



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION III  
2443 WARRENVILLE ROAD, SUITE 210  
LISLE, ILLINOIS 60532-4352

October 14, 2022

Edwin M. Leidholdt, Ph.D., Director  
National Health Physics Program (115 HP/NLR)  
Department of Veterans Affairs  
Veterans Health Administration  
2200 Fort Roots Drive  
Building 101  
North Little Rock, AR 72114

SUBJECT: NRC INSPECTION REPORT 03034325/2022002(DRSS) – JACK C.  
MONTGOMERY VA MEDICAL CENTER, MUSKOGEE, OKLAHOMA

Dear Dr. Leidholdt:

On April 19, 2022, an inspector from the U.S. Nuclear Regulatory Commission (NRC) conducted a routine inspection at VA – Muskogee, Oklahoma, with continued in-office review through June 22, 2022. The purpose of the inspection was to review activities performed under your NRC license to ensure that activities were being performed in accordance with NRC requirements. The in-office review included a review of issues identified during the inspection related to the violations noted below. Mr. Bryan Parker of my staff conducted a final exit meeting by telephone with you on June 22, 2022, to discuss the inspection findings. This letter presents the results of the inspection.

During this inspection, the NRC staff examined activities conducted under your license related to public health and safety. Additionally, the staff examined your compliance with the Commission's rules and regulations as well as the conditions of your license. Within these areas, the inspection consisted of selected examination of procedures and representative records, observations of activities, and interviews with personnel.

Based on the results of this inspection, the NRC has determined that two Severity Level IV violations of NRC requirements occurred. The violations were evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. One violation involved the failure to establish a permanent Radiation Safety Officer (RSO) after naming a temporary RSO under the provisions of 10 CFR 35.24 for a maximum period of 60 days. The violation is cited in the enclosed Notice of Violation (NOV). The NRC is citing the violation because an NRC inspector identified the violation. 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 of full compliance has all been provided. Therefore, you are not required to respond to this violation.

The second violation involved a failure to document the release of a patient containing unsealed byproduct material under the provisions of 10 CFR 35.75 and 35.2075. The violation is cited in the enclosed NOV. The NRC is citing the violation because an NRC inspector identified the

violation. The NRC has concluded that, although some information regarding the corrective actions taken has been provided, other information such as the reason for the violation, actions planned to correct the violation and prevent recurrence, and the date of full compliance have not yet been provided. Therefore, you are required to respond to this violation.

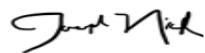
The inspector determined that the root cause of the violations were failure to provide attention to detail within the permitted program. As corrective actions to restore compliance and to prevent recurrence of the first violation, the permittee sought and received an amendment to the permit naming a new permanent RSO. For the second violation, the permittee indicated that it would re-evaluate the case involving the undocumented patient release.

As indicated above, you are required to respond to the second violation and should follow the instructions specified in the enclosed Notice when preparing your response. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be useful in preparing your response. You can find the Information Notice on the NRC website at: <http://www.nrc.gov/reading-rm/doc-collections/gen-comm/info-notices/1996/in96028.html>. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with the NRC's "Rules of Practice" in 10 CFR 2.390, a copy of this letter, its enclosure, and any response you provide will be made available electronically for public inspection in the NRC's Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC's website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, any response should not include any personal privacy, proprietary, or safeguards information so that it can be made publicly available without redaction.

Please feel free to contact Mr. Parker of my staff if you have any questions regarding this inspection. Mr. Parker can be reached at 678-828-7050.

Sincerely,



Signed by Nick, Joseph  
on 10/14/22

Joseph Nick, Acting Chief  
Materials Licensing Branch  
Division of Radiological Safety and Security

Docket No. 03034325/2022002  
License No. 03-23853-01VA

Enclosure:  
Notice of Violation

cc w/encl: State of Oklahoma

Letter to Leidholdt from J. Nick, dated October 14, 2022.

SUBJECT: NRC INSPECTION REPORT 03034325/2022002(DRSS) – JACK C.  
MONTGOMERY VA MEDICAL CENTER, MUSKOGEE, OKLAHOMA

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OFFICE	RIII-DNMS	RIII-DNMS	RIII-EICS	RIII
NAME	BParker:brt	JNick		
DATE	10/14/2022	10/14/2022		

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## NOTICE OF VIOLATION

Department of Veterans Affairs  
Muskogee, Oklahoma

License No. 03-23853-01VA  
Docket No. 030-34325

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on April 19, 2022 through June 22, 2022, with continued in-office review through June 22, 2022, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- 1) 10 CFR 35.24(c) states for up to 60 days each year, a licensee may permit an individual qualified to be a Radiation Safety Officer, under §§ 35.50 and 35.59, to function as a temporary Radiation Safety Officer and to perform the functions of a Radiation Safety Officer, as provided in paragraph (g) of this section, if the licensee takes the actions required in paragraphs (b), (e), (g), and (h) of this section and notifies the Commission in accordance with § 35.14(b).

Contrary to the above, the permittee allowed for greater than 60 days a year an individual qualified to be a Radiation Safety Officer, under §§ 35.50 and 35.59, to function as a temporary Radiation Safety Officer and to perform the functions of a Radiation Safety Officer, as provided in paragraph (g) of this section. Specifically, from June 9, 2021, to the date of the inspection, April 19, 2022, the licensee allowed an individual to perform the functions of a Radiation Safety Officer for greater than 60 days in 2021 and 2022.

This is a Severity Level IV violation (Section 6.3).

- 2) 10 CFR 35.75(c) states that a licensee shall maintain a record of the basis for authorizing the release of an individual in accordance with § 35.2075(a).

Contrary to the above, on December 12, 2020, the permittee failed to document the basis for authorizing the release of an individual in accordance with § 35.2075(a). Specifically on December 12, 2020, the permittee administered 150 mCi of I-131 to an individual and failed to document the basis for authorizing the release of the individual in accordance with § 35.2075(a).

This is a Severity Level IV violation (Section 6.3).

In regard to the second violation above and pursuant to the provisions of 10 CFR 2.201, Department of Veterans Affairs is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator, Region III, 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" and should include: (1) the reason for the violations, or, if contested, the basis for disputing the violations or their severity level, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken, and (4) the date when full compliance will be achieved. Your response may reference or include previously 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

Enclosure

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.

Your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC Agencywide Documents Access and Management System (ADAMS), accessible from the NRC's website 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.

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, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

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

Dated this 14<sup>th</sup> day of October 2022.