



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

March 29, 2018

EA-17-101

Mr. Travis Snowden
President/Chief Executive Officer
Qal-Tek Associates, LLC
3998 Commerce Circle
Idaho Falls, ID 83401

SUBJECT: ORDER IMPOSING CIVIL MONETARY PENALTY - \$22,400

Dear Mr. Snowden:

This refers to your letter dated January 11, 2018 (NRC's Agencywide Documents Access and Management System (ADAMS) Accession ML18018B348), in response to the U.S. Nuclear Regulatory Commission's (NRC's) Notice of Violation and Proposed Imposition of Civil Penalty (Notice) sent as an enclosure to our letter dated December 12, 2017 (ADAMS Accession ML17347A024). Our letter and the Notice described a Severity Level II problem involving the failure to properly package, for shipment, radioactive material that resulted in radiation levels at the external surface of the package exceeding regulatory limits.

To emphasize the importance of prompt identification of violations that could adversely affect public health and safety, a civil penalty of \$22,400 was proposed. In your letter, dated January 11, 2018, you did not dispute the violations or their severity. However, you requested mitigation of the proposed civil penalty amount.

After consideration of your response, we have concluded that an adequate basis does not exist for mitigation of the proposed civil penalty amount. The NRC's evaluation and the conclusions are documented in the Appendix attached to the enclosed Order Imposing Civil Monetary Penalty (Order). Accordingly, we hereby serve the enclosed Order on Qal-Tek Associates, LLC, imposing a civil penalty in the amount of \$22,400. Within 30 days of the date of the enclosed Order you should either: (1) pay the civil penalty in accordance with Section IV of the Order, (2) request alternative dispute resolution (ADR) as described below, or (3) request a hearing in accordance with Section V of the Order.

You may request ADR with the NRC in an attempt to resolve this issue. Alternative dispute resolution is a general term encompassing various techniques for resolving conflicts using a neutral third party. The technique that the NRC has decided to employ is mediation. Mediation is a voluntary, informal process in which a trained neutral mediator works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives

parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC's ADR program can be found at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>.

The Institute on Conflict Resolution at Cornell University has agreed to facilitate the NRC's program as a neutral third party. If you are interested in pursuing this issue through the ADR program, please contact: (1) the Institute on Conflict Resolution at 877-733-9415, and (2) Michael Hay at 817-200-1455 within 10 days of the date of this letter. You may also contact the Institute on Conflict Resolution for additional information about ADR. Your submitted signed agreement to mediate using the NRC ADR program will stay the 30-day time period for payment of the civil penalties and the required written response, as identified in the enclosed Notice, until the ADR process is completed.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice and Procedure," a copy of this letter, its enclosures, and your response, will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's 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, proprietary, or safeguards information so that it can be made available to the public without redaction. The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

If you have any questions concerning this matter, please contact Mr. Michael C. Hay of my staff at 817-200-1455.

Sincerely,



Kriss M. Kennedy
Regional Administrator

Docket No. 030-34866
License No. 11-27610-01

Enclosures:

1. Order Imposing Civil Monetary Penalty
2. NUREG/BR-0254 Payment Methods

Qal-Tek Associates, LLC

ORDER IMPOSING CIVIL MONETARY PENALTY

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

Qal-Tek Associates, LLC
Idaho Falls, ID

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Docket No. 030-34866
License No. 11-27610-01
EA-17-101

ORDER IMPOSING CIVIL MONETARY PENALTY

I

Qal-Tek Associates, LLC (Qal-Tek or the Licensee) is the holder of Materials License No. 11-27610-01 issued on December 28, 1998, by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 30 of Title 10 of the *Code of Federal Regulations* (10 CFR). The license authorizes the use and possession of nuclear materials in accordance with conditions specified therein. The facility is located on the Licensee's site in Idaho Falls, Idaho.

II

The NRC conducted an inspection of the Licensee's activities on April 24-25, 2017. The results of this inspection indicated that the Licensee had not conducted its activities in compliance with the NRC's requirements associated with packaging radioactive material to ensure that radiation levels do not exceed regulatory limits. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated December 12, 2017. The Notice states the nature of the violations, the provisions of the NRC's

requirements that the Licensee violated, and the amount of the civil penalty proposed for the violations.

The Licensee responded to the Notice in a letter dated January 11, 2018. In its response, the Licensee did not dispute the violations or their severity, but requested mitigation of the proposed civil penalty amount.

III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined as set forth in the Appendix to this Order that the violations occurred as stated and that adequate basis does not exist for mitigation of the civil penalty amount. Therefore, a civil penalty in the amount of \$22,400 should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, IT IS HEREBY ORDERED THAT:

The Licensee pay a civil penalty in the amount of \$22,400 within 30 days of the issuance date of this Order, in accordance with NUREG/BR-0254 "Payment Methods" (<http://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures/br0254/>). In addition, at the time payment is made, the Licensee shall submit a statement indicating when and by what method payment was made, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington DC 20555.

In accordance with 10 CFR 2.202, the Licensee and any other person adversely affected by this Order may request a hearing on this Order within 30 days of the issuance date of this Order. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene (hereinafter "petition"), and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007, as amended by 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an

NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC public Web site at <http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document.

The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Electronic Filing Help Desk through the "Contact Us" link

located on the NRC's web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at MSHD.Resource@nrc.gov, or by a toll-free call at 866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff.

Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-

issued digital ID certificate as described above, click "Cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the Federal Register and served on the parties to the hearing.

If a person (other than Qal-Tek) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Qal-Tek or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing or alternative dispute resolution (ADR), or written approval of an extension of time in which to request a hearing or ADR, the provisions specified in Section IV above shall be final 30 days from the issuance date of this Order without further order or proceedings. If an extension of time for requesting a hearing or ADR has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing or ADR request has not been received. If ADR is requested, the provisions specified in Section IV shall be final upon termination of an ADR process that did not result in issuance of an order.

For the Nuclear Regulatory Commission

A handwritten signature in black ink, appearing to read "Kriss M. Kennedy", with a long, sweeping horizontal stroke extending to the right.

Kriss M. Kennedy
Regional Administrator
NRC Region IV

Dated this 29th day of March 2018

APPENDIX

EVALUATION AND CONCLUSION

On December 12, 2017, the U.S. Nuclear Regulatory Commission (NRC) issued a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) for violations identified during an NRC inspection. Qal-Tek Associates, LLC (Qal-Tek or Licensee) responded to the Notice on January 11, 2018. The Licensee did not dispute the violations or severity, however, the Licensee requested mitigation of the proposed civil penalty amount. The NRC's evaluation and conclusion regarding the Licensee's request is as follows:

Summary of the Licensee's Request for Mitigation of Civil Penalty Amount

The Licensee stated that the problem was identified by the Licensee because of their self-monitoring effort of proper package receiving operations. The Licensee stated that it implemented timely actions to identify the root cause of the problem and develop corrective actions. Also, the Licensee stated that it discontinued transporting similar types of packages until corrective actions were implemented.

NRC Evaluation of Licensee's Request for Mitigation of Civil Penalty Amount

The NRC Enforcement Policy, Section 2.3.4.b.2(b), states, in part, that when a problem requiring corrective action is identified through an event (i.e., the problem is self-revealing), the decision as to whether to give the Licensee credit for actions related to identification normally should consider the ease of discovery, whether the event occurred as a result of a Licensee's self-monitoring effort (i.e., whether the Licensee was "looking for the problem"), the degree of Licensee initiative in identifying the problem, and whether prior opportunities existed to identify

the problem. Any of these considerations may be overriding if particularly noteworthy or particularly egregious.

In this case, the Licensee discovered the problem because the Licensee was following the requirements for package receipt per 10 CFR 20.1906, "Procedures for receiving and opening packages." Specifically, this regulation requires Licensees to monitor the external surfaces of packages for radioactive contamination and radiation levels as soon as practical after receipt of the package. But for its adherence to these requirements, there is no indication that the Licensee would have otherwise discovered the problem.

In addition, the NRC determined that identification credit should be withheld due to two prior opportunities that existed for the Licensee to identify the problem prior to the event. The first opportunity involved the preparation of the package from Idaho Falls, Idaho, to New York City. A Qal-Tek radiation safety officer, who was under schedule pressure, deviated from using the typical containment system that possessed a positive fastening device because of package weight considerations. This change resulted in the radiation safety officer using a containment system that did not have a positive fastening device. This change should have caused a review to determine if shipping requirements were satisfied, but did not. When the package arrived in New York City another Qal-Tek radiation safety officer had an opportunity to identify that the package containment system did not utilize a positive fastening device, failed to do so, and used the same package for the return shipment back to Idaho Falls resulting in the event. Further, the lack of a fastening device on the containment system was apparent and should have been identified by anyone handling the containment system.

As documented in the NRC Inspection Report 030-34866/2017-001, dated October 11, 2017 (NRC's Agencywide Documents Access and Management System (ADAMS))

Accession ML17236A425), the NRC concluded that both radiation safety officers lacked a questioning attitude. Specifically, both individuals recognized that the containment system did not have a positive fastening device and neither raised the concern to their management. Rather, both individuals used a wooden board as an incorrect method to secure the lid of the containment system.

Conclusion

Based on its evaluation, the NRC has concluded that these violations occurred as stated and that the Licensee did not provide an adequate basis for mitigation of the proposed civil penalty. Therefore, the NRC will impose a civil penalty in the amount of \$22,400.

QUESTIONS?

If you have questions, please visit <https://www.nrc.gov> and search for "License Fees."

Questions may also be directed to the NRC Accounts Receivable Help Desk by e-mail at FEES.Resource@nrc.gov, by phone at (301) 415-7554, or by writing to the address below:

U.S. NUCLEAR REGULATORY COMMISSION
OCFO/DOC/ARB
Mail Stop T9-E10
Washington, DC 20555-0001



Payment Methods

U.S. NUCLEAR REGULATORY COMMISSION
OCFO/DOC/ARB
Mail Stop T-9-E10
Washington, DC 20555-0001
PH (301) 415-7554



NUREG/BR-0254, Rev. 8
January 2018



Enclosure 2

Estimated burden per response to comply with this voluntary collection request: 10 minutes. This brochure provides information about available payment methods. Forward comments about burden estimate to the Records Management Branch (T6-F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to the Paperwork Reduction Project (3150-0190), Office of Management and Budget, Washington, DC 20503. If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

NRC accepts the methods described below.

PAYMENT BY AUTOMATED CLEARINGHOUSE

To pay by Automated Clearinghouse / Electronic Data Interchange (ACH/EDI), provide a copy of NRC Form 628 to your financial institution. You may obtain a copy of NRC Form 628 by calling the NRC Accounts Receivable Help Desk at (301) 415-7554.

PAYMENT BY CREDIT CARD

The NRC is currently accepts credit card payments of up to \$24,999.99. For payment by credit card, go to Pay.gov, search for "U.S. Nuclear Regulatory Commission Fees" and enter the required information.

You may also mail or fax NRC Form 629 following the directions on the form. To obtain a copy of NRC Form 629 go to <http://www.nrc.gov> and search for "NRC Form 629" or call the NRC Accounts Receivable Help Desk at (301) 415-7554.



PAYMENT BY FEDWIRE DEPOSIT SYSTEM

The NRC can receive funds through the U.S. Department of the Treasury (Treasury) Fedwire Deposit System. The basic wire message format below complies with the Federal Reserve Board's standard structured third-party format for all electronic funds transfer (EFT) messages.

See the sample EFT message to Treasury below. Each numbered field is described below.

1 RECEIVER-DFI# – Treasury's routing number for deposit messages is 021030004.

2 TYPE-SUBTYPE-CD – The sending bank will provide the type and subtype code.

3 SENDER-DFI# – The sending bank will provide this number.

4 SENDER-REF# – The sending bank will insert this 16-character reference number at its discretion.

5 AMOUNT – The transfer amount must be punctuated with commas and decimal point; use of the "\$" is optional. The depositor will provide this item.

6 SENDER-DFI-NAME – The Federal Reserve Bank will automatically insert this information.

7 RECEIVER-DFI-NAME – Treasury's name for deposit messages is "TREAS NYC". The sending bank will enter this name.

8 PRODUCT CODE – A product code of "CTR" for customer transfer should be the first item in the receiver text field. Other values may be entered, if appropriate, using the American Bankers Association's options. A slash must be entered after the product code.

9 AGENCY LOCATION CODE (ALC) – THIS ITEM IS OF CRITICAL IMPORTANCE. IT MUST APPEAR ON THE FUNDS TRANSFER DEPOSIT MESSAGE IN THE PRECISE MANNER AS STATED TO ALLOW FOR THE AUTOMATED PROCESSING AND CLASSIFICATION OF THE FUNDS TRANSFER MESSAGE TO THE AGENCY LOCATION CODE OF THE APPROPRIATE AGENCY. The ALC identification sequence can, if necessary, begin on one line and end on the next line; however, the field tag "BNF=" must be on one line and cannot contain any spaces. The NRC's 8-digit ALC is: BNF=/AC-31000001

10 THIRD-PARTY INFORMATION – The Originator to Beneficiary Information (OBI) field tag "OBI=" signifies the beginning of the free-form third-party text. All other identifying information intended to enable the NRC to identify the deposit—for example, NRC annual fee invoice number, description of fee, 10 CFR 171 annual fee, and licensee name—should be placed in this field.

The optimum format for fields 7, 8, 9, and 10 using an 8-digit ALC is as follows:

TREAS NYC/CTR/BNF=/AC-31000001 OBI=

The optimum format, shown above, will allow 219 character positions of information following the "OBI=" indicator.

If the licensee's bank is not a member of the Federal Reserve System, the nonmember bank must transfer the necessary information and funds to a member bank, which then must transfer the information and funds to the local Federal Reserve Bank.

For a transfer of funds from local Federal Reserve Banks to be recorded on the same day, the transfer must be received at the New York Federal Reserve Bank by 4 p.m., EST. Otherwise, the deposit will be recorded on the next workday.

PAYMENT BY CHECK

Checks should be made payable to the U.S. Nuclear Regulatory Commission with the invoice number, Enforcement Action number, or other information that identifies the payment, written on the check. Mail the check to the following address:

U.S. Nuclear Regulatory Commission
U.S. Bank
P.O. Box 979051
St. Louis, MO 63197-9000

FedEx or overnight mailings must be delivered to the following address:

U.S. Nuclear Regulatory Commission
U.S. Bank Government Lockbox
SL-MO-C2GL
1005 Convention Plaza
St. Louis, MO 63101

TAXPAYER IDENTIFICATION NUMBER

You must file your Taxpayer Identification Number (TIN) with the NRC. Use NRC Form 531 to provide your TIN. You may obtain NRC Form 531 from the NRC Web site at <http://www.nrc.gov> by searching for "NRC Form 531" or by calling the NRC Accounts Receivable Help Desk at (301) 415-7554.