensee as authorized in this section, or to a person authorized to receive the device by a specific license.

Contrary to the above, the licensee failed to transfer byproduct material in a device pursuant to the general license in 10 CFR Part 31 by transfer to another general licensee as authorized in 10 CFR 31.5(c)(8), or to a person authorized to receive the device by a specific license. Specifically, the licensee transferred five generally licensed electron capture devices containing a total of 60 millicuries of nickel-63 to a person not authorized to receive the devices.

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

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 will be achieved, is already adequately addressed on the docket in your letter dated May 25, 2015 (available electronically for public inspection in the NRC's Agencywide Document Access and Management System (ADAMS) at ML15097A438). 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-15-253," 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 IV, 1600 E. Lamar Blvd., Arlington, Texas, 76011, 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 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 or proprietary 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 11th day of December 2015

Enclosure 1

U.S. NUCLEAR REGULATORY COMMISSION
REGION IV

Report No.: 999-90001/2014-001
Docket No.: 999-90001
EA No.: EA-15-253
Licensee: Department of the Army
Location Inspected: Joint Base Safety Office
Joint Base Lewis-McChord, WA
Inspection Date: June 15, 2015
Inspector: Randy Erickson, Health Physicist
Nuclear Materials Safety Branch A
Accompanied by: Mark R. Shaffer, Director
Division of Nuclear Materials Safety
Approved By: Brooke G. Smith, Acting Chief
Nuclear Materials Safety Branch A

ENCLOSURE 2

EXECUTIVE SUMMARY

Department of the Army Joint Base Lewis-McChord NRC Inspection Report No. 999-90001/2015-001

This was an announced special inspection conducted in response to a licensee event report involving the loss of five sources totaling 60 millicuries of Ni-63 contained in generally licensed electron capture devices (ECD's) reported to NRC on March 20, 2015 by the Manager of the Joint Base Technical Safety Support Office.

Program Overview

Joint Base Lewis-McChord is authorized under a general license issued in accordance with 10 CFR 31.5(a), in part, to acquire, receive, possess, use, and transfer byproduct material contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness. (Section 1)

Violation

- Failure to properly transfer or dispose of a generally-licensed device containing byproduct material. This was identified as a violation of 10 CFR 31.5(c)(8). (Section 2.2)

Corrective Actions

- The radiation safety officer (RSO) sent a message to all Army commands to remind them of the proper handling of generally licensed devices and to reinforce the management policy for generally licensed devices throughout the Army.
- All turn-in devices for disposal will be held at the installation and reported to installation or garrison RSO who will personally place them into storage.
- Command will be notified and disposition instructions will be forwarded and pictures of all generally licensed devices will be sent to the Defense Logistics Agency (DLA) for inclusion into their awareness training.

REPORT DETAILS

1. **Program Overview (87124)**

1.1 Inspection Scope

In accordance with 10 CFR 31.5(a), Joint Base Lewis-McChord was issued a general license and was authorized, in part, to acquire, receive, possess, use, and transfer byproduct material contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness. The inspectors reviewed records maintained by the licensee and interviewed licensee personnel.

1.2 Observations and Findings

On June 15, 2015, NRC Region IV inspector met with the Manager of the Joint Base Technical Safety Support Office to discuss the event, obtain any additional information that may have been developed subsequent to their initial report to NRC, and what corrective actions they may have implemented to prevent recurrence.

In summary, the ECD's had been initially issued to the Directorates of Emergency Services (DES). The ECD's had been obtained commercially and when received by the base, were issued a non-standard National Stock Number (NSN) which placed them on the installation's automated property book and not on Fed Log which is the system that the DLA uses to track devices containing hazardous materials (including radioactive materials). Once placed on the property book the ECD's could be issued to individual users within the military.

Over time the DES was no longer using the ECD's so the RSO recommended returning them to the base. When they arrived they were placed into inventory which occurred on or about April 15, 2014. During the subsequent March 20, 2015 inventory the sources were discovered to be missing and reported to NRC. Because they had originally been issued a non-standard NSN, and had not been entered into Fed Log, when they arrived at the base nobody recognized that the devices contained radioactive material so they were incorrectly categorized as scrap metal and scheduled for disposal. Furthermore when they arrived, the Supply Division and the DLA had no description of the devices so they did not recognize the hazards, nor did they read the manuals that arrived with the ECD's, and lastly they did not visually inspect the devices where they would have seen the radioactive labels attached to the ECD's. The ECD's were shipped for destruction to a common mutilation contractor (New Phoenix) in Greenville, Texas, in May or June 2014.

2 Inspection Findings (87121)

2.1 Observations and Findings

Violation of 10 CFR 31.5(c)(8)

10 CFR 31.5(c)(8) requires, in part, that any person who acquires, receives, possesses, uses or transfers byproduct material in a device pursuant to the general license in this part shall transfer or dispose of the device containing byproduct material only by transfer to another general licensee as authorized in this section, or to a person authorized to receive the device by a specific license.

Contrary to the above, the licensee failed to transfer byproduct material in a device pursuant to the general license in this part shall transfer or dispose of the device containing byproduct material only by transfer to another general licensee as authorized in this section, or to a person authorized to receive the device by a specific license. Specifically, the licensee transferred five generally licensed electron capture devices containing a total of 60 millicuries of nickel-63 to a person not authorized to receive the devices. (999-90001/15001-01)

2.3 Conclusions

The inspector identified one violation involving the failure to transfer or dispose of devices containing byproduct material only by transfer to another general licensee, or to a person authorized to receive the device by a specific license, as required by 10 CFR 31.5(c)(8).

3 Corrective Actions

Some of the corrective actions implemented by the Army as a result of this event included the RSO sending a message to all Army commands to remind them of the proper handling of generally licensed devices and reinforce the management policy for generally licensed devices throughout the Army. All turn-in devices for disposal will be held at the installation and reported to installation or garrison RSO who will personally place them into storage. Command will be notified and disposition instructions will be forwarded and pictures of all generally licensed devices will be sent to DLA for inclusion into their awareness training.

4. Exit Meeting Summary

A preliminary exit briefing was conducted on June 15, 2015, at the conclusion of the onsite inspection, with Mr. Tom Dougherty, Manager of the Joint Base Safety Office. A final exit briefing was held telephonically with Mr. Dougherty on December 2, 2015. The licensee acknowledged the inspector's findings. No proprietary information was discussed.

PARTIAL LIST OF PERSONS CONTACTED

Tom Dougherty; Manager, RSO, Joint Base Safety Office

INSPECTION PROCEDURES USED

87124 Fixed and Portable Gauge Programs

ITEMS OPENED, CLOSED AND DISCUSSED

Opened

999-90001/15001-01	VIO	The licensee failed to transfer or dispose of generally licensed devices containing byproduct material only by transfer to another general licensee as authorized in this section, or to a person authorized to receive the device by a specific license. This was identified as a violation of 10 CFR 31.5(c)(8).
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Closed

None

Discussed

None

LIST OF ACRONYMS USED

APV	Apparent Violation
CFR	Code of Federal Regulations
DES	Directorates of Emergency Services
DLA	Defense Logistics Agency
EA	Enforcement Action
ECD	Electron Capture Devices
NRC	Nuclear Regulatory Commission
NSN	National Stock Number
RSO	Radiation Safety Officer