



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION I
475 ALLENDALE RD., SUITE 102
KING OF PRUSSIA, PA 19406-1415

October 12, 2022

David M. Collins, Radiation Safety Officer
Defense Logistics Agency
DLA Distribution
5430 Mifflin Avenue, Suite 3150
New Cumberland, PA 17070-5008

SUBJECT: DEFENSE LOGISTICS AGENCY – NRC INSPECTION REPORT
NO. 030-33261/2019-002 AND NOTICE OF VIOLATION

Dear Mr. Collins:

This letter refers to the inspection conducted on November 19, 2019, at the Defense Logistics Agency (DLA) facility located at Tinker Air Force Bases, Oklahoma. This inspection examined activities conducted under your license as they relate to public health and safety to confirm compliance with the U.S. Nuclear Regulatory Commission's (NRC's) rules, regulations, and with the conditions of your license. Within these areas, the inspection consisted of a selected examination of procedures and representative records, observations of licensed activities, independent radiation measurements, and interviews with personnel. On November 19, 2019, at the conclusion of the onsite portion of the inspection, the inspector discussed the preliminary inspection findings with Mr. Michael Hathaway, and then remotely with you.

As discussed telephonically with you by Mr. Jason vonEhr of the NRC on September 29, 2022, this inspection was identified by the NRC as having never been dispositioned and issued to the DLA following the on-site inspection of DLA's facility at Tinker Air Force Base on November 19, 2019. In particular, the NRC determined that: (1) the Tinker Air Force Base inspection, including the then-draft violations, were not included in Inspection Report No. 030-33261/2019-001 (issued in an NRC Form 591) dated March 30, 2021; and (2) the details and observations from the Tinker Air Force Base inspection were not included or discussed in the nonpublic inspection narrative (NRC Form 592). As a result, the NRC determined it was appropriate and necessary to disposition these inspection findings.

Based on the results of this inspection, the NRC has determined that two Severity Level IV violations of NRC requirements occurred. These violations were evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <https://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violations involved NRC security requirements, and thus is cited and described in the non-public Notice of Violation (Notice). These violations are being cited in the enclosed Notice of Violation (Notice) because the NRC identified the violations during our inspection.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful. You can find the Information Notice on the NRC website at: <http://pbadupws.nrc.gov/docs/ML0612/ML061240509.pdf>. The NRC review of your response to the Notice will also determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

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, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site 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.

If you have any questions regarding this matter, please contact Jason vonEhr of my staff at (610) 337-5256 or via electronic mail at Jason.vonEhr@nrc.gov.

Thank you for your cooperation.

Sincerely,

Christopher Cahill, Chief
Commercial, Industrial, R&D
and Academic Branch
Division of Radiological Safety and Security
Region I

Docket No. 030-33261
License No. 37-30062-01

Enclosure:
Notice of Violation

cc w/ enclosure
State of Oklahoma
Commonwealth of Pennsylvania

DEFENSE LOGISTICS AGENCY – NRC INSPECTION REPORT NO. 030-33261/2019-002
AND NOTICE OF VIOLATION DATED OCTOBER 12, 2022DOCUMENT NAME: DEFENSE LOGISTICS AGENCY – NRC INSPECTION REPORT NO. 030 33261/2019 002 AND NOTICE
OF VIOLATION

☒ SUNSI Review JEV1		☒ Non-Sensitive ☐ Sensitive		☒ Publicly Available ☐ Non-Publicly Available	
OFFICE	RIV: DRSS	RI:DRSS	RI:DRSS		
NAME	Janine Katanic	Jason vonEhr	Chris Cahill		
DATE	10/03/2022	10/03/2022	10/12/2022		

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Defense Logistics Agency
Tinker Air Force Base, Oklahoma

License No. 37-30062-01
Docket No.: 030-33261

During an NRC inspection conducted on November 19, 2019, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 30.41(c) requires, in part, that before transferring byproduct material to a specific licensee of the Commission prior to receipt of the byproduct material, 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.

10 CFR 30.41(d) requires in part, that the following methods for the verification required by 10 CFR 30.41(c) are acceptable: (1) The transferor may have in his possession, and read, a current copy of the transferee's specific license; (2) The transferor may have in his possession a written certification by the transferee that he is authorized by license to receive the type, form, and quantity of byproduct material to be transferred, specifying the license, issuing agency and expiration date; (3) For emergency shipments the transferor may accept oral certification by the transferee that he is authorized by license to receive the type, form, and quantity of byproduct material to be transferred, specifying the license number, issuing agency and expiration date, provided that the oral certification is confirmed in writing within 10 days; (4) The transferor may obtain other sources of information compiled by a reporting service from official records of the Commission as to the identity of licensees and the scope and expiration dates of licenses; or (5) When none of the methods of verification described in 10 CFR 30.41(d)(1) to (4) are readily available or when a transferor desires to verify that information received by one of such methods is correct or up-to-date, the transferor may obtain and record confirmation from the Commission that the transferee is licensed to receive the byproduct material.

Contrary to the above, on November 13-14, 2019, the licensee transferred byproduct material to a specific licensee of the Commission and failed to verify, utilizing one of the methods prescribed in 10 CFR 30.41(d), that the transferee's license authorized the receipt of the type, form, and quantity of byproduct material to be transferred. Specifically, on November 13-14, 2019, the licensee transferred two astroinertial instruments, each containing approximately 300 microcuries of carbon-14, quantities requiring a specific license, to the US Department of the Air Force, Whiteman Air Force Base, and failed to utilize one of the methods prescribed in 10 CFR 30.41(d) to verify that the US Department of the Air Force, Whiteman Air Force Base, was licensed and authorized for receipt of the type, form, and quantity of byproduct material that was transferred. This was identified to be a standard practice whereupon the licensee would not verify, ahead of the transfer, the authorization of entities within the organization of the U.S. Department of Defense, in contrast to their practices for private commercial entities which were verified prior to transfer in accordance with 10 CFR 30.41(c).

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

- B. 10 CFR 71.5(a) requires that each licensee who transports licensed material outside the site of usage, as specified in the U. S. Nuclear regulatory Commission (NRC) license, or

Enclosure

where transport is on public highways, or who delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the U.S. Department of Transportation (DOT) regulations in 49 CFR Parts 107, 171 through 180, and 390 through 397, appropriate to the mode of transport.

49 CFR 173.424 requires, in part that a radioactive instrument or article and its packaging are excepted from requirements in 49 CFR Subchapter C for specification packaging, labeling, marking (except for the UN identification number marking requirement described in 49 CFR 173.422(a)), and if not a hazardous substance or hazardous waste, shipping papers and the requirements of 49 CFR Subpart I if: (1) The radiation level at any point on the external surface of a package bearing the article or instrument does not exceed 0.005 mSv/hour (0.5 mrem/hour); (2) The nonfixed (removable) radioactive surface contamination on the external surface of the package does not exceed the limits specified in 49 CFR 173.443(a); and (3) The package is otherwise prepared for shipment as specified in 49 CFR 173.422.

49 CFR 173.422 requires, in part, that an excepted package of Class 7 (radioactive) material that is prepared for shipment under the provisions of 49 CFR 173.424, is not subject to any additional requirements of 49 CFR Subchapter C, except for the following: The outside of each package must be marked with the UN identification number for the material preceded by the letters UN, as shown in column (4) of the Hazardous Materials Table in 49 CFR 172.101.

Contrary to the above, on November 13-14, 2019, the licensee transported licensed material outside the site of usage, as specified in the NRC license, and failed to ensure that all the requirements of 49 CFR 173.424 were met. Specifically, on November 13-14, 2019, the licensee transported two astrophysical instruments, each containing approximately 300 microcuries of carbon-14, and failed to: (1) perform measurements to ensure that the radiation level at any point on the external surface of the packages bearing the instruments did not exceed 0.005 mSv/hour (0.5 mrem/hour); (2) perform measurements to ensure that the nonfixed (removable) radioactive surface contamination on the external surface of the package did not exceed the limits specified in 49 CFR 173.443(a); and (3) mark the outside of each package with the UN identification number, UN 2911, for Radioactive material, excepted package- instruments or articles.

This is a Severity Level IV violation (NRC Enforcement Policy Section 6.8.d.)

Pursuant to the provisions of 10 CFR 2.201, the Defense Logistics Agency is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator, Region I, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include, for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level; (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 previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued requiring information as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

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, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

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 Web site 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. 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 withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (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).

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated This 12th day of October 2022.