



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

September 17, 2020

EA-20-095

Mr. John J. Miller
International Isotopes, Inc.
4137 Commerce Circle
Idaho Falls, ID 83401

SUBJECT: EXPORT OF NUCLEAR MATERIAL UNDER U.S. NUCLEAR REGULATORY
COMMISSION LICENSING AUTHORITY – NOTICE OF VIOLATION

Dear Mr. Miller:

This letter refers to a review of International Isotopes, Inc. (INIS) exports of byproduct material to Iraq. Title 10 of the *Code of Federal Regulations* (10 CFR) Section 110.5 states, in part, that no person may export any nuclear equipment or material listed in 10 CFR 110.9, unless authorized by a general or specific license issued under 10 CFR Part 110. The list in 10 CFR 110.9 includes byproduct material. Specifically, on June 26, 2020, INIS notified the U.S. Nuclear Regulatory Commission (NRC) of its four separate shipments in 2019 of byproduct material to Iraq, an embargoed country under 10 CFR 110.28, without obtaining a specific license from the NRC authorizing the shipments, as required by 10 CFR Parts 110.23 and 110.28.

The NRC discussed its findings with you and Steve Laflin on August 17, 2020, in a telephone conversation with Ms. Andrea R. Jones, Senior Licensing Officer and Jane Chimood, Licensing Officer, Export Controls & Nonproliferation Branch, Office of International Programs. During the telephone conversation, you were informed that the NRC determined that an apparent violation of NRC requirements occurred and that the violation is being considered for escalated enforcement in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

Based on a review of information provided in your emails dated June 26 and August 17, 2020, NRC Agencywide Document Access and Management System (ADAMS) Accession Nos. ML20219A721 and ML20234A690, and subsequent discussion with you and NRC staff, the NRC has sufficient information to make an enforcement decision regarding this matter and is issuing you a Notice of Violation (Notice) formally citing the violation of NRC requirements. The violation is cited in the enclosed Notice.

The violation involves INIS's four exports of byproduct material to Iraq in 2019, without being authorized by a specific license, issued under 10 CFR Part 110. Specifically, INIS made exports of a combined total of 264.60 MBq of Cs-137, Ba-133, Co-57, Co-60, Eu-152, and Na-22 in four separate shipments to Iraq, an embargoed destination, on May 24, May 29, October 2, and December 4, 2019, without the required NRC specific license. These exports were not authorized by a specific license, in accordance with 10 CFR Part 110.5, "Licensing Requirements."

These exports also required Executive Branch Reviews in accordance with 10 CFR 110.41, "Executive Branch Review." However, the Executive Branch was not able to give its judgment on whether the exports were inimical to the common defense and security of the United States, and consistent with the provisions of the Atomic Energy Act. Accordingly, neither the NRC nor the U.S. Government's Executive Branch were able to conduct their regulatory oversight of the export licensing process of the exports to an embargoed destination. Therefore, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level (SL) III.

Because your facility has not been the subject of escalated enforcement actions within the last 2 years, the NRC 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. Your corrective actions submitted in your email dated June 26, 2020 appear comprehensive and are likely to prevent future recurrence.

Therefore, to encourage prompt identification and comprehensive correction of violation, the NRC will not propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this SLIII violation constitutes escalated enforcement that may subject you to increased oversight in the future.

The NRC has concluded that information regarding: (1) the reasons 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. Therefore, you are not required to respond to this letter and Notice 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, 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 enclosures and your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system 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.

Please feel free to contact Ms. Jane Chimood at 301-287-9225 if you have any questions regarding this matter.

Sincerely,

George A. Wilson, Director
Office of Enforcement

Enclosure:
Notice of Violation

cc:
Mark Dietrich, PE, Technical Services
Emergency Response Coordinator
Idaho Department of Environmental Quality
1410 N Hilton St
Boise, ID 83706
Mark.Dietrich@deq.idaho.gov

SUBJECT: EXPORT OF NUCLEAR MATERIAL UNDER U.S. NUCLEAR REGULATORY
 COMMISSION LICENSING AUTHORITY – NOTICE OF VIOLATION
 DATED: SEPTEMBER 17, 2020

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OFFICE	OIP	OIP	OE	BC :ECNP/OIP
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DATE	09/8/2020	09/9/2020	09/10/2020	09/10/2020
OFFICE	OE	DD: OIP	D: OIP	D: OE
NAME	JPeralta*	DSkeen	NMamish	GWilson
DATE	09/10/2020	09/11/2020	09/11/2020	09/17/2020

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NOTICE OF VIOLATION

International Isotopes, Inc.
Idaho Falls, ID 83401

EA-20-095

Based on the U.S. Nuclear Regulatory Commission's (NRC) evaluation of International Isotopes, Inc. (INIS) activities associated with the exports of byproduct material in May, October, and December 2019, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

Title 10 of the *Code of Federal Regulations* (10 CFR) Part 110.5 states, in part, that no person may export any nuclear equipment or material listed in 10 CFR 110.9, unless authorized by a general or specific license issued under 10 CFR Part 110. The list in 10 CFR 110.9 includes byproduct material.

10 CFR 110.20(a) states, in part, that if an export or import is not covered by the NRC general licenses in 10 CFR 110.21 through 110.27, a person must file an application with the Commission for a specific license in accordance with 10 CFR 110.31 through 110.32.

10 CFR 110.23(a) states, in part, that a general license is issued to any person to export byproduct material to any country not listed in 10 CFR 110.28.

10 CFR 110.28 lists Iraq as an embargoed destination.

Contrary to the above, INIS exported a combined total of 264.60 MBq of Cs-137, Ba-133, Co-57, Co-60, Eu-152, and Na-22 without being authorized by a specific license issued under 10 CFR Part 110. Specifically, on May 24, May 29, October 2, and December 4, 2019, in four separate shipments to Iraq, an embargoed destination, INIS exported byproduct material without the required NRC specific license. These exports were not authorized by a specific license, in accordance with 10 CFR Part 110.5, "Licensing Requirements".

This is a Severity Level III Violation (NRC Enforcement Policy Section 6.15.c.4).

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed in your emails, dated June 26 and August 17, 2020). However, you are required to submit a written statement or explanation pursuant to the provisions of 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-20-095)," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Director, Office of International Programs, within 30 days of the date of the letter transmitting this 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.

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>. 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, then 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 material, 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). The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

Dated this 17th day of September 2020.