



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

REGION IV  
1600 EAST LAMAR BOULEVARD  
ARLINGTON, TEXAS 76011-4511

July 19, 2018

EA-18-077

Col. Paul Gourley, Acting Chair  
USAF Radioisotope Committee  
AFMSA/SG3PB  
7700 Arlington Blvd., Suite 5151  
Falls Church, VA 22042

SUBJECT: EXERCISE OF ENFORCEMENT DISCRETION; DEPARTMENT OF THE AIR  
FORCE

Dear Col. Gourley:

This letter refers to an in-office review conducted by the U.S. Nuclear Regulatory Commission (NRC) regarding the U.S. Air Force (USAF) master materials license (MML) inspection completed at Eglin Air Force Base (AFB), Florida, a permittee under the USAF MML. The USAF documented the results of the inspection on November 17, 2017 (NRC's Agencywide Documents Access and Management System (ADAMS) Accession ML18144A234, not publicly available). The NRC review was initiated to determine whether the actions taken by the USAF were in accordance with the NRC Enforcement Policy and the Letter of Understanding between the USAF and the NRC, Sections 24-27, dated September 19, 2014.

The current NRC Enforcement Policy is accessible from the NRC's Web site at <https://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The Letter of Understanding is available electronically for public inspection from the NRC's ADAMS at Accession ML14262A340, accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

The November 17, 2017, USAF inspection report included six violations of NRC requirements for a permit issued to the 96 Range Group at Eglin AFB. One violation was categorized at Severity Level III and involved the permittee's failure to comply with Title 10 of the *Code of Federal Regulations* (10 CFR) Section 71.5(a) when transporting permitted materials on public highways.

The NRC evaluated the facts and circumstances of this case and concluded that the USAF, in accordance with its enforcement program, appropriately identified a Severity Level III violation and issued the violation to the permittee for the failure to implement NRC and U.S. Department of Transportation regulations during shipment of radioactive material on publicly accessible highways. Specifically, the permittee did not assess the shipped material, did not verify compliance with the applicable U.S. Department of Transportation requirements prior to shipment of radioactive material on public highways, and did not have documentation or records accounting for the shipments. The permittee subsequently implemented or planned to

implement corrective actions that included an extensive upgrade of the transportation program at Eglin AFB. The USAF Radioisotope Committee accepted the permittee's proposed corrective actions in mid-April 2018.

The current NRC Enforcement Manual accessible from on the NRC's Web site at <https://www.nrc.gov/about-nrc/regulatory/enforcement/guidance.html>. The NRC Enforcement Manual, Part II, Section 3.4.1.C.2 states, in part, that discretion to mitigate an escalated enforcement action regarding an MML may be considered when: (1) the violation was not willful; (2) the MML has done a thorough investigation, and has reported their findings to the MML project manager; and (3) a source is not lost. The NRC has determined the MML met all the above criteria. After consultation with the Regional Administrator, Region IV; Director, Office of Enforcement; and in recognition of the review conducted under the USAF's MML, the NRC is exercising enforcement discretion in accordance with Section 3.5 of the NRC Enforcement Policy and is not issuing a Notice of Violation for this case.

No further action or response is required on your part unless the description in this letter does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should clearly mark your response as a "Reply to an Exercise of Enforcement Discretion, EA-18-077," 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, U.S., Nuclear Regulatory Commission, Region IV, 1600 E. Lamar Blvd., Arlington, TX 76011-4511, within 30 days of the date of this letter.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice and Procedure," 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 from 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 or proprietary, information so that it can be made available to the public without redaction.

Should you have any questions concerning this letter, please contact Dr. Robert Evans at 817-200-1234, or Mr. Michael Hay at 817 200-1455.

Sincerely,

/RA/

Troy W. Pruett, Director  
Division of Nuclear Materials Safety

Docket No: 030-28641  
License 42-23539-01AF

cc:  
C. Becker, Chief  
Florida Radiation Control Program

EXERCISE OF ENFORCEMENT DISCRETION; DEPARTMENT OF THE AIR FORCE-DATED JULY 19, 2018

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ADAMS ACCESSION NUMBER: **ML18205A147**

SUNSI Review: ADAMS:  Non-Publicly Available Non-Sensitive Keyword:  
 By: RE  Yes  No  Publicly Available  Sensitive

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