



Notice of Violation (Corporation)

Date of notice: April 23, 2018

AMP number: 2018 AMP 01

Violation committed by: ARLANXEO Canada Inc.	Amount of penalty: \$ 7,930
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Violation

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

Specifically: Failure to comply with CNSC licence condition 2052-3 related to vessel entry.

Relevant facts

I, Colin Moses, 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 ARLANXEO Canada Inc. committed the above violation. The facts relevant to the violation and the penalty calculation are as follows:

1. ARLANXEO Canada Inc. (ARLANXEO) holds a CNSC licence authorizing the possession and use of fixed nuclear gauges at their facility located at 1275 Vidal Street South in Sarnia, ON (CNSC licence No. 13649-2-22.0).
2. Nine enclosed vessels in the facility are equipped with fixed gauges that contain between 123 MBq and 8.84 GBq each of Cesium-137.
3. Licence No.13649-2-22.0 includes CNSC licence condition 2052-3, which requires that “entry into the vessel or hopper is performed in accordance with written procedures acceptable to the Commission of a person authorized by the Commission.”
4. Licence condition 2052-3 requires the use of a radiation survey meter to measure the radiation dose rate values inside the vessel and that the licensee maintain a record of the dose received by any person entering the vessel and the results of any radiation survey.
5. On March 1, 2018, a CNSC inspector conducted a routine Type II inspection at the ARLANXEO’s Sarnia location. The inspection found that the licensee performed 19 vessel entry procedures on vessels mounted with nuclear gauges in 2017.



6. In all 19 instances of vessel entry in 2017, no records were available to demonstrate that radiation dose rate measurements were taken to verify that it is safe to enter the vessel and to measure the radiation dose rate where the persons entering the vessel were to be located.
7. Furthermore, in all 19 instances of vessel entry in 2017, no records of doses received by the persons performing the vessel entries were available.
8. As a result of the inspection, Order 0860 was issued on March 2, 2018; the licensee was ordered to cease all entry into vessels equipped with fixed nuclear gauges.

Based on my review of this matter, I am of the opinion that an administrative monetary penalty will deter recurrence of the above violation 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 = 0

A review of ARLANXEO Canada Inc.'s compliance history revealed no previous non-compliance of a similar nature.

2. Intention or negligence: Assessed score = +2

ARLANXEO Canada Inc.'s failure to comply with approved procedures in all 19 instances of vessel entry in 2017 was the primary cause of the event and demonstrated a level of negligence on the part of the licensee.

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

There was potential for harm to workers who entered the vessels. There are no records that confirm that survey readings were taken to confirm that the vessels were safe to enter, nor were there any records of doses received by the workers performing the vessel entries.

4. Competitive or economic benefit: Assessed score = 0

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

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

Based on the issuing of Order 0860, the licensee immediately put a stop to the unsafe work practice and initiated action to address the findings of the Order.

6. Assistance to Commission: Assessed score = -1

The licensee was timely in providing accurate and complete information to the CNSC.

7. Attention of Commission: Assessed score = 0

The violation was identified as part of a CNSC inspection.



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 checked="" type="checkbox"/> +1 <input type="checkbox"/> +2 <input type="checkbox"/> +3 <input type="checkbox"/> +4 <input type="checkbox"/> +5 <input type="checkbox"/>	0
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 checked="" type="checkbox"/> 0 <input type="checkbox"/> +1 <input type="checkbox"/> +2 <input type="checkbox"/> +3 <input type="checkbox"/>	-1
6. Assistance to Commission	-2 <input type="checkbox"/> -1 <input checked="" type="checkbox"/> 0 <input type="checkbox"/> +1 <input type="checkbox"/> +2 <input type="checkbox"/> +3 <input type="checkbox"/>	-1
7. Attention of 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
Total		+2
÷ 29 ⁽¹⁾ [rounded to 2 decimal points]=		0.07
X \$99,000		
[total] =		6930.00
+ \$ 1000 [minimum for the category] =		7930.00

⁽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 May 25, 2018 to:

Canadian Nuclear Safety Commission
c/o Marc Leblanc
Commission Secretary
P.O. Box 1046, Station B
Ottawa, ON K1P 5S9

Fax: (613) 995-5086
Telephone: (613) 995-6506
Email: cnscc.interventions.ccsn@canada.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

Colin Moses
Designated Officer

2018-04-23

Date

Telephone: 613 993-7699

Email: colin.moses@canada.ca