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Received DRSS 1/24/2023

ADAMS Accession# ML23025A106
Environmental Health and Safety Office

January 23, 2023

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk, Washington, DC 20555-0001

Mary Muessle, Director
Division of Radiological Safety & Security, Region IV
1600 East Lamar Boulevard, Arlington, TX 76011

Response to Apparent Violations in NRC Inspection Report 030-07517/2022-001; EA-22-066

Dear Director Muessle,

The University of Hawai'i (UH) would like to inform the Nuclear Regulatory Commission (NRC) of our latest updates and submit additional information and documentation supporting the UH response letter dated January 5, 2023.

Please review the following attachments and refer to the **List of Apparent Violations for Reference** below:

1. A letter of support from Dr. Kenneth Rubin, Chairperson of the University of Hawai'i - Radiation Safety Committee. **(Supplemental documentation for apparent violations 6 and 7).**
2. The Radiation Safety Committee meeting minutes from 12/07/2022. This meeting was primarily focused on the pending apparent violations that were reported in the November 21, 2022 final exit briefing. The RSP immediately began to formulate prompt corrective actions following the briefing and subsequent RSC meeting. **(Supplemental documentation for apparent violations 6 and 7).**
3. RSP enhanced forms that will help ensure a comprehensive review of the UH license including its specific authorizations and conditions. These forms are required to be approved by the RSC before any proposed use of RAM or amendment will be approved. The table below is an example of the license review from our application documents. **(Supplemental documentation for apparent violations 6 and 7).**

- A. RSP-1, Application for Use of Radioactive Material (RAM)
- B. RSP-3, Application for Amendment of Authorization

License Review: RSP OFFICE USE ONLY

Is the isotope on the UH license?	Yes ▾	Am-241/Be
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Relevant lines on license?	List Lines:	6W
Allowed chemical and physical form?	Yes ▾	
Within license possession limits?	Yes ▾	
Allowed authorized use?	No ▾	Use as a neutron source not currently permitted by license.
License conditions met?	Select... ▾	
Has this application for RAM use been completely reviewed with consideration to the NRC issued license, application, and tie down conditions?	Select... ▾	
RSC action taken after complete review:	DENIED ▾	Inform FAU. Use request is not allowed by license.

4. Leak test results for the sealed sources identified in the December 7, 2022 inspection report.
Sources Identified:

- 50 mCi cesium-137 sealed source
- 100 mCi cesium-137 sealed source
- Troxler Model 3411-B 40/8.6 mCi Am-241/Be and cesium-137 sealed sources
- CPN Model MC-M 50 mCi Am-241/Be and cesium-137 sealed source

The RSP has taken prompt action to correct the identified apparent violations.

(Supplemental documentation for apparent violation 3).

5. Troxler and Instrotek (CPN) Nuclear Gauge correspondence and quotes for shipping and disposal. UH is currently working to dispose of any radioactive sources that are unlikely to be used in the future. **(Supplemental documentation for apparent violation 3).**

6. RSP Internal Procedure - Leak Testing Sealed Sources, a written procedure to be followed any time a source is removed from storage and or transferred to another person. **(Supplemental documentation for apparent violation 4).**

The University of Hawai'i, Environmental Health and Safety Office would like to again thank the NRC staff for reviewing this supplemental information in support of our responses to the apparent violations in the NRC Inspection Report dated December 7, 2022.

Sincerely,

Michael Soles, Interim RSO



List of Apparent Violations for Reference:

1. **Apparent violation of 10 CFR 30.36(d)(2).**
The licensee's failure to provide notification to the NRC within 60 days of the occurrence of the licensee decision to permanently cease principal activities at licensed sites.
2. **Apparent violation of 10 CFR 20.1904(a).**
The licensee's failure to ensure that each container of licensed material bears a durable, clearly visible label that must provide sufficient information to permit individuals handling or using the containers, or working in the vicinity of the containers, to take precautions to avoid or minimize exposures.
3. **Apparent violation of License Condition 13.**
The licensee's failure to conduct a physical inventory every 6 months to account for all sealed sources and/or devices possessed under the license was identified as an apparent violation of License Condition 13.
4. **Apparent violation of License Condition 12.E.**
The licensee's failure to test sealed sources stored for a period of more than 10 years for leakage and/or contamination, and to test sealed sources for leakage and/or contamination when they are removed from storage for use and have not been tested within the required leak test interval.
5. **Apparent violation of License Condition 28.**
The licensee's failure to ensure that each portable nuclear gauge shall have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position.
6. **Apparent violation of 10 CFR 33.13(c)(3).**
The licensee's failure to establish administrative controls and provisions relating to organization and management, procedures, record keeping, material control, and accounting and management review that are necessary to assure safe operations.
7. **Apparent violation of 10 CFR 30.34(c).**
The licensee's failure to confine the possession and use of byproduct material to the purposes authorized in the license.



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January 20, 2023

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Division of Radiological Safety & Security, Region IV
1600 East Lamar Boulevard, Arlington, TX 76011

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Dear Director Muessle,

As Chairperson of The University of Hawai'i (UH) Radiation Safety Committee (RSC), I would like to begin by thanking you for the opportunity to respond in writing to the apparent violations outlined in the inspection report letter dated December 7, 2022. The Nuclear Regulatory Commission (NRC) identified seven apparent violations which are under consideration for escalated enforcement action.

As RSC Chairperson, I am specifically aware of apparent violations 6 and 7, which are directly related to the RSC and its oversight function.

6. Apparent violation of 10 CFR 33.13(c)(3).

The licensee's failure to establish administrative controls and provisions relating to organization and management, procedures, record keeping, material control, and accounting and management reviews that are necessary to assure safe operations.

7. Apparent violation of 10 CFR 30.34(c).

The licensee's failure to confine the possession and use of byproduct material to the purposes authorized in the license.

The current Interim RSO, Michael Soles, informed the entire UH RSC of the NRC inspection report at our last quarterly RSC meeting, and we discussed the findings extensively. The RSO explained each of the 7 apparent violations to the RSC, and the primary topic of discussion was the need to promptly put in place corrective actions. As chair, I am responsible for leading the committee and the RSP to ensure we are meeting our oversight responsibilities as required by our broad scope license. The entire RSC was eager to discuss these past actions and the ways we can respond to improve our oversight of, and communication with, UH authorized users. I am a long time member of the RSC, but relatively new in the role as chair, and am committed to helping the RSC be effective stewards of the activities conducted under the license. Under RSC oversight, Mr. Soles, and our Radiation Safety Specialist, Mr. Matthew Carradine, are currently working diligently and systematically through the NRC inspection report to promptly correct all of the apparent violations.



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Please contact me if you have any additional questions or need additional information at 808-956-8973 or at krubin@hawaii.edu.

Thank you,

A handwritten signature in black ink, appearing to read "K. Rubin".

Kenneth Rubin, PhD
Chairperson, University of Hawai'i Radiation Safety Committee