



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
2443 WARRENVILLE RD. SUITE 210
LISLE, IL 60532-4352

December 15, 2017

EA-17-199
EN 53080
NMED No. 170550 (Closed)

Mr. J. Michael Schaum
Secretary Treasurer/CFO
Walsh & Kelly, Inc.
1700 East Main Street
Griffith, IN 46319

SUBJECT: NRC SPECIAL INSPECTION REPORT NO. 99990003/2017004(DNMS) AND
NOTICE OF VIOLATION – WALSH & KELLY, INC.

Dear Mr. Schaum:

On November 20, 2017, an inspector from the U.S. Nuclear Regulatory Commission (NRC) conducted a reactive inspection at your facility in Griffith, Indiana, to review the circumstances surrounding the loss of four tritium (H-3) exit signs, with continued in-office review through December 5, 2017. The NRC initiated this inspection after a contractor contacted the NRC Region III office on September 28, 2017, to inquire about proper disposal of the H-3 signs. The enclosed inspection report (Enclosure 2) presents the results of the inspection. Mr. Navid Tehrani of my staff conducted a final exit meeting by telephone with Mr. Gerald Hancock on December 5, 2017, to discuss the inspection findings.

During this inspection, the NRC staff examined activities conducted under your general license related to public health and safety. Additionally, the staff examined your compliance with the Commission's rules and regulations. The inspection consisted of a tour of the facility, interviews with personnel, and a review of information provided by you to the NRC.

Based on the results of this inspection and the information you provided, the NRC has determined that a Severity Level IV violation of NRC requirements occurred. The violation was evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violation concerned the failure to properly dispose of or transfer four generally licensed H-3 exit signs, as required by Title 10 of the *Code of Federal Regulations* (CFR) Section 31.5(c)(8)(i). The violation is cited in the enclosed Notice of Violation (Notice) (Enclosure 1). The NRC is citing the violation in the Notice because the inspector identified the violation. The NRC is citing the violation at Severity Level IV (very low safety significance), because the loss of the generally licensed signs that do not require registration under 10 CFR 31.5(c)(13) did not present a hazard to public health and safety.

The NRC has determined that the root cause of the violation was a lack of full understanding of NRC's requirements for generally licensed devices, and a lack of oversight of the exit signs during an office move. This is of concern to the NRC because it increases the chance for the devices to be lost, stolen, or improperly handled, which could result in adverse impacts to the health and safety of the general public. As corrective actions to address recurrence of the event

and to prevent a similar violation in the future, per a conversation on November 20, 2017, your staff committed to never ordering tritium exit signs again.

The NRC has concluded that information regarding the root cause of the violation, the corrective actions taken to correct the violation and prevent its recurrence are adequately described on the docket in NRC Inspection Report (IR) No. 99990003/2017004(DNMS). Therefore, you are not required to respond to this letter unless the description herein 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 "Rules of Practice," a copy of this letter and its enclosures will be 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's website at <http://www.nrc.gov/reading-rm/adams.html>.

Please feel free to contact Mr. Tehrani if you have any questions regarding this inspection. Mr. Tehrani can be reached at 630-829-9809.

Sincerely,

/RA/

Aaron T. McCraw, Chief
Materials Inspection Branch
Division of Nuclear Materials Safety

Docket No. 999-90003
License No. General License

Enclosures:

1. Notice of Violation
2. IR 99990003/2017004(DNMS)

cc w/encls: Gerald Hancock, Safety Director
Walsh & Kelly Inc.
State of Indiana

Letter to J. Michael Schaum from Aaron T. McCraw dated December 15, 2017

SUBJECT: NRC SPECIAL INSPECTION REPORT NO. 99990003/2017004(DNMS) AND
NOTICE OF VIOLATION – WALSH & KELLY, INC.

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DATE	12/11/2017		12/15/2017		12/15/2017			

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Walsh & Kelly, Inc.
Griffith, Indiana

License No. 10 CFR 31.5
Docket No. 999-90003
EA-17-199

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on November 20, 2017, with continued in-office review through December 5, 2017, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 of the *Code of Federal Regulations* (CFR) Section 31.5(c)(8)(i) requires, in part, that any person who acquires, receives, possesses, uses or transfers byproduct material in a device pursuant to a general license shall transfer or dispose of the device containing byproduct material only by export as provided by paragraph (c)(7) of this section, by transfer to another general licensee as authorized in paragraph (c)(9) of this section, or to a person authorized to receive the device by a specific license.

Contrary to the above, between October and November of 2017, Walsh & Kelly, Inc. (licensee) failed to transfer or dispose of four 10-curie generally licensed tritium exit signs by export, by transfer to another general licensee, or by transfer to a person authorized by a specific license. Specifically, the licensee believes the exit signs were inadvertently disposed of as regular trash.

This is a Severity Level IV violation (Section 6.3).

The NRC has concluded that information regarding the reason for the violation, the corrective actions planned to correct the violation and prevent recurrence, and the date when full compliance was or will be achieved is already adequately addressed on the docket in NRC Inspection Report (IR) No. 99990003/2017004(DNMS). However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, IR 99990003/2017004 (DNMS)" 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, Region III, within 30 days of the date of the letter transmitting this Notice of Violation.

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's Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC's website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made publicly available without redaction.

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

Dated the 15th day of December, 2017.

**U.S. Nuclear Regulatory Commission
Region III**

Docket No.: 99990003

License No.: General License under 10 CFR 31.5

Report No.: 99990003/2017004(DNMS)

EA No. /NMED No.: EA-17-199 / 170550

Licensee: Walsh & Kelly, Inc.

Facility: 1700 East Main Street
Griffith, IN 46319

Inspection Date(s): November 20, 2017, with continued
in-office review through December 5, 2017

Exit Meeting Date: December 5, 2017

Inspector: Navid Tehrani, Health Physicist

Approved By: Aaron T. McCraw, Chief
Materials Inspection Branch
Division of Nuclear Materials Safety

EXECUTIVE SUMMARY

Walsh & Kelly Inc. NRC Inspection Report 99990003/2017004(DNMS)

An inspector from the U.S. Nuclear Regulatory Commission (NRC) conducted a special inspection on November 20, 2017, in response to the licensee's report on November 17, 2017, that four tritium (H-3) exit signs could no longer be accounted for, following an inquiry by the NRC's Region III office. After a walk-through of the facility by the inspector with the licensee, on November 20, 2017, Walsh & Kelly Inc. (licensee) officially reported to the NRC Headquarters Operations Center the loss of four H-3 exit signs that could no longer be accounted for (Event Number (EN) 53080). According to NRC records, the licensee possessed four Isolite Model SLX-60 exit signs, each containing 10 curies (Ci) of H-3, under the terms of a general license issued in Title 10 of the *Code of Federal Regulations* (CFR) Section 31.5(a).

The inspector determined that, between early October and late November 2017, as a result of an office move and new construction, the licensee misplaced the four tritium exits signs that were being stored in a brown cardboard box. The licensee suspected that the signs had been inadvertently mistaken as trash and placed in the regular trash, an unauthorized method of disposal. As a result, the inspector identified a Severity Level IV violation of 10 CFR 31.5(c)(8)(i) concerning the licensee's failure to transfer or dispose of generally licensed devices in a manner authorized by the regulation.

To prevent recurrence of a similar event and violation in the future, the licensee committed to no longer purchase or use H-3 exit signs at its facilities.

REPORT DETAILS

1 Program Overview

Walsh & Kelly, Inc. (licensee) was authorized by the terms of a general license issued by 10 CFR 31.5(a) to possess and use byproduct material contained in H-3 exit signs. The company possessed four Isolite Model SLX-60 exit signs, containing 10 Ci of H-3 each at distribution. These devices were used to guide people to egress points.

2 Sequence of Events, Licensee Investigation, and NRC Assessment

2.1 Inspection Scope

On November 20, 2017, the inspector conducted a special inspection to review the facts and circumstances that surrounded the licensee's report of the loss of four H-3 exit signs between early October 2017 and mid November 2017, by touring the facility, interviewing licensee staff, examining relevant documents, and reviewing actions taken by the licensee to investigate the loss of the four exit signs.

2.2 Observations and Findings

On or around September 25, 2017, the licensee had an electrical contractor replace four H-3 exit signs in its maintenance shop, located at 1700 East Main Street, Griffith, Indiana. The electrical contractor removed the four H-3 exit signs with the intent to permanently dispose of them. The contractor recognized that the signs contained radioactive material and contacted the NRC for guidance on proper disposal. The contractor was informed that it was the responsibility of the licensee to properly dispose of this material, so the contractor returned the exit signs to the licensee in a brown cardboard box. The licensee did not record and could not recall the date on which the exit signs were returned. Following receipt, the licensee stored the exit signs in an office until it could arrange for proper disposal. Between early October and mid-November, the licensee was performing construction on its facility where the signs were stored, causing items to be moved from one location to another. During this time, the licensee speculated that the exit signs were inadvertently placed in the regular trash.

On November 17, 2017, the NRC called the licensee to inquire about the whereabouts of the signs and provide regulatory guidance in proper disposal, after a follow-up conversation with the electrical contractor. At that time, the licensee indicated that they were unsure of the whereabouts of the signs. On November 20, 2017, the NRC dispatched an inspector to assist the licensee in locating the signs and to obtain additional information regarding the facts and circumstances of the case in the event that the signs could not be located. Neither the inspector, nor the licensee, could locate any evidence of the exit signs, and it was presumed that they were lost. The inspector determined that the most plausible explanation of the signs whereabouts was the licensee's speculation that the signs were inadvertently disposed of as regular trash. At the request of the inspector, the licensee contacted the NRC Headquarters Operations Center to report the loss of the exit signs in accordance with 10 CFR 20.2201.

Title 10 CFR 31.5(c)(8)(i) states, in part, that any person who acquires, receives, possesses, uses or transfers byproduct material in a device pursuant to a general license shall transfer or dispose of the device containing byproduct material only by export as provided by paragraph (c)(7) of this section, by transfer to another general licensee as authorized in paragraph (c)(9) of this section, or to a person authorized to receive the device by a specific license issued under parts 30 and 32 of this chapter, or

part 30 of this chapter that authorizes waste collection, or equivalent regulations of an Agreement State, or as otherwise approved under paragraph (c)(8)(iii) of this section. The licensee's disposal of the H-3 exit signs in the normal trash is a violation of 10 CFR 31.5(c)(8)(i).

The licensee determined, and the inspector agreed, that the cause of the event and violation was that the licensee did not provide adequate accountability and oversight of the generally licensed devices.

The licensee took reasonable action to restore compliance in that it searched the premises of its facility to attempt to locate the signs. If the signs were indeed disposed of as regular trash, the NRC concluded that it would be unreasonable for the licensee to attempt to retrieve the signs to make an authorized disposal. The NRC further concluded that the loss of the signs does not present a hazard to public health and safety. To prevent recurrence of a similar event and violation in the future, the licensee committed to no longer purchase or use H-3 exit signs at its facilities.

2.3 Conclusions

The inspector identified a violation of 10 CFR 31.5(c)(8)(i) for the licensee's failure to transfer or dispose of the four tritium exit signs in an authorized manner.

3 **Notifications and Reports**

3.1 Inspection Scope

The inspector reviewed the reporting of the event of the loss of the four exit signs by interviewing the licensee's staff and evaluating the required 30-day written report documenting the lost signs.

3.2 Observations and Findings

On November 20, 2017, the licensee became aware of the fact that four of the generally licensed H-3 exit signs that were listed as being possessed by the licensee in the NRC's GLTS were no longer in its possession. On November 20, 2017, the licensee reported the loss of the four H-3 exit signs to the NRC Headquarters Operations Center. The inspector determined that the licensee met all initial reporting requirements.

The licensee provided the required 30-day report, received by the NRC on November 28, 2017. The inspector reviewed all of the documentation and determined that it included all required information in accordance with 10 CFR 20.2201(b)(1). A copy of the licensee's initial written report can be found in the NRC's Agencywide Documents Access and Management System (ADAMS) under Accession Number ML17339A174.

3.3 Conclusions

The inspector determined that all required reports were complete and made within the required timeframes.

4 Exit Meeting Summary

The NRC inspector presented the inspection findings via telephone on December 5, 2017. The licensee did not identify any documents or processes reviewed by the inspector as proprietary. The licensee acknowledged the findings presented.

LIST OF PERSONNEL CONTACTED

Gerald Hancock, Safety Director

Participated in the telephonic exit meeting on December 5, 2017.

INSPECTION PROCEDURES USED

87103: Materials Licensees Involved in an Incident or Bankruptcy Filing