



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION I
2100 RENAISSANCE BLVD., SUITE 100
KING OF PRUSSIA, PA 19406-2713

January 3, 2018

EA-17-180

Carl Lahti, RDML
Director, Energy and Environment
Readiness Division (N45)
Office of Chief of Naval Operations
Department of the Navy
ATTN: N45, Rm 2D253
2000 Navy Pentagon
Washington, DC 20350-02000

SUBJECT: EXERCISE OF ENFORCEMENT DISCRETION – DEPARTMENT OF NAVY

Dear Admiral Lahti:

This letter refers to a review conducted by the U.S. Nuclear Regulatory Commission (NRC) regarding the Department of the Navy (Navy) master materials license (MML) response to an event at the Portsmouth Naval Shipyard (PNSY), Kittery, Maine, a permittee under the Navy MML, on July 6, 2017. The review was initiated to determine whether the action taken by the Navy was in accordance with the NRC Enforcement Policy¹.

The NRC evaluated the facts and circumstances of this case and concluded that the Navy, in accordance with its enforcement program, appropriately identified a Severity Level III violation and issued a violation to PNSY for the failure to maintain physical controls on a mobile device. Specifically, the material was not secured from unauthorized removal when the device was not under direct control and constant surveillance by the permittee and was left unattended for approximately two to three minutes. Upon identification, the PNSY permittee staff took appropriate measures to immediately secure the device and return the source to storage. Longer term corrective actions were also found to be comprehensive.

After consultation with the Regional Administrator, Region I; Director, Office of Enforcement; and in recognition of the review conducted under the Navy's MML, the NRC is exercising enforcement discretion in accordance with Section 3.5 of the NRC Enforcement Policy and is not issuing a Notice of Violation or proposing a civil penalty for this case.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and your response, if you choose to provide one, will be available electronically for public inspection in the NRC Public Document Room and from the NRC's Agency-wide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Current NRC regulations and guidance are

¹ The NRC Enforcement Manual Part II, Section 3.4.0, states that MMLs must have an enforcement program that commits to following the NRC's Enforcement Policy to ensure that enforcement actions are consistent with the Policy and are uniformly applied between the MML and its permittees.

included on the NRC's website at www.nrc.gov; select **Nuclear Materials; Med, Ind, & Academic Uses**; then **Regulations, Guidance and Communications**. The current Enforcement Policy is included on the NRC's website at www.nrc.gov; select **About NRC, Organizations & Functions; Office of Enforcement; Enforcement documents**; then **Enforcement Policy (Under 'Related Information')**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 8:00 a.m. to 5:30 p.m. EST, Monday through Friday (except Federal holidays).

No further action or response is required on your part unless the description in this letter does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should clearly mark your response as a "Reply to an Exercise of Enforcement Discretion, EA-17-180" and send it to the Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator, Region I, 2100 Renaissance Boulevard, Suite 100, King of Prussia, PA 19406 and a copy to the Enforcement Officer, Region I, within 30 days of the date of this letter.

Should you have any questions regarding this letter, please contact Mr. Shawn Seeley at (610) 337-5102.

Sincerely,

/RA/

James M. Trapp, Director
Division of Nuclear Materials Safety

Docket No.: 03029462
License No.: 45-23645-01NA
PNSY Permit No.: 28-39040-A1NP

Letter to C. Lahti, RDML from James Trapp dated January 3, 2018

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