



U.S. Customs and Border Protection

FROM: Mickey McKeighan
Director
CBP Occupational Safety and Health

TO: U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, D.C. 20555

SUBJECT: U.S. CUSTOMS AND BORDER PROTECTION RESPONSE TO NRC
INSPECTION NO. 030-12771/2023-001 NOTICE OF VIOLATION

This letter serves as U.S. Customs and Border Protection's (CBP) official response to the Notice of Violation (NOV) issued by the Nuclear Regulatory Commission (NRC) on June 28, 2024, associated with inspection NO. 030-12771/2023-001. The NRC communicated in the official letter that it was determined that a Severity Level IV violation of NRC requirements occurred. Specifically, the NRC identified that some locations in New York and Vermont were not inspected annually as required by a condition of CBP's license as committed in a letter the NRC received from CBP on December 14, 2017. During the 2023 inspection, the CBP Radiation Safety Officer (RSO) determined that some inspections were not conducted due to Covid emergency constraints and staffing turnover. As of April 11, 2023, CBP completed inspections of the missed sites in New York and Vermont.

In response to the NOV, CBP Occupational Safety and Health (OSH) conducted a comprehensive self-audit of all NRC required radiation safety inspections for fiscal years (FY) 2022, 2023, and 2024 year to date (YTD), to include any licensed material, whether part of a Non-Intrusive Inspection (NII) system or permitted source. The purpose of this audit was to determine if any other NRC required radiation safety inspections were missed in FY2022, FY2023, and assess the status of year-to-date FY2024 inspections, ensuring CBP is on track to complete all NRC required inspections for FY2024. As a point of reference, the inspection program managed by CBP OSH tracks the Fiscal Year which runs from October 01 through September 30 of the following calendar year.

The OSH Field Services Center is broken into five geographic regions spanning all 50 states and multiple U.S. territories. The acting CBP RSO, Regional Branch Chiefs, and regional Health Physicists (HP) conducted a self-audit of the radiation safety program in each regional area to determine if any FY2022 or FY2023 inspections were missed and confirmed the status of YTD FY2024 inspections. All NRC required radiation safety inspections are on track to be completed by the end of FY2024 as confirmed by the acting RSO and Regional Branch Chiefs. Results of our audit confirmed that some required inspections were missed in FY2022 and FY2023 as follows:

- FY2022
 - San Luis, Arizona Port of Entry
 - Jackman, Maine Port of Entry
 - Vanceboro, Maine Port of Entry
 - Buffalo, New York Port of Entry
 - Fort Covington, New York Port of Entry
 - Champlain, New York Port of Entry
 - Alburg Springs, New York Port of Entry
 - Sault Sainte Marie, Michigan Port of Entry
 - El Paso, Texas Port of Entry
- FY2023
 - Sweetgrass, Montana Port of Entry
 - Eastport, Idaho Port of Entry

All NRC required inspections that were not completed in FY2022-2023 have subsequently been completed, and all required FY2024 inspections will be completed prior to the close of the fiscal year.

The following are corrective actions CBP plans to implement to ensure compliance going forward:

1) Active role of RSO in the Radiation Inspection Program

The CBP RSO will be expected, as a course of their regular duties, to proactively track the progress and completion of required radiation safety inspections each fiscal year. A new permanent RSO has been selected and will take over management of CBP's radiation safety program on August 25, 2024. This individual has over 30-years' experience successfully managing complex radiation safety programs.

2) Training for Health Physicists and Supervisors

A formal onboarding and training curriculum for new OSH Health Physicists (HPs) is being developed. While the program is intended for new HPs, all regional HPs, regardless of CBP experience, undergo the training initially for uniformity of effort and standardization. The training curriculum should include an overview of the CBP Radiation Safety Program Directive, NRC and international radioactive materials licenses, radiation safety inspections, dosimetry, leak testing, radioactive material inventory, radiation survey instrumentation, inadvertent exposure procedures, and recordkeeping.

In addition to a formal Health Physicist onboarding process, additional training will be provided to HPs, and OSH Regional Branch Managers on the requirements for compliance with CBP's NRC license and the current Radiation Safety Directive. This training will include insight and direction on how to determine the appropriate inspection cycles for each specific type of radioactive source, radiation producing device or NII

system within CBP's inventory, as well as proper recordkeeping and reporting requirements.

3) Proactive Inspection Tracking

Spreadsheets created during the response to this NOV will be used to track required inspections until a more suitable data management system is fully fielded. Our current data management system, Human Resources Business Engine/Safety Tracking and Reporting (HRBE/STAR) will be utilized for documenting and retaining radiation safety inspections. The CBP RSO will periodically check the status of inspections in HRBE/STAR to ensure compliance. As a long-term solution, HRBE/STAR is currently undergoing a full overhaul and update, a capability for tracking and proactively notifying HPs and the RSO of the inspection status will be explored.

4) Remote/Periodic Inspection Capabilities

The remote inspection capability authorized by the NRC in ML20140A008 to expedite the inspection of smaller source-based equipment and sources located at sites that would necessitate excessive travel and incur significant costs to conduct in-person inspections will be implemented. A license amendment requesting inspections of some licensed material on a periodic basis other than currently authorized is being prepared and will be submitted after the new permanent RSO is in place.

Should you have any questions regarding CBP's response to this NOV, please contact Deputy Director C. Steven Tilden at Steven.Tilden@cbp.dhs.gov or (443) 869-1695.