



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION I
2100 RENAISSANCE BOULEVARD, SUITE 100
KING OF PRUSSIA, PA 19406-2713

May 31, 2019

EA-19-018

Joseph E. Wiest, Ph.D.
Radiation Safety Officer
West Virginia Wesleyan College
Department of Physics and Engineering
59 College Avenue
Buckhannon, WV 26201

SUBJECT: WEST VIRGINIA WESLEYAN COLLEGE - NRC INSPECTION REPORT NO. 03019734/2018001 AND NOTICE OF VIOLATION, AND YOUR LETTER DATED FEBRUARY 21, 2019

Dear Dr. Wiest:

This letter refers to your February 21, 2019, correspondence, in response to the subject inspection record which you received on October 22, 2018. The inspection record documented one violation of NRC requirements related to the failure by West Virginia Wesleyan College to perform annual reviews of the radiation protection program content and implementation, as required by Title 10 of the Code of Federal Regulations Part 20.1101(c). The violation was classified at Severity Level IV.

In your letter dated February 21, 2019, you disputed the violation. You maintained that the conduct of Radiation Protection Committee (RPC) meetings for the period of 2013 to 2018 fulfilled the NRC requirement of annual review, and requested that we accept the RPC minutes of 2013 to 2018 as evidence. You provided copies of minutes for RPC meetings on December 12, 2013; February 6, 2015; December 9, 2015; December 14, 2016; February 20, 2018; and January 22, 2019. This appears to be additional information that was not provided to the inspector prior to issuing the violation.

Based on our review of this new information, we agree that the documentation provided demonstrates that you performed a program review on the dates provided. However, the requirements in 10 CFR 20.1101(c) specify that the licensee shall periodically (at least annually) review the radiation protection program content and implementation, and we conclude that reviews were not performed annually, as required.

Specifically, in your email dated May 2, 2019, you indicated that RPC meetings, during which the program reviews were performed, occurred during each of the academic years since December 12, 2013. However, as described above, meetings did not occur during calendar years 2014 and 2017, and more than a year passed without performance of the required reviews after the reviews conducted on December 12, 2013, and on December 14, 2016. Therefore, based on the information you provided, the RPC review was not performed during the years 2014 and 2017. Accordingly, the NRC has determined that a violation did occur, although it is a revision from what was issued on October 22, 2018. The revised violation was

evaluated in accordance with the NRC Enforcement Policy, and is still assessed at Severity Level IV. The current Enforcement Policy is included on the NRC's Web site at <https://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The revised violation is cited in the enclosed Notice of Violation (NOV) because it was identified by the NRC.

The enclosed NOV was discussed in a May 29, 2019, telephone call between you and Todd Jackson. During that call you stated that your planned long term corrective action will be to perform the program review required by 10 CFR 20.1101(c) at least annually.

You are required to respond to this letter to acknowledge the corrective actions described above, and should follow the instructions specified in the enclosed Notice when preparing your response. If you have additional information that you believe the NRC should consider, you may provide it in your response to the Notice. The NRC review of your response to the Notice will also determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

If you have any questions regarding this matter, please contact Todd Jackson of my staff at (610) 337-5308.

Sincerely,

/RA/

James M. Trapp, Director
Division of Nuclear Materials Safety

License No. 47-21069-01
Docket No. 030-19734

Enclosure:
Notice of Violation

cc: State of West Virginia

WEST VIRGINIA WESLEYAN COLLEGE - NRC INSPECTION REPORT NO. 0319734/2018001 AND NOTICE OF VIOLATION, AND YOUR LETTER DATED FEBRUARY 21, 2019 DATED May 31, 2019

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NOTICE OF VIOLATION

West Virginia Wesleyan College
Buckhannon, West Virginia

Docket No. 030-19734
License No. 47-21069-01

During an NRC inspection conducted on September 13, 2018, and continuing in-office through May 7, 2019, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below.

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

Contrary to the above, as of September 13, 2018, the licensee had not periodically (at least annually) reviewed the radiation protection program content and implementation. Specifically, the licensee did not perform a review of the radiation safety program content and implementation during calendar years 2014 and 2017. In an email dated May 2, 2019, the licensee's RSO indicated that Radiation Protection Committee meetings, during which the program reviews were performed, occurred during each of the academic years since December 12, 2013. However, meetings did not occur during calendar years 2014 and 2017, and more than a year passed without performance of the required reviews after the reviews conducted on December 12, 2013, and on December 14, 2016.

This is a Severity Level IV violation. (NRC Enforcement Policy Section 6.3.d.3).

Pursuant to the provisions of 10 CFR 2.201, West Virginia Wesleyan College is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555, with a copy to the Regional Administrator, Region I, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation EA-19-018" and should include your acknowledgement of the planned corrective actions described in the letter accompanying this Notice. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

If you contest this enforcement action, you should also provide a copy of your response to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, any response which contests an enforcement action shall be submitted under oath or affirmation.

Your response will be placed in the NRC Public Document Room (PDR) and on the NRC Web site. To the extent possible, it should, therefore, not include any personal privacy, proprietary, or safeguards information so that it can be made publically available without redaction. However, if you find it necessary to include such information, you should clearly indicate the specific information that you desire not to be placed in the PDR, and provide the legal basis to support your request for withholding the information from the public.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated This 31st day of May 2019