



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

February 2, 2023

EA-22-051

Joshua Swindell
Radiation Safety Officer
Radiation Safety Services, LLC
1741 Triangle Park Drive
Maryville, TN 37801

SUBJECT: RADIATION SAFETY SERVICES, LLC – NRC INSPECTION REPORT
150-00041/2021-001 AND INVESTIGATION REPORT 4-2021-010

Dear Joshua Swindell:

This letter refers to the investigation completed on May 27, 2022, by the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations at Radiation Safety Services, LLC, in Knoxville, Tennessee. The investigation was conducted to determine whether employees of Radiation Safety Services, LLC, while working under reciprocity in NRC jurisdiction, willfully transferred byproduct material to an NRC licensee without verifying that it was authorized to receive and possess the material. The NRC's investigation results were discussed with you during a telephonic exit on January 20, 2023.

Based on the information acquired during the investigation and in-office review by the inspection staff, one apparent violation was identified and is being considered for escalated enforcement action 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>. The apparent violation involves the transfer of byproduct material to a company that was not specifically licensed by the NRC to receive the material, contrary to the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) 150.20(b)(3), as documented in the Enclosure. In addition, the NRC determined that the apparent violation was not the result of willfulness.

The circumstances surrounding the apparent violation, the significance of the issue, and the need for lasting and effective corrective action were discussed with you during a telephonic exit on January 20, 2023.

Before the NRC makes its enforcement decision, we are providing you an opportunity to:

- (1) respond in writing to the apparent violation addressed in the inspection report within 30 days of the date of this letter;
- (2) request a predecisional enforcement conference (PEC); or
- (3) request alternative dispute resolution (ADR) mediation. If a PEC is held, it will be open for public observation and the NRC may issue a press release to announce the time and date of the conference. Please contact Dr. Lizette Roldán-Otero, Chief, Materials Inspection Branch, at 817-200-1455 or Lizette.Roldan-Otero@nrc.gov within 10 days of the date of this letter to

notify the NRC of your intended response to either provide a written response, participate in a PEC, or pursue ADR. A PEC should be held within 30 days and an ADR session within 45 days of the date of this letter.

If you choose to provide a written response, it should be clearly marked as a "Response to Apparent Violation, NRC Inspection Report 150-00041/2021-001; EA-22-051" and should include: (1) the reason for the apparent violation or, if contested, the basis for disputing the apparent violation; (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. Your response should be sent to the Director, Division of Radiological Safety and Security, NRC Region IV, 1600 E. Lamar Blvd., Arlington, Texas, 76011-4511, and emailed to R4Enforcement@nrc.gov. If an adequate response is not received within 30 days of the date of this letter or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a PEC.

If you choose to request a PEC, the conference will afford you the opportunity to provide your perspective on these matters and any other information that you believe the NRC should take into consideration before making an enforcement decision. The decision to hold a PEC does not mean that the NRC has determined that a violation has occurred or that enforcement action will be taken. This conference would be conducted to obtain information to assist the NRC in making an enforcement decision.

The topics discussed during the conference may include information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned. In presenting your corrective actions, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violation. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful in preparing your response (Agencywide Documents Access and Management System (ADAMS) Accession No. ML061240509).

In lieu of a PEC or written response, you may request ADR with the NRC in an attempt to resolve this issue. Alternative dispute resolution is a general term encompassing various techniques for resolving conflicts using a neutral third party. The technique that the NRC employs is mediation. Mediation is a voluntary, informal process in which a trained neutral mediator works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues.

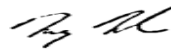
Additional information concerning the NRC's ADR program can be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html> as well as NRC brochure NUREG/BR-0317, "Enforcement Alternative Dispute Resolution Program" Revision 2, ADAMS Accession No. ML18122A101. The Institute on Conflict Resolution at Cornell University has agreed to facilitate the NRC's program as a neutral third party. Please contact the Institute on Conflict Resolution at 877-733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR.

In addition, please be advised that the number and characterization of apparent violations described in the Enclosure may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," 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 or in the NRC's ADAMS, accessible from the NRC's website at <http://www.nrc.gov/reading-rm/adams.html>. However, you should be aware that all final NRC documents, including the final Office of Investigations report, are official agency records and may be made available to the public under the Freedom of Information Act and subject to redaction of certain information in accordance with the Freedom of Information Act. 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.

If you have any questions concerning this matter, please contact Dr. Lizette Roldán-Otero of my staff at 817-200-1455.

Sincerely,



Signed by Muessle, Mary
on 02/02/23

Mary C. Muessle, Director
Division of Radiological Safety and Security

Docket No.: 150-00041
License No.: General License
pursuant to 10 CFR 150.20

Enclosure:
NRC Inspection Report 150-00041/2021-001

cc w/Enclosure:
Debra Shults, Director
Division of Radiological Health
TN Dept of Environment and Conservation
William R. Snodgrass Tennessee Tower-15th Floor
312 Rosa L. Parks Avenue
Nashville, TN 37243
debra.shults@tn.gov

RADIATION SAFETY SERVICES, LLC – NRC INSPECTION REPORT 150-00041/2021-001
AND INVESTIGATION REPORT 4-2021-010 - DATED FEBRUARY 2, 2023

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ADAMS ACCESSION NUMBER: ML23024A136

SUNSI Review: ADAMS: Non-Publicly Available Non-Sensitive Keyword:
By: ACR Yes No Publicly Available Sensitive NRC-002

OFFICE	ACES:ES	BC:MIB	ACES:TL	RIV: RC	OE
NAME	ARoberts	LRoldanOtero	JGroom	DCylkowski	CRiveraDiaz
SIGNATURE	/RA/ E	/RA/ E	/RA/ E	/RA/ E	/RA/ E
DATE	12/06/22	12/19/22	12/12/22	12/13/22	01/09/23
OFFICE	NMSS	OGC	D: DRSS		
NAME	MBurgess	TSteinfeldt	MMuessle		
SIGNATURE	/RA/ E	/NLO/ E	/RA/		
DATE	12/27/22	01/06/23	2/2/2023		

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U.S. NUCLEAR REGULATORY COMMISSION
REGION IV

Docket: 150-00041

License: General License pursuant to 10 CFR 150.20

Report: 150-00041/2021-001

EA No: EA-22-051

Licensee: Radiation Safety Services, LLC

Exit Meeting Date: January 20, 2023

Inspector: Allyce Bolger
Health Physicist, Materials Inspection Branch
Division of Radiological Safety and Security, Region IV

Approved by: Lizette Roldán-Otero, PhD
Chief, Materials Inspection Branch
Division of Radiological Safety and Security, Region IV

Attachment: Additional Information

Enclosure

SUMMARY

Radiation Safety Services, LLC (RSS)
Investigation Report 4-2021-010
NRC Inspection Report 150-00041/2021-001

On or about April 12, 2021, during a remote inspection of the Buckskin Mining Company, a coal plant authorized to possess and use fixed gauges at their facility outside of Gillette, Wyoming, an NRC Health Physicist identified that RSS, a Tennessee licensee working under reciprocity in NRC jurisdiction (Wyoming), transferred two cesium-137 sealed sources of byproduct material to an entity not authorized to possess it at that time. Radiation Safety Services, LLC transferred approximately 10.7 millicuries of cesium-137 to an NRC licensee in Idaho that was licensed to perform service provider activities, but the license only authorized work to be performed at client facilities and did not authorize possession of the materials.

APPARENT VIOLATION

Based on the results of an NRC investigation completed on May 27, 2022, one apparent violation of NRC requirements was identified. The apparent violation is listed below:

10 CFR 150.20(a)(1) states, in part, that provided that the provisions of 10 CFR 150.20(b) have been met, any person who holds a specific license from an Agreement State is granted a general license to conduct the same activity in non-Agreement States.

10 CFR 150.20(b)(3) requires, in part, that any person engaging in activities in non-Agreement States under a general license shall not transfer or dispose of radioactive material possessed or used under the general license, except by transfer to a person who is specifically licensed by the Commission to receive this material.

10 CFR 30.41(c) requires, in part, that before transferring byproduct material to a specific licensee of the Commission, the licensee transferring the material shall verify that the transferee's license authorizes the receipt of the type, form, and quantity of byproduct material to be transferred.

Contrary to the above, on May 20, 2020, RSS, a general licensee under 10 CFR 150.20, transferred radioactive material to a person who was not specifically licensed by the Commission to receive the material. Specifically, while engaging in activities under a general license in Gillette, Wyoming, RSS transferred byproduct material, two cesium-137 sealed sources, and failed to adequately verify that the license of the transferee authorized the receipt of the byproduct material transferred. (150-00041-2021-001-01)

Additional Information

PARTIAL LIST OF PERSONS CONTACTED

Joshua Swindell, Radiation Safety Officer

INSPECTION PROCEDURES USED

N/A – NRC Investigation Only

ITEMS OPENED, CLOSED, AND DISCUSSED

Opened

150-00041/2021-001-01	AV	Transferred radioactive material to a person who was not specifically licensed by the Commission to receive the material. 10 CFR 150.20(b)(3)
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Closed

None

Discussed

None