



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION III
2443 WARRENVILLE RD. SUITE 210
LISLE, IL 60532-4352

March 9, 2017

EA-16-188

Mr. Nathan Cox
Radiation Safety Officer
IRISNDT, Inc.
7915 Maryland Avenue
Hammond, IN 46323

SUBJECT: EXERCISE OF ENFORCEMENT DISCRETION – IRISNDT, INC;
NRC ROUTINE INSPECTION REPORT NO. 03038777/2016001(DNMS)

Dear Mr. Cox :

This letter refers to the U.S. Nuclear Regulatory Commission (NRC) inspection conducted on August 22, 2016, at your facility in Hammond, Indiana, with continued in-office review through September 22, 2016. The purpose of the inspection was to review activities performed under your NRC license to ensure that those activities were being performed in accordance with NRC requirements. During the inspection, an apparent violation of NRC requirements was identified. The circumstances surrounding this apparent violation, significance of the issue, and the need for lasting and effective corrective actions were discussed with you during the telephonic exit meeting that was held on September 26, 2016. Details regarding the apparent violation were provided in NRC Inspection Report No. 03038777/2016001(DNMS) dated October 24, 2016. The inspection report is available electronically in the NRC's Agencywide Documents Access and Management System (ADAMS) at Accession Number ML16298A151. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

The apparent violation involved the failure of each radiographer or radiographer's assistant to wear a direct reading dosimeter, an operating alarm ratemeter, and a personnel dosimeter while performing radiographic operations, as required by Title 10 of *the Code of Federal Regulations* (CFR) 34.47(a). Specifically, prior to March 24, 2016, your staff used a single device (Mirion Technologies, Inc., RAD-60) to perform functions of both a direct reading dosimeter and an alarm ratemeter simultaneously.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violation identified in the report by either providing a written response or requesting a Predecisional Enforcement Conference. By letter dated November 22, 2016, you provided a written response (ADAMS Accession Number ML16334A425).

In your response, you acknowledged that the NRC requirement in 10 CFR 34.47(a) requires three actions/responses to take place. In addition, you agreed that in the past three individual devices were needed, specific to a required and dedicated response. However, you stated that the regulations do not specifically state that devices shall not be used for multiple functions. Further, given the technological advancement and capabilities to capture required responses and notifications in a single device, you believe that you provided the staff with safer and more reliable technology. In your response, you confirmed that you immediately, upon receiving

clarification during the inspection, took measures to comply with the current requirement to use three separate devices to meet the required functions.

The NRC's position involving the apparent violation was based on the final rule published on May 28, 1997, volume 62 of the *Federal Register* (FR), page 28948. The "Supplementary Information," section contains a statement on page 28958 that states "those electronic personal dosimeters that also have alarm ratemeter capabilities are not to be used as a substitute for alarm ratemeters at the present time." Therefore, the NRC determined that the use of a single device to simultaneously serve the functions of both a direct reading dosimeter and an alarm ratemeter to be a violation of the requirement in 10 CFR 34.47(a), which is normally considered for escalated enforcement pursuant to the NRC Enforcement Policy. However, based on our review of the applicable information and in consideration of the circumstances specific to this case, the NRC determined that it is appropriate to exercise enforcement discretion in accordance with Section 3.5, "Violations Involving Special Circumstances," of the Enforcement Policy and not issue an enforcement action for this violation.

Specific consideration for this determination included but was not limited to: (1) the device met all the functionality that was specified in the regulations and was properly calibrated; (2) the NRC is currently evaluating a 2016 petition for rulemaking, which addresses 10 CFR 34.47(a) personnel monitoring devices; (3) self-identification of the potential lack of understanding of the requirement in 10 CFR 34.47(a) and obtaining clarification; and (4) immediate corrective actions were taken that included supplying the staff with individual alarm ratemeters in addition to the RAD-60 device functioning as a direct reading dosimeter. Although the NRC is exercising discretion and not issuing an enforcement action for this violation, the use of combination devices, such as the RAD-60 device, as both a direct reading dosimeter and alarm ratemeter is still not acceptable under the regulations at this time. The NRC is currently evaluating the effectiveness of such devices and will notify licensees of the results of its review on this matter. Your proposed corrective actions will help ensure your continued compliance with 10 CFR 34.47(a) until the NRC completes its evaluation.

In your response dated November 22, 2016, you also described the process and advantages associated with the use of Instadose devices. The use of Instadose devices relative to compliance with 10 CFR 34.47(a)(3) remains under NRC review, and NRC will notify licensees of the results of its review on this matter.

The NRC has concluded that information regarding: (1) the reason for the violation; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in the inspection report, and in your response dated November 22, 2016. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, clearly mark your response as a "Response to Exercise of Enforcement Discretion, EA-16-188" 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 III, Suite 210, 2443 Warrenville Rd, Lisle IL, within 30 days of the date of this letter.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, and your response, if you choose to provide one, will be made available electronically for public

inspection in the NRC Public Document Room and in ADAMS, accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Sincerely,

/RA/

Cynthia D. Pederson
Regional Administrator

Docket No. 030-38777
License No. 13-32791-01

cc: State of Indiana

Letter to Nathan Cox from Cynthia D. Pederson dated March 9, 2017

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NRC ROUTINE INSPECTION REPORT NO. 03038777/2016001(DNMS)

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1 OE concurrence provided via e-mail from Robert Fretz on March 6, 2017.