



Notice of Violation (Individual)

Date of notice: March 2, 2020

AMP number: 2020-AMP-01

Violation committed by: Edwin F. Haugen	Amount of penalty: \$ 2,770
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Violation

Failure to comply with a condition of a licence.

In violation of paragraph 48(c) of the *Nuclear Safety and Control Act*, which in accordance to the regulations, is designated as a violation set out in column 1, Part 1 of the Schedule of the *Administrative Monetary Penalties Regulations*.

Specifically as set out in Licence Condition 2490 of CNSC licence 9022-1-20.1: Failure to implement the security measures for sealed sources as set out in CNSC Regulatory Document REGDOC-2.12.3: *Security of Nuclear Substances: Sealed Sources and Category I, II and III Nuclear Material, Version 2*

Relevant facts

I, Ramzi Jammal, Executive Vice-President and Chief Regulatory Operations Officer of the Regulatory Operations Branch and designated officer authorized by the Canadian Nuclear Safety Commission (CNSC) to issue notices of violations, believe on reasonable grounds that Mr. Edwin F. Haugen committed the above violation. The facts relevant to the violation and the penalty calculation are as follows:

Mr. Edwin F. Haugen is the Applicant Authority and Radiation Safety Officer for Kodiak Quality Control Ltd. which holds licence number 9022-1-20.1 issued by the Canadian Nuclear Safety Commission for the purposes of distribution of radioactive sealed sources with activities greater than 740 MBq. Licence number 9022-1-20.1 contains condition 2490, which requires that the licensee implement the security measures for sealed sources as set out in CNSC Regulatory Document REGDOC-2.12.3: *Security of Nuclear Substances: Sealed Sources and Category I, II and III Nuclear Material, Version 2*. Mr. Edwin F. Haugen continues to commit the above violation while acting on behalf of the licensee.

1. On October 10, 2015, Mr. Edwin F. Haugen, in the process of renewing the CNSC licence issued to Kodiak Quality Control Ltd., attested and certified on the *Applicant Authority Form* submitted as part of Kodiak Quality Control Ltd.'s CNSC licence application that he has sufficient authority delegated to his position such that he could direct human and financial



resources required to address any issue of non-compliance. Mr. Edwin F. Haugen also attested and certified with his signature that he was aware of the obligations of a licensee to comply with the *Nuclear Safety and Control Act*, all related regulations and licence conditions.

2. On December 6, 2019, a CNSC Inspector conducted an inspection of the licensee's activities, with the assistance of Mr. Edwin F. Haugen, at a location in Guelph, ON that resulted in the issuance of Order #1209, herein referred to as "*the order*". The order required Kodiak Quality Control Ltd. to put in place, within 21 days of the date of the order, appropriate security measures, at the location specified in the order, as required by REGDOC-2.12.3: *Security of Nuclear Substances: Sealed Sources and Category I, II and III Nuclear Material, Version 2* and condition 2490 of its CNSC licence 9022-1-20.1. In addition, the order required Kodiak Quality Control Ltd. to submit, within 21 days of the date of the order, a Site Security Plan to the CNSC for review and approval.
3. On January 10, 2020, Kodiak Quality Control Ltd. submitted, to the CNSC, its corrective actions to the inspection conducted on December 6, 2019 and to the terms and conditions of the order. CNSC staff assessment of this information identified that the submission did not meet expectations, and CNSC staff informed Mr. Edwin F. Haugen that subsequent information would be required by January 24, 2020.
4. On January 17, 2020, the designated officer who had notified Mr. Edwin F. Haugen and Kodiak Quality Control Ltd. of its opportunity to be heard in the matter of Order #1209 subsequently made a decision to confirm Order #1209.
5. On January 24, 2020, Kodiak Quality Control Ltd. provided an additional, second response to CNSC staff regarding its proposed corrective actions to demonstrate compliance with the terms and conditions of Order #1209. CNSC staff subsequently assessed this response and deemed its content to be inadequate.
6. On January 27, 2020, a teleconference was held between CNSC staff and Mr. Edwin F. Haugen of Kodiak Quality Control Ltd. to discuss the deficiencies in the licensee's response to both the inspection of December 6, 2019 and terms and conditions of the order. The principal discussion point was information presented by Nuclear Security Division in relation to the licensee's submitted Site Security Plan and proposed technical security measures, as required by condition 2490 of licence 9022-1-20.1. The licensee was informed at the time of the teleconference, and with a letter dated January 29, 2020, that a second inspection would be conducted on February 3, 2020. Mr. Edwin F. Haugen was also informed that it was the CNSC's expectation that all deficiencies relating to the physical security of the sealed sources be addressed to the satisfaction of the CNSC by the time of this second inspection.
7. On February 3, 2020, a second inspection was conducted by a CNSC inspector and a CNSC security advisor at Kodiak Quality Control Ltd.'s location in Guelph, ON. This inspection identified that a number of findings from the inspection conducted on December 6, 2019 remained uncorrected, including those related to the security of the sealed sources required by condition 2490 of licence 9022-1-20.1. At the time, it was reiterated to Mr. Edwin F. Haugen, acting on behalf of the licensee, that he was required to take immediate measures to correct the licensee's security non-compliances as required by the terms and conditions of Order #1209 and by condition 2490 of licence 9022-1-20.1 and to provide the CNSC details of these measures by 5:00 PM on February 3, 2020. These expectations were presented to and acknowledged by Mr.



Edwin F. Haugen on a preliminary inspection report left onsite at the conclusion of the inspection.

8. At 5:16 PM on February 3, 2020, Mr. Edwin F. Haugen, acting on behalf of Kodiak Quality Control Ltd., provided the CNSC with a response to the inspection containing both insufficient and inadequate information regarding the corrective measures to non-compliances identified by CNSC staff during the February 3, 2020 inspection.
9. On February 4, 2020, CNSC staff followed up with Mr. Edwin F. Haugen regarding its response, and requested additional information be provided by 12:00 PM on February 5, 2020.
10. As of 12:00 PM on February 5, 2020, Mr. Edwin F. Haugen, acting on behalf of Kodiak Quality Control Ltd., had not provided a satisfactory response to the CNSC with details of its corrective actions to be taken in relation to the inspections of December 6, 2019, February 3, 2020, and the terms and conditions of the order, including those related to condition 2490 of licence 9022-1-20.1.

Based on my review of this matter I am of the opinion that an administrative monetary penalty will deter Mr. Edwin F. Haugen, and Kodiak Quality Control Ltd., from continuing to commit the above violation. I am also of the opinion that an administrative monetary penalty will serve to prevent recurrence of the above violation and promote future compliance with CNSC regulatory requirements. However, in the event of continued failure by Mr. Edwin F. Haugen and Kodiak Quality Control Ltd. to take appropriate actions to correct this violation, the CNSC may issue an administrative monetary penalty for each day that this violation continues to occur, as permitted in section 65.07 of the *Nuclear Safety and Control Act*.

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 compliance history review of Kodiak Quality Control Ltd., for which Edwin F. Haugen is the Applicant Authority and Radiation Safety Officer (RSO), was conducted from January 2015 to January 2020. This review identified that an inspection conducted on March 31, 2016, at a different location where the licensee is authorized to conduct licensed activities, resulted in a conclusion by the CNSC inspector that security expectations required by condition 2490 of licence 9022-1-20.1 were implemented satisfactorily at that location. As the inspection conducted on December 6, 2019 was the first inspection conducted the licensee's new location where the violation occurred, there is no previous compliance history.

2. Intention or negligence: Assessed score = +2

Mr. Edwin F. Haugen, acting on behalf of Kodiak Quality Control Ltd., repeatedly failed to comply with regulatory requirements pertaining to maintaining the security of nuclear substances required by condition 2490 of licence 9022-1-20.1 as identified by the results of inspections conducted on December 6, 2019 and February 3, 2020. In addition, Edwin F. Haugen has repeatedly made inadequate commitments on behalf of Kodiak Quality Control Ltd. that do not adequately address these non-compliances. This failure to implement appropriate and required security measures continued to occur despite the CNSC issuance of Order #1209, despite the granting of an extension



until January 10, 2020 to implement the corrective actions and despite several meetings with CNSC staff regarding the clarification of compliance expectations. This demonstrates a degree of negligence on the part of Mr. Edwin F. Haugen, acting on behalf of Kodiak Quality Control Ltd.

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

Due to the fact that Kodiak Quality Control Ltd. is currently in possession of sealed sources which meet the threshold for Category 2 aggregate quantities of radioactive sealed sources as per REGDOC 2.12.3, the failure of Mr. Edwin F. Haugen, acting on behalf of Kodiak Quality Control Ltd. to comply with condition 2490 of licence 9022-1-20.1 has resulted in a risk to the health and safety of persons and the security of nuclear substances for a prolonged period of time. This has resulted in a significant risk of potential harm.

4. Competitive or economic benefit: Assessed score = +1

By failing to implement the physical security measures required in accordance with condition 2490 of licence 9022-1-20.1 in a timely manner, Mr. Edwin F. Haugen, acting on behalf of Kodiak Quality Control Ltd. is realizing a cost savings and therefore, an economic benefit.

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

Mr. Edwin F. Haugen, acting on behalf of Kodiak Quality Control Ltd. has made some efforts to mitigate the security deficiencies related to condition 2490 of licence 9022-1-20.1 that were identified during the inspections of December 6, 2019 and February 3, 2020. These efforts remain however inadequate to satisfy the requirements of condition 2490 of licence 9022-1-20.1.

6. Assistance to Commission: Assessed score = -1

Mr. Edwin F. Haugen, acting on behalf of Kodiak Quality Control Ltd. has provided to the CNSC various documentation and statements regarding corrective actions and has cooperated with scheduled onsite inspections and meetings with CNSC staff.

7. Attention of Commission: Assessed score = 0

The violation is related to non-compliances that were discovered by CNSC staff as part of a routine Type II inspection, and were not proactively identified by Mr. Edwin F. Haugen or Kodiak Quality Control Ltd. to the CNSC.



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	\$300	\$3,000	\$2,700
B	\$300	\$10,000	\$9,700
C	\$300	\$25,000	\$24,700

(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 type="checkbox"/> +1 <input checked="" type="checkbox"/> +2 <input type="checkbox"/> +3 <input type="checkbox"/> +4 <input type="checkbox"/> +5 <input type="checkbox"/>	+1
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		3
÷ 29 ⁽¹⁾ [rounded to 2 decimal points]=		0.10
× \$24,700		
[total] =		\$2,470
+ \$ 300 [minimum for the category] =		\$2,770

⁽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 April 2, 2020 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:

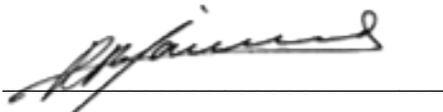
Receiver General for Canada
c/o Canadian Nuclear Safety Commission
Finance Division
P.O. Box 1046, Station B
Ottawa, ON K1P 5S9

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



Ramzi Jammal
Executive Vice-President and
Chief Regulatory Operations Officer
Regulatory Operations Branch
Designated Officer

March 2, 2020

Date

Telephone: (613) 947-8899

Email: ramzi.jammal@canada.ca