



Record of Determination

DET 24-H109

In the Matter of

Requestor JLP Services Inc.

Subject Review of the facts stated in the Notice of Violation related to the Administrative Monetary Penalty 2024-AMP-04 and the amount of the penalty

Hearing Date December 10, 2024

RECORD OF DETERMINATION - DET 24-H109

Requestor: JLP Services Inc.

Address/Location: 405 York Road, Guelph,
Ontario, N1E 3H3

Purpose: Review of the facts stated in the Notice of Violation
related to the Administrative Monetary Penalty 2024-
AMP-04 and the amount of the penalty

Request received: August 16, 2024

Date of hearing: December 10, 2024

Location: Virtually via Microsoft Teams

Members present: P. Tremblay, Panel

Registrar: C. Salmon
Recording Secretary: C. Moreau
Senior General Counsel: L. Thiele

Requestor Represented By		Document Number
A. Jayalath	Vice-President, JLP Services Incorporated	CMD 24-H109.1
A. Lee	Radiation Safety Officer, JLP Services Incorporated	

CNSC staff		Document Number
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J. Fleming	Inspector, Regional Office, Directorate of Nuclear Substance Regulation	
P-D. Bourgeau	Counsel, Legal Services	

Determination: JLP Services Inc. Committed the Violation

Administrative Monetary Penalty Amount: Confirmed

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1.0 INTRODUCTION

1. JLP Services Inc. (JLP) holds Canadian Nuclear Safety Commission¹ (CNSC) licence No. 11695-1-25.3. This licence authorizes JLP to possess, transfer, use, and store portable gauges. JLP is also required to comply with the [Radiation Protection Regulations](#), including Section 20 on Labelling of Containers and Devices.
2. On June 25, 2024, a CNSC Designated Officer issued a Notice of Violation² to JLP for failing to comply with the *Radiation Protection Regulations*, specifically Section 20. The Designated Officer issued the Notice of Violation based on findings from several CNSC inspections, on May 29, 2018, November 18, 2021, March 27, 2024, and May 1, 2024.. The AMP issued to JLP was in the amount of \$3730.
3. On August 16, 2024, pursuant to section 65.1 of the [Nuclear Safety and Control Act](#) (NSCA), JLP made a request to the Commission for a review of both the facts of the violation and the amount of the AMP.

Issue

4. Pursuant to subsection 65.14(1) of the NSCA, in conducting this review, the Commission shall determine both:
 - whether JLP committed the violation as stated in the Notice of Violation associated with 2024-AMP-04 and
 - whether the amount of the penalty for the violation was determined in accordance with the [Administrative Monetary Penalties Regulations \(Canadian Nuclear Safety Commission\)](#)³ (AMPs Regulations)
5. Pursuant to subsection 65.14(4) of the NSCA, if the Commission determines that the person who requested the review committed the violation, the person is liable to the penalty as set out in the determination.
6. Pursuant to subsection 65.14(3) of the NSCA, if the Commission determines that the amount of the penalty for the violation was not determined in accordance with the regulations, the Commission shall correct the amount of the penalty.

Commission Review

7. Pursuant to section 22 of the NSCA, the President of the Commission established himself as a Panel of the Commission to consider the request from JLP. The Commission, in making its determination, considered information presented in a closed hearing held on

¹ The *Canadian Nuclear Safety Commission* is referred to as the “CNSC” when referring to the organization and its staff in general, and as the “Commission” when referring to the tribunal component.

² The Notice of Violation for 2024-AMP-04 is provided in Reference 1 of CNSC staff’s CMD 24-H109.

³ SOR/2013-139.

December 10, 2024. During the hearing, the Commission considered written submissions from JLP (CMD 24-H109.1) and the Designated Officer (CMD 24-H109), as well as oral information and submissions presented during the hearing by both JLP and CNSC staff.

2.0 DETERMINATION

8. Based on its consideration of the matter, as described in more detail in the following sections of this *Record of Determination*,

the Commission, pursuant to subsection 65.14(1) of the *Nuclear Safety and Control Act*, determines that JLP Services Inc. committed the violation set out in the Notice of Violation 2024-AMP-04. The Commission also determines that the amount of the administrative monetary penalty was determined in accordance with the *Administrative Monetary Penalties Regulations (Canadian Nuclear Safety Commission)*. Therefore, JLP Services Inc. is liable to pay the administrative monetary penalty of \$3730. Payment is due within 30 days of the date of this determination.

3.0 ISSUES AND COMMISSION FINDINGS

3.1 Facts of the Violation

9. In accordance with section 65.15 of the NSCA, the person who issued the Notice of Violation bears the burden of proof. Thus, on this review, the Designated Officer must establish, on a balance of probabilities, that JLP committed the violation identified in the Notice of Violation.
10. In the Notice of Violation associated with 2024-AMP-04, the Designated Officer stated that JLP had failed to comply with Section 20 of the *Radiation Protection Regulations*, Labelling of Containers and Devices. Section 20 of the *Radiation Protection Regulations* states that:

No person shall possess a container or device that contains a nuclear substance unless the container or device is labelled with

- a) the radiation warning symbol set out in Schedule 3 and the words “RAYONNEMENT — DANGER — RADIATION”, and
- b) the name, quantity, date of measurement and form of the nuclear substance in the container or device.

11. In the Notice of Violation, the Designated Officer detailed the facts of the violation which included:
 - During inspections on May 29, 2018, November 18, 2021, March 27, 2024 and May 1, 2024, CNSC staff found that JLP did not satisfy the requirements of Section 20 of the *Radiation Protection Regulations*
 - During the May 1, 2024 inspection, CNSC staff identified that JLP had repeated non-compliances and did not meet its commitments in response to the previous inspection
12. In CMD 24-H109.1 and during its oral submission, JLP requested that the Commission review the facts of the violation; however, JLP acknowledged that it agreed with the facts and that it had been in non-compliance.⁴ The Designated Officer found that JLP had not provided any information in CMD 24-109.1 which would lead the Designated Officer to amend their position that a violation had occurred.⁵
13. The Commission noted that JLP had requested a review of the facts of the violation; however, JLP's representative acknowledged that the violation had occurred and confirmed that it was the amount of the AMP that JLP wanted to be reviewed.⁶ Given that JLP did not contest the facts of the violation, the Commission has determined that JLP committed the violation as stated in the Notice of Violation associated with 2024-AMP-04.

3.2 Penalty Amount

14. In accordance with section 65.14(1) of the NSCA, the Commission has considered whether the amount of the penalty for the violation was determined in accordance with the AMPs Regulations. The Commission has focused its review on the determining factors, as set out in Section 5 of the AMPs Regulations, for which JLP requested a review.
15. When determining the amount of the AMP, the Designated Officer considered the factors in section 5 of the [AMPs Regulations](#). The Designated Officer reported that the penalty amount was determined by following the calculation equation and factor values described in [CNSC REGDOC-3.5.2, Compliance and Enforcement: Administrative Monetary Penalties](#).⁷ The ratings given by the Designated Officer for each factor were as follows:
 - 5(a), Compliance History, rating of +2 (on a scale from 0 to +5)
 - 5(b), Degree of Intention or Negligence, rating of +2 (on a scale from 0 to +5)

⁴ Transcript, page 4.

⁵ CMD 24-109, page 7.

⁶ Transcript, page 5.

⁷ REGDOC-3.5.2, *Compliance and Enforcement: Administrative Monetary Penalties*, Version 2, CNSC, August 2015.

- 5(c), Actual or Potential Harm, rating of +1 (on a scale from 0 to +5)
 - 5(d), Competitive or Economic Benefit, rating of 0 (on a scale from 0 to +5)
 - 5(e), Efforts to Mitigate or Reverse Effects, rating of -1 (on a scale from -2 to +3)
 - 5(f), Assistance to Commission, rating of -2 (on a scale from -2 to +3)
 - 5(g), Attention of Commission, rating of 0 (on a scale from -2 to +3)
16. In its written and oral submissions, JLP disputed the ratings for the following 2 factors:
- 5(a), Compliance History
 - 5(b), Degree of Intention or Negligence
17. In CMD 24-H109.1, JLP provided the rationale for its request for review of the AMP amount, including a change in ownership during the time between inspections.⁸ The Designated Officer reported that JLP had not provided any information in CMD 24-109.1 which would lead the Designated Officer to amend the amount of the AMP.⁹

Compliance History

18. Regarding paragraph 5(a) of the AMPs Regulations, the Commission asked the Designated Officer to provide additional information on the reasoning behind the rating of +2. The Designated Officer reported that they had considered the fact that the licence changed ownership during the time between inspections. The Designated Officer explained that JLP ought to have known of the non-compliances as there was enough consistency in personnel between the two different owners in the relevant time period, including the Radiation Safety Officer. JLP agreed that the Radiation Safety Officer was the same person after the change in ownership but reported that JLP was not made aware of the inspection findings prior to taking over the company.
19. CNSC staff noted that the primary responsibility for safety lies with the licensee, including being aware of all regulatory requirements subject to the activity that is being licensed. CNSC staff added that any licensee of the CNSC should be aware of all regulatory requirements, regardless of whether there has been an inspection that led to a non-compliance.
20. The Commission concludes that the rating of +2 for regulatory significance of this factor was properly determined by the Designated Officer. The Commission notes that during inspections, CNSC inspectors identified reoccurring non-compliances regarding failure to comply with Section 20 of the *Radiation Protection Regulations*, Labelling of Containers and Devices and that JLP does not dispute the findings. The Commission finds that there was enough consistency in personnel between the two different owners during the time of

⁸ CMD 24-109.1, page 5.

⁹ CMD 24-109, page 7.

the discovery of the non-compliances that JLP knew or ought reasonably to have known of the inspection findings.

Degree of Intention or Negligence

21. Regarding paragraph 5(b) of the AMPs Regulations, the Commission noted that, on April 19, 2024, JLP communicated to CNSC staff that the radiation warning label had been replaced on the portable gauge with serial number MD40902221. However, a follow up inspection on May 1, 2024, demonstrated that the radiation warning label was still illegible on this device as well as on 2 other portable gauges. JLP did not contest these facts. Given this failure to correct known non-compliances, the Designated Officer chose a rating of +2 for negligence, which is considered a medium rating on the five-point scale.
22. In its submission, CMD 24-H109.1, JLP submitted that it did not have serial numbers for the nuclear sources and had to obtain them from the manufacturer, which took longer than anticipated. JLP reported that when the findings were raised to JLP, these portable gauges were grounded and unused until the information was available and new labels were applied on the gauge.
23. Based on the information provided by JLP during the hearing, the Commission concludes that the rating of +2 for regulatory significance of this factor was properly determined by the Designated Officer. The Commission finds that JLP has taken positive steps in understanding the labeling requirements, which is commendable. Nonetheless, JLP erroneously communicated to CNSC staff at the time, that the radiation warning label had been replaced on the portable gauge.

4.0 CONCLUSION

24. The Commission has considered all the information submitted by JLP and the Designated Officer regarding this matter. Given that JLP clarified its request and did not contest the facts of the violation, the Commission determines that JLP committed the violation as stated in the Notice of Violation associated with 2024-AMP-04. The Commission notes that the facts of the violation support that JLP failed to comply with Section 20 of the *Radiation Protection Regulations* which is a designated violation under the AMPs Regulations for which an administrative monetary penalty may be issued.
25. Based on the evidence presented both in writing and orally during the hearing, the Commission is satisfied that the amount of the penalty for the violation was properly determined in accordance with the AMPs Regulations. The penalty amount was determined by following the calculation equation and factor values described in REGDOC-3.5.2. In accordance with subsection 65.14(4) of the NSCA, JLP is liable to pay the administrative monetary penalty. JLP is to submit payment for 2024-AMP-04 in the amount of \$3730. Payment is due within 30 days of the date of this determination.

26. In accordance with subsection 65.14(5) of the NSCA, this determination is final and binding, subject to judicial review under the [*Federal Courts Act*](#).¹⁰

Tremblay, Pierre
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December 24, 2024

Pierre Tremblay
Presiding Member,
Canadian Nuclear Safety Commission

Date

¹⁰ R.S.C., 1985, c. F-7.