



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

August 2, 2018

EA-18-046

Ms. Sherry J. Davis  
Director, ESOH Department  
Acquisition, Finance, & Logistics  
Defense Threat Reduction Agency  
8725 John J. Kingman Road, Stop 6201  
Fort Belvoir, VA 22060-6201

SUBJECT: DEFENSE THREAT REDUCTION AGENCY – NOTICE OF VIOLATION;  
U. S. NUCLEAR REGULATORY COMMISSION INSPECTION REPORT  
NO. 71-0958/2018-201

Dear Ms. Davis:

This letter refers to the U.S. Nuclear Regulatory Commission (NRC) inspection conducted on April 17, 2018, at your Fort Belvoir, Virginia, facility with continued in-office review through April 19, 2018. The purpose of this initial programmatic inspection was to assess Defense Threat Reduction Agency's (DTRA's) compliance with the quality assurance requirements of Title 10 of the *Code of Federal Regulations* (CFR) Part 71, Subpart H and its NRC-approved Part 71 Quality Assurance Program (QAP). During the inspection, an apparent violation of NRC requirements was identified. Details regarding the apparent violation were discussed with you during an exit meeting on April 19, 2018 and were also provided in NRC Inspection Report No. 71-0958/2018-201, dated May 31, 2018. The inspection report can be found in the NRC's Agencywide Documents Access and Management System (ADAMS) at Accession Number ML18152A558. ADAMS is accessible from the NRC Website at <http://www.nrc.gov/reading-rm/adams.html>.

In the letter transmitting the inspection report, we informed you that the NRC was considering escalated enforcement for the apparent violation and provided you with an opportunity to address the apparent violation identified in the report by: (1) providing a written response, (2) requesting a pre-decisional enforcement conference, or (3) accepting the violation as characterized in the letter and enclosed report. In an email to Mr. Meraj Rahimi, Acting Chief, Inspections and Operations Branch, dated June 22, 2018 (ML18176A047), Mr. Brian Stroh of your staff stated the violation was accepted as characterized.

Based on the information developed during the inspection, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the subject inspection report. The violation involved the failure to document and carry out the QAP by implementing procedures for all applicable areas of the Part 71 QAP, except in the area of internal inspection, as required by 10 CFR Part 71.105(a). Specifically, for transportation

activities performed under the provisions of 10 CFR 71.22 for fissile material from December 2015 through April 2018, DTRA performed shipments without quality assurance procedures in place. The failure to implement the QAP in accordance with written procedures throughout the period you performed shipments is significant since fissile materials were shipped in an improper package that did not ensure adequate safety during transportation activities. This resulted in a violation and enforcement action under your NRC Part 30 license in February 2018. In addition, since your QAP approval in December 2015, adequate safety was not assured during transportation activities and the licensed material that has been shipped was at risk to be inadequately protected from transportation hazards. Therefore, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$7,250 is considered for a Severity Level III violation. Because your facility has been the subject of escalated enforcement action within the last two inspections, the NRC considered whether the February 2018 enforcement action under the Part 30 license should be considered as history for this Part 71 violation. Given the interrelated nature of the two violations, and the fact that this violation was concurrent with the Part 30 violation, you would not have had the opportunity to correct the Part 30 failure prior to engaging in the current Part 71 failure. In addition, the programmatic review of the QAP approval and the reactive inspection of the transportation event were performed by two different offices within the NRC. Normally, both violations would have been identified during the same inspection and previous enforcement history would not have been a consideration. Therefore, the NRC does not consider the previous Part 30 violation as history for this Part 71 violation. The NRC also considered whether credit was warranted for Corrective Action in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. The NRC has concluded that credit is warranted for DTRA's corrective actions. Specifically, your immediate corrective actions included suspending shipments of fissile material performed under DTRA's Part 71 general license until the following actions have been taken: 1) draft the required implementing procedures for each applicable criteria of the QAP; 2) require the Quality Assurance Manager, who is also the Radiation Safety Officer, to attend American Society of Mechanical Engineers (ASME) Lead Auditor Training; 3) perform QAP training for all users of the Part 71 QAP; and 4) implement a robust internal audit schedule to ensure QAP compliance.

Therefore, to encourage prompt and comprehensive correction of the Violations, I am not proposing a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III violation constitutes escalated enforcement action that may subject you to increased inspection effort. The NRC includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

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 will be achieved, is already adequately addressed on the docket in Inspection Report No. 71-0958/2018-201. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position regarding this violation. 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 "Rules of Practice," a copy of this letter, its enclosure, 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 the NRC's

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. If personal privacy or proprietary information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such information, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information).

Sincerely,

*/RA/ by P. Peduzzi /for/*

Anne T. Boland  
Director, Office of Enforcement

Docket No. 071-0958

Enclosure: Notice of Violation

SUBJECT: DEFENSE THREAT REDUCTION AGENCY (DTRA) – NOTICE OF VIOLATION;  
 THE U.S. NUCLEAR REGULATORY COMMISSION INSPECTION REPORT NO.  
 71-0958/2018-201; DOCUMENT DATE: 8/2/2018

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<b>DATE:</b>	8/2/18	8/2/18	8/2/18	

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## NOTICE OF VIOLATION

Department of Defense  
Defense Threat Reduction Agency  
Ft. Belvoir, Virginia

Docket No. 071-0958  
EA-18-046

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on April 17, 2018, with continued in-office review through April 19, 2018, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 71.22, "General license: Fissile material", states, in part, that a "general license is issued to any licensee of the Commission to transport fissile material, or to deliver fissile material to a carrier for transport, if the material is shipped in accordance with this section."

10 CFR 71.22(b), states that the "general license applies only to a licensee who has a quality assurance program approved by the Commission as satisfying the provisions of subpart H of this part."

10 CFR 71.105(a), "Quality assurance program," states, in part, that "[t]he licensee...shall document the quality assurance program by written procedures or instructions and shall carry out the program in accordance with those procedures throughout the period during which the packaging is used."

Contrary to the above, the Defense Threat Reduction Agency (DTRA) did not document nor carry out the quality assurance program (QAP) by procedures for the applicable criteria of its program, except in the area of Internal Inspection. Specifically, for transportation activities performed under the provisions of 10 CFR 71.22 for fissile material from December 2015 through April 2018, DTRA performed shipments without quality assurance procedures in place.

This is a Severity Level III violation (Section 6.5).

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 Inspection Report No. 71-0958/2018-201. 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-18-046," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Director, Division of Spent Fuel Management, Office of Nuclear Material Safety and Safeguards, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington DC 20555-0001.

ENCLOSURE

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, proprietary, or safeguards information so that it can be made available to the Public without redaction.

Dated this 2<sup>nd</sup> day of August, 2018