



Notice of Violation (Corporation)

Date of notice: March 23rd, 2023

AMP number: 2023-AMP-01

| | |
|------------------------------------|---------------------------|
| Violation committed by: | Amount of penalty: |
| Metalogic Inspection Services Inc. | \$ 31,690 |

Violation

Failure to comply with a licence condition in violation of paragraph 48 (c) of the *Nuclear Safety and Control Act*.

Relevant facts

I, Karen Owen-Whitred, Director General of the Directorate of Nuclear Substance Regulation and designated officer authorized by the Canadian Nuclear Safety Commission (CNSC) to issue notices of violations, believe on reasonable grounds that Metalogic Inspection Services Inc. committed the above violation. The facts relevant to the violation and the penalty calculation are as follows:

1. Metalogic Inspection Services Inc., based at 7211-68 Ave NW, Edmonton, holds CNSC licence 13943-2-24.1; licensed activities include industrial radiography. This activity involves the use of radiation devices containing Category 2 sealed sources and is considered high risk under the CNSC’s risk-informed regulatory program. Category 2 sources are defined by the International Atomic Energy Agency as being “personally very dangerous: This amount of radioactive material, if not safely managed or securely protected, could cause permanent injury to a person who handled it, or were otherwise in contact with it, for a short time (minutes to hours). It could possibly be fatal to be close to this amount of unshielded radioactive material for a period of hours to days.” (IAEA-TECDOC-1344, *Categorization of radioactive sources*, July 2003)
2. Licence Condition 2490-3 (the Sealed Source Security Requirements) indicates that, “The licensee shall meet the security measures for sealed sources as set out in Regulatory Document REGDOC-2.12.3, *Security of Nuclear Substances: Sealed Sources*, as amended from time to time.” Based on the results of inspections conducted on August 22, 2022 and October 24, 2022, and as documented in CNSC security reports S-13943-PI-221024-1 & S-13943-PL-220822-1, Metalogic Inspection Services Inc. did not satisfy the requirements in REGDOC-2.12.3, specifically regarding physical security of category 2 sources, at both bases of operations inspected, and therefore failed to comply with Licence Condition 2490-3. These requirements include the restriction of access to authorized users only, the use of two physical barriers to prevent unauthorized access, ensuring an





appropriate response capability to any intrusion attempt and having a site-specific security plan in place.

3. During the August 22 inspection, CNSC inspectors discovered an undeclared base of operations being used by the licensee in Kitimat LNG Terminal, Kitimat, British Columbia, Inspection Index S-13943-PL-220822-1. During the inspection, the inspectors identified several security violations, including an insufficient number of physical barriers, an unsatisfactory response capability, and the lack of a CNSC-approved site-specific security plan (Inspection Index DS-13943-CC-220714-1).
4. In responding to the August 22 inspection, the licensee made a written commitment to the CNSC to resolve the security concerns and other non-compliances at this location by September 15 (ref CNSC No. 6888996). In the same document, they also committed to resolving any similar non-compliances or security concerns at any other location where they may be present and to establish site security plans for these locations as is required for any base of operations.
5. Two months later, on October 24, 2022, CNSC inspectors conducted an inspection at the Burnaby Terminal Expansion Project (8099 Shellmont St, Burnaby), Inspection Index S-13943-PL-221024-1. As a result of this inspection, inspectors cited several security concerns regarding the physical barriers, unauthorized access and intrusion detection, both for the industrial radiography truck on-site and a second radiography truck operating on-site but based at a separate storage location in Port Coquitlam. Inspectors also noted that the licensee did not possess CNSC-approved site-specific security plans for either the Burnaby or the Port Coquitlam locations.
6. There was no evidence during the October 24 inspection that any corrective actions committed to after the Kitimat August 2022 inspection had been implemented at either of these locations within the Greater Vancouver area.
7. In addition to the non-compliances related to the 4 requirements of REGDOC-2.12.3 referenced above, CNSC inspectors noted other non-compliances relevant to this Notice of Violation:
 - a. The licensee failed to declare 2 additional long-term bases of operations to the CNSC as required by Licence Condition 2300-2 (Location Notification)
 - b. When asked by the CNSC inspector over the phone during the October 24 inspection, the licensee stated that they were aware that the vehicle at the Burnaby site of operations was missing critical security hardware yet had not taken immediate steps to resolve the issue. The operators for this vehicle had been allowed to leave site several days earlier without taking action and the other nearby operators had not been directed to acquire the hardware and secure the vehicle upon discovery by the licensee
 - c. Metalogic's internal procedures – which are approved by the CNSC and attached to the licence – indicate that they will conduct audits at their sites of operations to confirm adequate security measures are in place (ref CNSC No. 5810758, Metalogic Inspections Services Inc. Radiation Safety Emergency & Operating Procedures Manual Rev-0.6). However, no such audits have been conducted since work began at these locations (Kitimat LNG Terminal, Burnaby Expansion Project, Port Coquitlam radiography vehicle storage)
 - d. The licensee failed to immediately report a security breach at the licensee's Edmonton base of operations (7211-68 Ave NW, Edmonton) that took place on November 7, 2022, as required by the *General Nuclear Safety Regulations*, paragraph 29(1)(e):

“29(1) “Every licensee who becomes aware of aware of any of the following situations shall immediately make a preliminary report to the commission of the



location and circumstances and of any action that the licensee has taken or proposes to take with respect to it”:

(e) “an attempted or actual breach of security or an attempted or actual act of sabotage at the site of the licensed activity;”

The licensee reported this event to the CNSC on November 16 (ref CNSC No. 6923110, Event No. 5767)

- e. The licensee failed to report that one of their vehicles transporting a radiation exposure device was involved in a transport dangerous occurrence. This reportable event was identified by a CNSC inspector during the October 24 inspection
- f. This licensee has been overdue in submitting Annual Compliance Reports for the previous three calendar years (ref CNSC No. 6491459, 6633015, 6879046)
- g. Inspection reports from 2013 (ref CNSC No. 4248836) and 2018 (ref CNSC No. 5457391) indicate that the licensee has committed similar security-related violations in the past

Based on my review of this matter, I am of the opinion that an administrative monetary penalty will deter recurrence of the above violations and promote future compliance with CNSC regulatory requirements. In consideration of the seven factors in section 5 of the *Administrative Monetary Penalties Regulations (Canadian Nuclear Safety Commission)*, the amount of the penalty was determined based on the following relevant facts:

1. Compliance history: Assessed score = |+2|

CNSC records have been reviewed in relation to Metalogic Inspection Services Inc.’s compliance history and note that inspections conducted on August 22 and October 24 of 2022 have revealed that the above-described security related violations have occurred several times in the past year. Corrective measures taken have been limited and insufficient to prevent recurrence. The licensee has also had several non-security related non-compliances, been overdue in submitting Annual Compliance Reports for the previous three calendar years and repeatedly failed to report events to the CNSC in a timely fashion. Measures taken to prevent recurrence are not effective and this or similar violations may occur again in the future.

2. Intention or negligence: Assessed score = |+2|

There have been repeated violations of security requirements by this licensee, which continued despite the clear communication of these non-compliances by CNSC inspectors over multiple inspections. The licensee furthermore failed to implement periodic audits of their locations of operation to confirm that appropriate security measures are in place, as required by its own internal procedures

3. Actual or potential harm: Assessed score = |+2|

Based on the results of the inspections carried out on August 22 & October 24, the security of several devices was compromised, resulting in an increased risk for theft of a category 2 nuclear source. Although the radiation devices themselves provide shielding for the sealed source, there was still potential for grave harm to an individual.



4. Competitive or economic benefit: Assessed score = 0

There does not appear to be any competitive or economic benefit as a result of this violation.

5. Efforts to mitigate or reverse effects: Assessed score = +1

Based on the results of the inspection carried out on August 22, the licensee committed to following the security requirements of their licence, with corrective measures to be implemented by September 15, 2022. This includes improving security measures, reporting greater than ninety-day locations and submitting updated site security plans for approval. However, these steps had not been taken at the time of the October 24 inspection.

6. Assistance to Commission: Assessed score = 0

The licensee made written commitments to the CNSC to take appropriate corrective actions. Implementation of corrective actions has been incomplete.

7. Attention of Commission: Assessed score = +2

The licensee consistently failed to bring violations to the attention of the CNSC. This included the failure to disclose greater than ninety-day sites of operations, the delay in reporting a breach of security and the failure to report a transport dangerous occurrence.



Penalty calculation:

(See Administrative Monetary Penalties Regulations (Canadian Nuclear Safety Commission) SOR/2013-139)

(a) Category of violation

Category A Category B Category C

(b) Penalty range

| Category | Minimum | Maximum | Maximum – minimum |
|----------|----------------|------------------|-------------------|
| A | \$1,000 | \$12,000 | \$11,000 |
| B | \$1,000 | \$40,000 | \$39,000 |
| C | \$1,000 | \$100,000 | \$99,000 |

(c) Determining factors

| Factors | Scale of regulatory significance | Assessed score |
|--|---|-----------------|
| 1. Compliance history | 0 <input type="checkbox"/> +1 <input type="checkbox"/> +2 <input checked="" type="checkbox"/> +3 <input type="checkbox"/> +4 <input type="checkbox"/> +5 <input type="checkbox"/> | +2 |
| 2. Intention or negligence | 0 <input type="checkbox"/> +1 <input type="checkbox"/> +2 <input checked="" type="checkbox"/> +3 <input type="checkbox"/> +4 <input type="checkbox"/> +5 <input type="checkbox"/> | +2 |
| 3. Actual or potential harm | 0 <input type="checkbox"/> +1 <input type="checkbox"/> +2 <input checked="" type="checkbox"/> +3 <input type="checkbox"/> +4 <input type="checkbox"/> +5 <input type="checkbox"/> | +2 |
| 4. Competitive or economic benefit | 0 <input checked="" type="checkbox"/> +1 <input type="checkbox"/> +2 <input type="checkbox"/> +3 <input type="checkbox"/> +4 <input type="checkbox"/> +5 <input type="checkbox"/> | 0 |
| 5. Efforts to mitigate or reverse effects | -2 <input type="checkbox"/> -1 <input type="checkbox"/> 0 <input type="checkbox"/> +1 <input checked="" type="checkbox"/> +2 <input type="checkbox"/> +3 <input type="checkbox"/> | +1 |
| 6. Assistance to Commission | -2 <input type="checkbox"/> -1 <input type="checkbox"/> 0 <input checked="" type="checkbox"/> +1 <input type="checkbox"/> +2 <input type="checkbox"/> +3 <input type="checkbox"/> | 0 |
| 7. Attention of Commission | -2 <input type="checkbox"/> -1 <input type="checkbox"/> 0 <input type="checkbox"/> +1 <input type="checkbox"/> +2 <input checked="" type="checkbox"/> +3 <input type="checkbox"/> | +2 |
| Total | | 9 |
| ÷ 29 ⁽¹⁾ [rounded to 2 decimal points]= | | 0.31 |
| x 99000 | | |
| [total] = | | 30,690 |
| + \$ 1000 [minimum for the category] = | | \$31,690 |

⁽¹⁾29 being the maximum value of regulatory significance





To request a review

As a person subject to an administrative monetary penalty, you have the right to request a review of the amount of the penalty or the facts of the violation, or both. Your request must be made in writing indicating the reasons why you are requesting a review and providing supporting information.

If you choose to request a review, you must do so in writing by April 26th, 2023 to:

Canadian Nuclear Safety Commission
c/o Denis Saumure
Commission Registrar
P.O. Box 1046, Station B
Ottawa, ON K1P 5S9

Fax: (613) 995-5086
Telephone: (613) 282-9357
Email: registry-greffe@cnsccsn.gc.ca

Payment

You may pay this administrative monetary penalty by sending a cheque to:

Receiver General for Canada
c/o Canadian Nuclear Safety Commission
Finance Division
P.O. Box 1046, Station B
Ottawa, ON K1P 5S9

For other payment methods and further instructions, please refer to the attached notice of payment due.

Should you neither pay the penalty nor exercise your right to a review, you will be considered as having committed the violation and will be liable to the penalty set out herein.



Issued by

Karen Owen-Whitred

Designated Officer

Director General of the Directorate of Nuclear Substance Regulation

Date

Telephone: (613) 410-8644

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