



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

December 19, 2023

EA-23-061

Cole Morehead, Chief Executive Officer
XCEL NDT, LLC
13624 South 220th Street, Suite #2
Gretna, NE 68028

SUBJECT: XCEL NDT, LLC - NOTICE OF VIOLATION AND PROPOSED IMPOSITION
OF CIVIL PENALTY - \$28,000, NRC (NON-PUBLIC) INSPECTION
REPORT 030-39171/2022-001

Dear Cole Morehead:

This letter refers to the U.S. Nuclear Regulatory Commission (NRC) inspection conducted from November 30 to December 1, 2022, at your facility in Greeley, Colorado, with continued in-office review through July 19, 2023. The inspection was conducted in response to a reportable event involving the theft of a company vehicle that occurred at a temporary jobsite in Billings, Montana on November 14, 2022 (Event Notification 56222). The vehicle contained a category 2 quantity of radioactive material when it was stolen. A final exit briefing was conducted with you telephonically on July 19, 2023. Details of the inspections and associated apparent violations identified during the inspection were provided to you in the subject inspection report, dated August 10, 2023 (non-publicly available Agencywide Documents Access and Management System (ADAMS) Accession No. ML23205A186 and publicly available ML23205A182).

On October 26, 2023, a predecisional enforcement conference was conducted at the Region IV office with you and members of your staff to discuss the apparent violations, their significance, their root causes, and your corrective actions. The conference was closed to public observation because we discussed Security-Related Information.

Based on the information developed during the inspection, and the information provided during the conference, the NRC has determined that violations of NRC requirements occurred. The violations are cited in Enclosure 1, Notice of Violation and Proposed Imposition of Civil Penalty (Notice), and the circumstances surrounding the violations are described in detail in the subject inspection report. The violations involved failures associated with the security requirements in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 37. Enclosure 2 contains the details of the NRC's review of the violations. Because of the potential consequences associated with the violations, they have been categorized as an escalated enforcement action in accordance with the NRC Enforcement Policy. The Enforcement Policy can be found on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

Enclosures 1 and 2 contain Sensitive Unclassified Non-Safeguards Information. When separated from Enclosures 1 and 2, this cover letter and Enclosures 3 and 4 are decontrolled.

C. Morehead

2

In accordance with the civil penalty assessment process in Section 2.3.4 of the NRC Enforcement Policy, the NRC considered whether credit was warranted for *Identification* and *Corrective Action*. The NRC determined that *Identification* credit was not warranted because the violations were identified through an event. The NRC determined that *Corrective Action* credit was warranted as documented in Enclosure 2.

Therefore, to emphasize the importance of proper control of licensed materials and in recognition of your prompt and comprehensive correction of violations, I have been authorized, after consultation with the Director, Office of Enforcement, to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$28,000 for the violations. In addition, issuance of this Notice constitutes an escalated enforcement action that may subject you to increased inspection effort.

You may choose to pay the proposed civil penalty by submitting your payment with the invoice enclosed to this letter (Enclosure 3), to the following address:

Office of the Chief Financial Officer
U.S. Nuclear Regulatory Commission
P.O. Box 979051
St. Louis, MO 63197

In addition, you may pay the proposed civil penalty in accordance with NUREG/BR-0254 "Payment Methods," Enclosure 4 or ADAMS Accession No. ML19163A244. When using NUREG/BR-0254 to pay the civil penalty, the bill number, EA-23-061, should be used as the "enforcement action identifier" when submitting your payment through one of the approved methods listed in the brochure. The NRC may consider a request for additional time to pay the proposed civil penalty, including the option to enter into an installment agreement, if payment of the civil penalty as a lump sum in the required timeframe would pose a financial hardship. To request additional time to pay, you must submit a written request, with appropriate justification explaining your financial hardship, to NRCCollections.Resource@nrc.gov. All requests should be submitted in sufficient time to allow the NRC the ability to review your request for additional time to pay before the 30-day payment period expires.

If you disagree with this enforcement sanction, you may deny one or more of the violations, as described in Enclosure 1, or you may request alternative dispute resolution (ADR) mediation with the NRC 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 has decided to employ is mediation. Mediation is a voluntary, informal process in which a 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 found at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution at Cornell University has agreed to facilitate the NRC's ADR program as a neutral third party. If you are interested in pursuing this issue through the ADR program, please contact: (1) the Institute on Conflict Resolution at 877-733-9415; and (2) Lizette Roldán-Otero at 817-200-1455 within 10 days of the date of this letter. Your submitted signed agreement to

C. Morehead

3

mediate using the NRC ADR program will stay the 30-day period for payment of the civil penalty, as identified in Enclosure 1, until the ADR process is completed.

You are required to respond to this letter 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 should provide it in your response to the Notice. 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 10 CFR 2.390 of the NRC's "Rules of Practice and Procedure," a copy of this letter, and Enclosures 3 and 4, will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's ADAMS, accessible from the NRC website 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. The NRC also includes significant enforcement actions on its website at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

However, Enclosures 1 and 2 contain Security-Related Information in accordance with 10 CFR 2.390(d)(1) and their disclosure to unauthorized individuals could present a security vulnerability. Therefore, Enclosures 1 and 2 will not be made available electronically for public inspection in the NRC Public Document Room or from the NRC's ADAMS.

Should you have any questions concerning this matter, please contact Dr. Lizette Roldán-Otero of my staff at 817-200-1156.

Sincerely,



Signed by Monninger, John
on 12/19/23

John D. Monninger
Regional Administrator

Docket No. 030-39171
License No. 15-35544-01

Enclosures:

1. Notice of Violation and Proposed Imposition of Civil Penalty (non-public)
2. Enforcement Basis (non-public)
3. Civil Penalty Invoice (public)
4. NUREG/BR-0254 "Payment Methods" (public)

C. Morehead

4

cc w/Enclosures:

Becki Harisis, Manager
Public Health - Office of Radiological Health
Department of Health & Human Services
301 Centennial Mall South
P.O. Box 95026
Lincoln, NE 68509-5026

Ross Barnes, Director
Radiation Control Program
Montana Department of Health and Human Services
P.O. Box 202953
Helena, MT 59620-2953

James H. Grice III, Program Manager
Radiation Program
Hazardous Materials & Waste Management Division
CO Department of Public Health & Environment
4300 Cherry Creek Drive South
Denver, CO 80246-1530

C. Morehead

5

XCEL NDT, LLC - NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY - \$28,000, NRC INSPECTION REPORT 030-39171/2022-001 - DATED DECEMBER 19, 2023

DISTRIBUTION:

RidsOeMailCenter Resource;
RidsSecyMailCenter Resource;
RidsEdoMailCenter Resource;
RidsOiMailCenter Resource;
R4Allegation.resource
JMonninger, RA
RLantz, DRA
TBloomer, DRSS
GMiller, DRSS
RSun, NMSS
VDricks, ORA
JGroom, ORA
ARoberts, ORA
RCarpenter, OGC

RidsNmssOd Resource;
RidsOcaMailCenter Resource;
EDO_Managers;
RidsRgn1MailCenter Resource;
R4-ORA-ACES
RAlexander, ORA
MMadison, DRMA
JKramer, ORA
JCook, DRSS
NO'Keefe, DRSS
AMoreno, CA
LWilkins, CA
JHamman, OEDO
DCylkowski, ORA

RidsOgcMailCenter Resource;
RidsOigMailCenter Resource;
RidsOcfoMailCenter Resource;
RidsRgn3MailCenter Resource;
R4Enforcement.resource
DPelton, OE
SLewman, OE
JPeralta, OE
PSnyder, OE
RErickson, DRSS
MBurgess, NMSS
RTorres, DRSS
R4-DRSS-MIB
LHowell, DRSS

ADAMS ACCESSION NUMBER – PUBLIC: LETTER AND ENCLOSURES 3 AND 4: ML23353A236						
Public: Cover Letter (w/o Enclosures 1 and 2) SUNSI Review by: ACR		ADAMS <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Publicly Available <input type="checkbox"/> Non-Publicly Available		<input checked="" type="checkbox"/> Non-Sensitive <input type="checkbox"/> Sensitive	Keyword: NRC-002
ADAMS ACCESSION NUMBER – NON-PUBLIC: LETTER AND ALL ENCLOSURES: ML23325A079						
Non-Public: Cover Letter & Enclosures SUNSI Review by: ACR		ADAMS <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Publicly Available <input checked="" type="checkbox"/> Non-Publicly Available		<input type="checkbox"/> Non-Sensitive <input checked="" type="checkbox"/> Sensitive	Keyword: MD 3.4, A.3
OFFICE	ES:ACES	C:MIB	TL:ACES	RC	NMSS	OE
NAME	ARoberts	LRoldanOtero	JGroom	DCylkowski	MBurgess	JPeralta
SIGNATURE	/RA/ E	/RA/ E	/RA/ E	/RA/ E	/RA/ E	/RA/ E
DATE	11/20/23	11/27/23	11/27/23	11/28/23	12/06/23	12/07/23
OFFICE	OGC	D:DRSS	RA			
NAME	RCarpenter	TBloomer	JMonninger			
SIGNATURE	/NLO/ E	/RA/ E	/RA/ E			
DATE	12/11/23	12/13/23	12/19/23			

OFFICIAL RECORD COPY

Civil Penalty Invoice

Enclosure 3



XCEL NDT, LLC
13624 S 220th Street Suite 2
Gretna, NE 68028



Address/Customer Information

XCEL NDT, LLC
13624 S 220th Street Suite 2
Gretna, NE 68028

Customer Codes

Account Code: L000002067/1

Bill Information

Bill Number: EA-23-061
Amount Due: \$28,000.00

Contact Us

Phone Number: 301-415-7554
Fax Number: 301-415-4135
Email Address: Fees.Resource@nrc.gov

Remit to Address

Office of the Chief Financial Officer
U.S. Nuclear Regulatory Commission
P.O. Box 979051
St. Louis, MO 63197

Bill Summary

Initial Charges	\$28,000.00
Discount	0.00
Surcharge	0.00
Interest Charges	0.00
Penalty Charges	0.00
Admin Charges	0.00
Bill Amount	\$28,000.00
Collected	0.00
Applied Credit	0.00
Adjustments	0.00
Amount Due	\$28,000.00

Credit Summary

Applied Credit	\$0.00
Unapplied Credit	0.00
Credit Total	\$0.00

Comments:

For questions, contact (301) 415-7554 or by email at Fees.Resource@nrc.gov. For NRC debt collection procedures, including interest and penalty provisions, see 31 U.S.C. 3717, 4 CFR 101-105, AND 10 CFR 15.

For questions, contact (301) 415-7554 or by email at Fees.Resource@nrc.gov. For NRC debt collection procedures, including interest and penalty provisions, see 31 U.S.C. 3717, 4 CFR 101-105, AND 10 CFR 15. Invoice if for Civil Penalty EA., issued to XCEL NDT. LLC.

Customer Information

L000002067/1
XCEL NDT, LLC
13624 S 220th Street Suite 2
Gretna, NE 68028

Change of Address:

Phone:

Remittance Information

Office of the Chief Financial Officer
U.S. Nuclear Regulatory Commission
P.O. Box 979051
St. Louis, MO 63197

This Payment References the following Bill:

EA-23-061

Outstanding Amount Due:

\$28,000.00

Amount Enclosed:

NUREG/BR-0254
Payment Methods

Enclosure 4

QUESTIONS?

If you have questions, please visit <https://www.nrc.gov> and search for "License Fees."

Questions may also be directed to the NRC Accounts Receivable Help Desk by sending an e-mail to nrc@fiscal.treasury.gov, by calling (301) 415-7554, or by writing to the address below:

U.S. NUCLEAR REGULATORY COMMISSION
OCFO/DOC/LAFBB
Washington, DC 20555-0001

U.S. NUCLEAR REGULATORY COMMISSION
OCFO/DOC/LAFBB
Washington, DC 20555-0001
PH (301) 415-7554



NUREG/BR-0254, Rev. 11
October 2023

STAY CONNECTED



Payment Methods

Paperwork Reduction Act This NUREG/BR provides guidance for completing the voluntary information collection in NRC Form 629. The estimated burden per response for completing NRC Form 629 is 10 minutes. This information collection was approved by the Office of Management and Budget (OMB), approval numbers 3150-0190. Send comments regarding this information collection to the FOIA, Library, and Information Collections Branch (T6-A10M), U.S. Nuclear Regulatory Commission, Washington, DC 20555 0001, or by e mail to Infocollects.Resource@nrc.gov, and to the OMB reviewer at: OMB Office of Information and Regulatory Affairs (3150-0190), Attn: Desk Officer for the Nuclear Regulatory Commission, 725 17th Street, NW Washington, DC 20503; e mail: oira_submission@omb.eop.gov.

Public Protection Notification The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

The NRC accepts the methods described below.

PAYMENT BY AUTOMATED CLEARINGHOUSE

To pay by Automated Clearinghouse/Electronic Data Interchange (ACH/EDI), provide a copy of NRC Form 628 to your financial institution. You may obtain a copy of NRC Form 628 from the NRC Web site at <http://www.nrc.gov> by searching for "NRC Form 628." You can also obtain a form by calling the NRC Accounts Receivable Help Desk at (301) 415-7554.

PAYMENT BY CREDIT CARD

The NRC currently accepts credit card payments of up to \$24,999.99. For payment by credit card, go to Pay.gov, search for "U.S. Nuclear Regulatory Commission Fees," and enter the required information.



You may also mail or fax NRC Form 629 following the directions on the form. To obtain a copy of NRC Form 629, go to <http://www.nrc.gov> and search for "NRC Form 629" or call the NRC Accounts Receivable Help Desk at (301) 415-7554.

PAYMENT BY DIGITAL WALLET

The NRC currently accepts payments of up to \$10,000.00. For payment by PayPal and Amazon Pay, go to Pay.gov, search for "U.S. Nuclear Regulatory Commission Fees," and enter the required information.



The NRC can receive funds through the U.S. Department of the Treasury (Treasury) Fedwire Deposit System. The basic wire message format below complies with the Federal Reserve Board's standard structured third-party format for all electronic funds transfer (EFT) messages.

See the sample EFT message to Treasury below. Each numbered field is described below.

The diagram shows a wire transfer message format with the following fields and descriptions:

- 1: TO (021030004)
- 2: FROM (021030004)
- 3: REF (021030004)
- 4: \$ (Amount field)
- 5: AMOUNT
- 6: ORDERING BANK AND RELATED DATA
- 7: TREAS NYC/CTR
- 8: BNF-/AC-31000001 OBI-
- 9: (Empty field)
- 10: (Empty field)

- 1 RECEIVER-DFI#**—Treasury's ABA number for deposit messages is 021030004.
- 2 TYPE-SUBTYPE-CD**—The sending bank will provide the type and subtype code.
- 3 SENDER-DFI#**—The sending bank will provide this number.
- 4 SENDER-REF#**—The sending bank will insert this 16-character reference number at its discretion.
- 5 AMOUNT**—The transfer amount must be punctuated with commas and a decimal point; use of the "\$" is optional. The depositor will provide this item.
- 6 SENDER-DFI-NAME**—The Federal Reserve Bank will automatically insert this information.
- 7 RECEIVER-DFI-NAME**—Treasury's name for deposit messages is "TREAS NYC". The sending bank will enter this name.
- 8 PRODUCT CODE**—A product code of "CTR" for customer transfer should be the first item in the receiver text field. Other values may be entered, if appropriate, using the ABA's options. A slash must be entered after the product code.
- 9 AGENCY LOCATION CODE (ALC)**—THIS ITEM IS OF CRITICAL IMPORTANCE. IT MUST APPEAR ON THE FUNDS TRANSFER DEPOSIT MESSAGE IN THE PRECISE MANNER AS STATED TO ALLOW FOR THE AUTOMATED PROCESSING AND CLASSIFICATION OF THE FUNDS TRANSFER MESSAGE TO THE AGENCY LOCATION CODE OF THE APPROPRIATE AGENCY. The ALC identification sequence can, if necessary, begin on one line and end on the next line; however, the field tag "BNF=" must be on one line and cannot contain any spaces. The NRC's eight-digit ALC is: BNF=/AC-31000001
- 10 THIRD-PARTY INFORMATION**—The Originator to Beneficiary Information (OBI) field tag "OBI=" signifies the beginning of the free-form third-party text. All other identifying information intended to enable the NRC to identify the deposit—for example, NRC annual fee invoice number, description of fee, 10 CFR Part 171 annual fee, and licensee name—should be placed in this field.

The optimum format for fields 7, 8, 9, and 10 using an eight-digit ALC is as follows:

TREAS NYC/CTR/BNF=/AC-31000001 OBI=

The optimum format, shown above, will allow 219 character positions of information following the "OBI=" indicator.

If the licensee's bank is not a member of the Federal Reserve System, the nonmember bank must transfer the necessary information and funds to a member bank, which then must transfer the information and funds to the local Federal Reserve Bank.

For a transfer of funds from local Federal Reserve Banks to be recorded on the same day, the transfer must be received at the New York Federal Reserve Bank by 4 p.m., EST. Otherwise, the deposit will be recorded on the next workday.

PAYMENT BY CHECK

Checks should be made payable to the U.S. Nuclear Regulatory Commission with the invoice number, Enforcement Action number, or other information that identifies the payment written on the check. Mail the check to the following address:

U.S. Nuclear Regulatory Commission
U.S. Bank
P.O. Box 979051
St. Louis, MO 63197-9000

FedEx or overnight mailings must be delivered to the following address:

U.S. Nuclear Regulatory Commission
U.S. Bank
SL-MO-R1GL
3180 Rider Trail S.
Earth City, MO 63045

TAXPAYER IDENTIFICATION NUMBER

You must file your Taxpayer Identification Number (TIN) with the NRC. Use NRC Form 531 to provide your TIN. You may obtain NRC Form 531 from the NRC Web site at <http://www.nrc.gov> by searching for "NRC Form 531" or by calling the NRC Accounts Receivable Help Desk at (301) 415-7554.