



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

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

March 08, 2024

EA-23-147

Duane Surman  
Western Region Terminal Manager  
Lhoist North America  
P. O. Box 88  
Tenmile Plant  
Bancroft, Idaho 83217

SUBJECT: LHOIST NORTH AMERICA – NOTICE OF VIOLATION, NRC INSPECTION  
REPORT 030-32760/2023-001

Dear Duane Surman:

This letter refers to the announced routine inspection conducted on September 13, 2023, at your facility in Bancroft, Idaho, with continued in-office review through December 13, 2023. The purpose of the inspection was to examine activities conducted under your license as they relate to public health and safety and to confirm compliance with the U.S. Nuclear Regulatory Commission (NRC) rules and regulations and with the conditions of your license. Within these areas, the inspection consisted of a selected examination of procedures and representative records, observation of licensed activities, independent radiation measurements, and interviews with personnel. A final exit briefing was conducted by video conference with Travis Soffel, Terminal Manager and Brandon Nilsson, Radiation Safety Officer (RSO) on January 16, 2024. Details of the inspection and the apparent violations were provided to you in the subject inspection report, dated January 25, 2024, Agencywide Documents Access and Management System (ADAMS) Accession No. ML24017A290.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violations identified in the report by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In a letter dated February 13, 2024 (ML24045A087), you provided a written response to the apparent violations.

Based on the information developed during the inspection and the information you provided in your February 13, 2024, written response to the inspection report, the NRC has determined that four violations of NRC requirements occurred. The violations are cited in the enclosed Notice of Violation (Notice), and the circumstances surrounding the violation are described in detail in the subject inspection report. The violations involved the failure to: (A) have the individual that is the named RSO on the license involved in licensed duties; (B) conduct a physical inventory every 6 months for devices possessed under the license; (C) perform an annual review of the radiation protection program for content and implementation; and (D) notify the NRC when no principal activities had been conducted for a period of 24 months.

The NRC considers Violation A to be significant because the NRC relies on the named and qualified RSO to oversee licensed activities and to maintain communication with the NRC about the licensed program. Therefore, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III. The current Enforcement Policy can be found on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

The NRC considers Violation B, C, and D to be less serious, but of more than minor safety significance, and has categorized them in accordance with the NRC Enforcements Policy at Severity Level IV. These violations are being formally cited as violations rather than as non-cited violations because they were identified by the NRC.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$9,000 is considered for Severity Level III Violation A.

Because your facility has not been the subject of an escalated enforcement action within the last two routine inspections, 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 NRC Enforcement Policy. The NRC has determined that *Corrective Action* credit is warranted based on the prompt and comprehensive corrective actions you implemented. Your corrective actions to address the violation are documented in NRC Inspection Report 030-32760/2023-001 and in your letter dated February 13, 2024.

Therefore, in recognition of the absence of previous escalated enforcement action, and your prompt and comprehensive corrective actions, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III violation constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding: (1) the reason for the violations; (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 in NRC Inspection Report 030-32760/2023-001 and in your letter dated February 13, 2024. In addition, on December 19, 2023, you transferred your sealed sources for disposal to another licensee and on February 7, 2024 (ML24043A163), you submitted a license termination request. On March 5, 2024 (ML24065A109), the NRC terminated your license. Therefore, you are not required to respond to this letter 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, the 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 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>.

D. Surman

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

Sincerely,



Signed by Monninger, John  
on 03/08/24

John D. Monninger  
Regional Administrator

Docket No. 030-32760  
License No. 11-27434-01

Enclosure:  
Notice of Violation

cc w/Enclosure:

Landry Austin  
INL Oversight Program Manager  
Idaho Department of Environmental Quality

LHOIST NORTH AMERICA – NOTICE OF VIOLATION, NRC INSPECTION  
 REPORT 030-32760/2023-001 - DATED MARCH 08, 2024

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## NOTICE OF VIOLATION

Lhoist North America  
Bancroft, Idaho

Docket No. 030-32760  
License No. 11-27434-01  
EA-23-147

During an NRC inspection and in-office review conducted from September 13 to December 13, 2023, four violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. License Condition 12 of NRC License No, 11-27434-01, Amendment Nos. 7 and 8, identified a named individual as the Radiation Safety Officer (RSO).

Contrary to the above, from April 16, 2018, to December 4, 2023, the licensee failed to have that named individual as the RSO. Specifically, the named RSO was not performing RSO duties and was not involved with licensed activities.

This is a Severity Level III Violation (Enforcement Policy Section 6.3.c.11).

- B. License Condition 15 of NRC License No, 11-27434-01, Amendment No. 8, states, in part, that the licensee shall conduct a physical inventory every 6 months to account for all sealed sources and/or devices possessed under the license.

Contrary to the above, from October 2, 2018, to September 13, 2023, the licensee failed to conduct a physical inventory every 6 months to account for all sealed sources and/or devices possessed under the license. Specifically, the licensee last performed and documented a physical inventory on April 2, 2018, and had not performed another physical inventory as of the date of the inspection, a period exceeding 6 months.

This is a Severity Level IV violation (Enforcement Policy Section 6.3.d.3).

- C. 10 CFR 20.1101(c) requires, in part, that the licensee shall periodically (at least annually) review the radiation protection program content and implementation.

Contrary to the above, from January 1, 2020, to September 13, 2023, the licensee failed to periodically (at least annually) review the radiation protection program content and implementation. Specifically, the radiation protection program was last reviewed for content and implementation on April 16, 2018, a period exceeding the annual requirement.

This is a Severity Level IV violation (Enforcement Policy Section 6.3.d.3).

- D. 10 CFR 30.36(d) requires, in part, that each licensee shall provide, within 60 days, written notification to the NRC and begin decommissioning its site if no principal activities under the license have been conducted for a period of 24 months.

Contrary to the above, from June 15, 2020, to September 13, 2023, the licensee did not provide, within 60 days, written notification to the NRC and begin decommissioning its site when no principal activities under the license had been conducted for a period of 24 months. Specifically, no principal activities had been performed under the license from April 16, 2018, to September 13, 2023, a period greater than 24 months.

Enclosure

This is a Severity Level IV violation (Enforcement Policy Section 6.9.d.1).

The NRC has concluded that information regarding: (1) the reason for the violations; (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 in NRC Inspection Report 030-32760/2023-001 and in your letter dated February 13, 2024.

However, if the description therein does not accurately reflect your position or your corrective actions, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 within 30 days of the date of the letter transmitting this Notice of Violation. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation; EA-23-147," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 1600 East Lamar Blvd., Arlington, Texas 76011-4511, and email it to [R4Enforcement@nrc.gov](mailto:R4Enforcement@nrc.gov).

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.

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 website at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy or proprietary 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 that such material is withheld from public disclosure, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim (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).

Dated this 8th day of March 2024