

Department of Environmental,
Health & Safety
270-745-5825
FAX: 270-745-5037



Western Kentucky University
1 Big Red Way
Bowling Green, KY 42101-3576

December 28, 2001

Jay L. Henson, Chief
Materials Licensing/Inspection Branch 2
US Nuclear Regulatory Commission
Region II
Sam Nunn Atlanta Federal Center
61 Forsyth Street SW Suite 23T85
Atlanta, Georgia 30303-8931

RE: Conditions for reciprocal use of Commonwealth of Kentucky License No. 203-017-83 within
NRC Jurisdiction

Dear Mr. Henson:

In the wake of recent developments regarding our license issues, and also in response to your
letter dated November 29, 2001 (attached), Western Kentucky University (WKU) is submitting
the following documents for your review:

1. The WKU letter of response to the Commonwealth of Kentucky dated December 5, 2001;
2. The Removal of Cease and Desist Order from the Commonwealth of Kentucky dated December 10, 2001;
3. The Return to Compliance Letter from the Commonwealth of Kentucky dated December 10, 2001.
4. A revised NRC Form 241 for using the PELAN device at Ft. Huachuca, Arizona from January 6, 2002 to January 12, 2002.

Please feel free to contact the WKU Radiation Safety Officer, should you have any questions.

Contact Information: Mary J. Reynolds, RSO
(270) 745-7095 (wk)
(270) 781-3086 (hm)
(270) 745-5037 (fax)
mary.reynolds@wku.edu



Thank you for your considerations.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary J. Reynolds". The signature is written in a cursive style with a large initial "M".

Ms. Mary J. Reynolds
Radiation Safety Officer

MR/mr

Attachments: As stated.

CC: Gary A. Ransdell, President
Radiation Safety Committee
RSO File
Applied Physics Institute



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II

PRESIDENT'S OFFICE
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET SW SUITE 23T85
ATLANTA, GEORGIA 30303-8931

2001 NOV 33 AM 9 54

November 29, 2001

Western Kentucky University
ATTN: Gary A. Ransdell, Ph.D.
President
1 Big Red Way
Bowling Green, Kentucky 42101-3576

SUBJECT: CONDITIONS FOR RECIPROCAL USE OF COMMONWEALTH OF
KENTUCKY LICENSE NO. 201-017-83 WITHIN NRC JURISDICTION
(REFERENCE: LOCATION REFERENCE NO. 001262)

Dear President Ransdell:

This refers to the NRC approval of use of your Kentucky license to perform research and development activities with the Pelan neutron generator tube containing 3 curies of tritium at the Thunder Mountain Evaluation Center, Fort Huachuca, Arizona during the period of December 2 through 8, 2001. Enclosed is a copy of the of the NRC Form 241, Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, or Offshore Waters which was submitted by Ms. Mary J. Reynolds, your Radiation Safety Officer, on November 27, 2001 (Enclosure 1). The NRC Form 241 was reviewed and approved by Mr. David J. Collins, of my staff on that same day.

The Commission grants reciprocal recognition of Agreement State licenses according to 10 CFR 150.20 (Enclosure 2). As described in this part of the regulations, any person who holds a specific license from an Agreement State, and who meets the conditions of this part, may be granted a general license to conduct the same activity where NRC maintains jurisdiction. The Agreement State licensee must submit and receive approval of the NRC Form 241 to conduct licensed activities under the general license. As part of the approval process, the reviewer considers issues addressed in the Agreement State license such as authorized users, locations of use and authorized uses and materials. The reviewer must conclude that the use described in the NRC Form 241 protects the public health and safety before the general license is granted.

The general license granted under 10 CFR 150.20 requires, in part, that the licensee comply with all terms and conditions of the specific license issued by an Agreement State except such terms or conditions as are contrary to the requirements of 10 CFR 150.20. Subsequent to our November 27, 2001, approval of the NRC Form 241, we learned that the Commonwealth of Kentucky, Cabinet for Health Services, Radiation Health and Toxic Agents Branch issued a Cease and Desist Order to Western Kentucky University (WKU) dated November 9, 2001. The Order stated that WKU must immediately cease all activities involving the use of neutron generators and must physically secure all radioactive material in the physics department pending a full investigation of the unauthorized location of use incident that occurred on November 2, 2001. In addition, all personnel involved with the incident were suspended from use of radioactive material under any license in the Commonwealth of Kentucky pending the investigation. Based on the requirements of the Order, you are no longer authorized by your Agreement State license to use the neutron generator tubes and therefore cannot use the device under reciprocity in NRC jurisdiction.

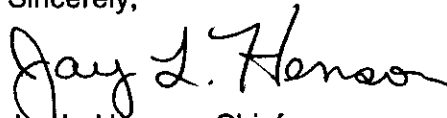
Once you have resolved the issues associated with the Order and the Commonwealth of Kentucky authorizes WKU to use the neutron generator tubes, you may submit an amendment to your NRC Form 241 for any changes such as locations and dates of use. Fort Huachuca, the proposed location of use on the November 27, 2001, NRC Form 241, and the Commonwealth of Kentucky have been provided a copy of this letter and the enclosures.

If you have any questions regarding this letter or NRC's reciprocity requirements, please contact Mr. David J. Collins at (404) 562-4735.

In accordance with 10 CFR 2.790 of NRC's "Rules of Practice," a copy of this letter and Enclosure 1 will be available electronically for public inspection in NRC's Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room).

Thank you for your cooperation.

Sincerely,



Jay L. Henson, Chief
Materials Licensing/Inspection Branch 2

Enclosures: 1. NRC Form 241
2. 10 CFR 150.20

NRC FORM 241 (7-1999) U.S. NUCLEAR REGULATORY COMMISSION APPROVED BY OMB: NO. 3150-0013 EXPIRES: 07/31/2002

REPORT OF PROPOSED ACTIVITIES IN NON-AGREEMENT STATES, AREAS OF EXCLUSIVE FEDERAL JURISDICTION, OR OFFSHORE WATERS (Please read the instructions before completing this form)

Estimated burden per response to comply with this mandatory collection request: 15 minutes. This notification is required so that NRC may schedule inspection of the activities to ensure that they are conducted in accordance with requirements for protection of the public health and safety. Send comments regarding burden estimate to the Records Management Branch (T-6 E6), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by internet e-mail to bjs1@nrc.gov, and to the Desk Officer, Office of Information and Regulatory Affairs, NE08-10202; (3150-0013), 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.

1. NAME OF LICENSEE (Person or firm proposing to conduct the activities described below) WESTERN KENTUCKY UNIVERSITY
3. ADDRESS OF LICENSEE (Mailing address or other location where licensee may be located) 1 BIG RED WAY BOWLING GREEN, KY 42101

2. TYPE OF REPORT [X] INITIAL [] REVISION [] CLARIFICATION
4. LICENSEE CONTACT AND TITLE Douglas Humphrey, Ph.D.
5. TELEPHONE NUMBER (Include Area Code) 270-745-3859
6. FACSIMILE NUMBER (Include Area Code) 270-781-1104

7. ACTIVITIES TO BE CONDUCTED UNDER THE GENERAL LICENSE GIVEN IN 10 CFR 150.20
[] WELL LOGGING [] LEAK TESTING AND/OR CALIBRATIONS [] TELETHERAPY/IRRADIATOR SERVICE
[] PORTABLE GAUGES [X] OTHER (Specify) => CONDUCT TESTS OF ILLICIT DRUGS
[] RADIOGRAPHY => REGISTERED AS USER OF PACKAGING (CERTIFICATES OF COMPLIANCE NUMBERS)

8. CLIENT NAME, ADDRESS, CITY/COUNTY, STATE, ZIP CODE JOHN LIGON BLDG 54322 ARIZONA STREET FORT HUACHUCA, AZ 85613

9. ACTUAL PHYSICAL ADDRESS OF WORK LOCATION (Street and Number or other location. Give as complete an address or directions as possible.) THUNDER MOUNTAIN EVALUATION CNTR FORT HUACHUCA, AZ 85613
10. CLIENT TELEPHONE NUMBER (Include Area Code) 520-538-2382
11. WORK LOCATION TELEPHONE NUMBER (Include Area Code) 520-459-2997

12. DATES SCHEDULED FROM DEC 2, 2001 TO DEC 8, 2001
13. NUMBER OF WORK DAYS 6
14. ADD
15. DELETE
16. LOCATION NUMBER 001262
NUMBER TO BE ASSIGNED BY NRC

LIST ADDITIONAL WORK SITES ON SEPARATE SHEET(S) TO INCLUDE ALL INFORMATION CONTAINED IN ITEMS 9-16 ABOVE.

17. LIST RADIOACTIVE MATERIAL, WHICH WILL BE POSSESSED, USED, INSTALLED, SERVICED, OR TESTED (include description of type and quantity of radioactive material, sealed sources, or devices to be used.) NO MORE THAN 3.0 CURIES OF 3H CONTAINED IN A SEALED TUBE NEUTRON GENERATOR MANUFACTURED BY MF PHYSICS MODEL 325PH

18. AGREEMENT STATE SPECIFIC LICENSE WHICH AUTHORIZES THE UNDERSIGNED TO CONDUCT ACTIVITIES WHICH ARE THE SAME, EXCEPT FOR LOCATION OF USE, AS SPECIFIED IN ITEM 9 ABOVE. (Four copies of the specific license must accompany the initial NRC Form 241.) LICENSE NUMBER 203-017-83 STATE Ky EXPIRATION DATE July 31, 2002

19. CERTIFICATION (MUST BE COMPLETED BY APPLICANT)
I, THE UNDERSIGNED, HEREBY CERTIFY THAT:
a. All information in this report is true and complete.
b. I have read and understand the provision of the general license 10 CFR 150.20 reprinted on the instructions of this form; and I understand that I am required to comply with these provisions as to all byproduct, source, or special nuclear material which I possess and use in non-Agreement States or offshore waters under the general license for which this report is filed with the U.S. Nuclear Regulatory Commission.
c. I understand that activities, including storage, conducted in non-Agreement States under general license 10 CFR 150.20 are limited to a total of 180 days in calendar year. With the exception of work conducted in off-shore waters, which is authorized for an unlimited period of time in the calendar year.
d. I understand that I may be inspected by NRC at the above listed work site locations and at the Licensee home office address for activities performed in non-Agreement States or offshore waters.
e. I understand that conduct of any activities not described above, including conduct of activities on dates or locations different from those described above or without NRC authorization, may subject me to enforcement action, including civil or criminal penalties.

CERTIFYING OFFICER - RSO or Management Representative (Name and Title) MARY J. REYNOLDS, RSO SIGNATURE Mary J. Reynolds DATE 11/27/2001

WARNING: False statements in this certificate may be subject to civil and/or criminal penalties. NRC regulations require that submissions to the NRC be complete and accurate in all material respects. 18 U.S.C. Section 1001 makes it a criminal offense to make a willfully false statement or representation to any department or agency of the United States as to any matter within its jurisdiction.

FOR NRC REVIEWING OFFICIAL (Typed/Printed Name and Title) SIGNATURE J. P. ... DATE 1 TOTAL USAGE - DAYS TO DATE 29



Office of the President
270-745-4346
FAX: 270-745-4492

Western Kentucky University
1 Big Red Way
Bowling Green, KY 42101-3576

December 5, 2001
RE: RAM License #203-017-83

Dr. John Volpe, Manager
Radiation Health & Toxic Agents Branch
Cabinet for Health Services
Department for Public Health
Commonwealth of Kentucky
275 E. Main Street
Frankfort, KY 40621-0001

Dear Dr. Volpe:

In response to your Notice of Violation dated November 13, 2001, we are submitting the following response for your review.

The Radiation Safety Officer, Mary J. Reynolds, seized and secured all radioactive material from the Dept. of Physics and Astronomy the afternoon of November 9, 2001, as the Cease and Desist Order (dated Nov. 9, 2001) submitted by the State dictated. The material (including all neutron generators) is currently stored in a locked cage in Thompson Complex-Center Wing Room 27.

The Radiation Safety Committee, chaired by Dr. Gene Tice, has met on four (4) separate occasions regarding the events that occurred on November 6, 2001. The initial two times (Nov. 15 and Nov. 19) were held to interview participants of the November 6 event and gather facts. The last two meetings (Nov. 29 and Nov. 30) were held to make decisions about what steps need to be taken. The Nov. 30 meeting was the meeting where there was a call to motion, a second, and a unanimous vote in favor of the following decisions:

- 1) Remove Drs. Douglas Humphrey and George Vourvopoulos from WKU Radioactive Materials License #203-017-83. This shall be for a period of six months from date of State's approval of the response to the Notice of Violation, after which they may reapply for Responsible Investigator under the License.
- 2) WKU President shall submit a letter informing all Responsible Investigators, including API staff, that the Radiation Safety Officer and Radiation Safety Committee is in charge of the Radiation Safety Program and License issues,



- the RSO is the only contact for all radiological/license issues with the State, and that the RSO must be informed of all radiological issues.
- 3) Produce and implement a Radiation Work Permit for non-routine work conducted under WKU's radioactive materials license. This work permit shall include, but is not limited to, information on users, procedures, dates for use, etc. There shall also be a required submittal lead-time that allows for review of the RSO and the RSC. The State Cabinet for Health Services may be contacted prior to approval of the Radiation Work Permits for discussion.
 - 4) Have all API Responsible Investigators submit all procedures/protocols, etc. for approval by the RSO and RSC for approval to work with the relevant radioactive materials/radiation-producing equipment.
 - 5) Amend license to split the neutron generators/Pelan from the same item addressing other gauges. The usage of neutron generators/Pelan will require RSO and RSC approval with the Radiation Work Permit previously addressed.
 - 6) Increase number and thoroughness of unannounced internal audits at API facilities, with the RSO and RSC jointly conducting the first audit, at a minimum.
 - 7) These corrective actions shall be sent to the State in a response to our Notice of Violation, and shall be signed by the President of the University, the Chair of the Radiation Safety Committee, and the Radiation Safety Officer.

Applied Physics Institute will continue work after the Radiation Safety Committee's approval of their procedures. All Responsible Investigators have the responsibility of ensuring that radioactive materials are used in accordance with the WKU Radiation Safety Manual, the Radioactive Materials License, and all pertinent regulations, including 902 KAR 100.

An amendment request to our current RAM license shall be forthcoming, projected to be sent to you prior to our holiday break, which begins December 19.

We are also revising our Radiation Safety Manual. We plan to add issues that specifically address reciprocity, violations, etc., and to scrutinize/further define the role of the RSO and RSC. We also plan to add a Radiation Work Permit to our program, with guidelines to completion of the form, which shall be included in the manual. We are also making it mandatory that the RI must read the manual, and sign and send the signature page to the RSO prior to working with radioactive material under our license. Our projected date for finalizing the revision to the manual is February 22, 2002.

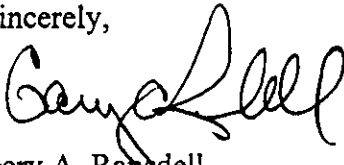
For clarification on API facilities/personnel:

- These facilities are non-academic, in that there are no classes, strictly research and development;
- These are the only facilities that use the neutron generators;
- The personnel at these facilities are all personnel in the Department of Physics and Astronomy; however, only a few of these personnel teach.

It is the intent of Western Kentucky University to fully comply with our license and State regulations, and to maintain a strong radiation safety program. I hope that we have addressed all the issues in the Notice of Violation to your satisfaction. Should you need further information, please let me know.

Thank you for your consideration on these matters.


Sincerely,



Gary A. Ransdell
President



Gerald E. Tice
Chair, Radiation Safety Committee



Mary J. Reynolds
Radiation Safety Officer

Attachments: (1) Letter from Dr. Ransdell to Responsible Investigators, dated
December 5, 2001
(2) Notice of Violation, dated November 13, 2001

cc: Radiation Safety Officer
Radiation Safety Committee
Director, Environmental Health and Safety
Office of the President



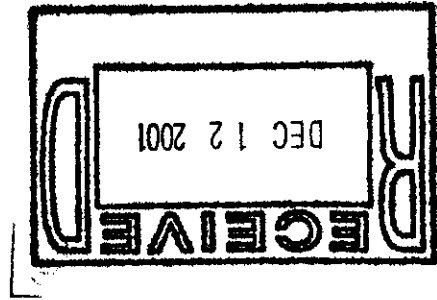
CABINET FOR HEALTH SERVICES
COMMONWEALTH OF KENTUCKY
FRANKFORT 40621-0001

Department for Public Health

Certified Mail

December 10, 2001

Mary Reynolds, RSO
Department of Environmental Health & Safety
Western Kentucky University
1 Big Red Way
Bowling Green, KY 42101



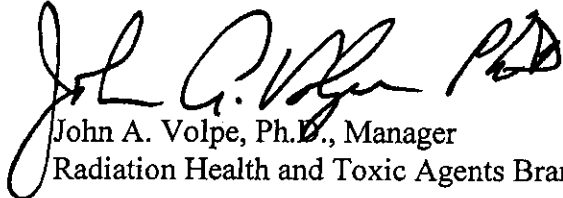
Re: Removal of Cease and Desist Order

Dear Ms. Reynolds:

Effective immediately, based on the investigation conducted by the Cabinet for Health Services and your corrective actions and commitments in the letter dated December 5, 2001, the cease and desist order issued on November 9, 2001 to Western Kentucky University (license number 203-017-83) is hereby removed.

If there are further questions, you should contact Edward Lohr at 502-564-3700 ext. 3701.

Sincerely,


John A. Volpe, Ph.D., Manager
Radiation Health and Toxic Agents Branch

c: Rice C. Leach, M.D., Commissioner, DPH
John Walker, General Counsel, CHR
Edward Lohr, Radiation Health and Toxic Agents Branch



"An Equal Opportunity Employer M/F/H"



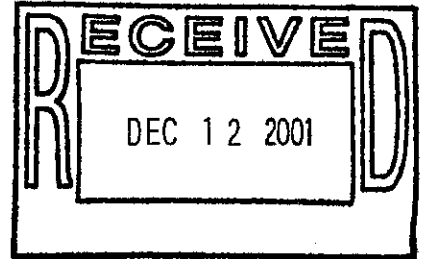
CABINET FOR HEALTH SERVICES
COMMONWEALTH OF KENTUCKY
FRANKFORT 40621-0001

Department for Public Health

RETURN TO COMPLIANCE

December 10, 2001

Mary Reynolds, RSO
Department of Environmental Health & Safety
Western Kentucky University
1 Big Red Way
Bowling Green, KY 42101



Dear Ms. Reynolds:

A noncompliance letter was issued to Kentucky Radioactive Materials License Number 203-017-83 based on credible information provide to the Cabinet for Health Services on November 9, 2001.

As a result of that information, certain items appeared to be in noncompliance with Kentucky Administrative Regulations, 902 KAR 100 and conditions of the license. These items were stated in our Notice of Violation dated November 13, 2001.

The response, dated December 5, 2001, to that Notice of Violation has been evaluated and found to meet the requirements of 902 KAR 100:170, Section 5. The implementation of the stated corrective action in the response will be reviewed during future inspections.

Thank you for your cooperation. If I can be of assistance, please feel free to contact me at 502/564-3700.

Sincerely,

Edward M. Lohr, Supervisor
Radioactive Material Section
Radiation Health & Toxic Agents Branch



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APPROVED BY OMB: NO. 3150-0013 EXPIRES: 07/31/2002
 Estimated burden per response to comply with this mandatory collection request: 15 minutes. This notification is required so that NRC may schedule inspection of the activities to ensure that they are conducted in accordance with requirements for protection of the public health and safety. Send comments regarding burden estimate to the Records Management Branch (T-6 E6), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by internet e-mail to bjs1@nrc.gov, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOF-10202, (3150-0013), 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.

REPORT OF PROPOSED ACTIVITIES IN NON-AGREEMENT STATES, AREAS OF EXCLUSIVE FEDERAL JURISDICTION, OR OFFSHORE WATERS

(Please read the instructions before completing this form)

1. NAME OF LICENSEE (Person or firm proposing to conduct the activities described below) Western Kentucky University		2. TYPE OF REPORT <input type="checkbox"/> INITIAL <input checked="" type="checkbox"/> REVISION <input type="checkbox"/> CLARIFICATION	
3. ADDRESS OF LICENSEE (Mailing address or other location where licensee may be located) 1 Big Red Way Bowling Green, KY 42101		4. LICENSEE CONTACT AND TITLE Jonathan Paschal, Computer Engineer	
		5. TELEPHONE NUMBER (Include Area Code) 270-781-3859	6. FACSIMILE NUMBER (Include Area Code) 270-781-1104

7. ACTIVITIES TO BE CONDUCTED UNDER THE GENERAL LICENSE GIVEN IN 10 CFR 150.20

WELL LOGGING LEAK TESTING AND/OR CALIBRATIONS TELETHERAPY/IRRADIATOR SERVICE

PORTABLE GAUGES OTHER (Specify) ⇒ Conduct tests of illicit drugs

RADIOGRAPHY ⇒ REGISTERED AS USER OF PACKAGING (CERTIFICATES OF COMPLIANCE NUMBERS)

8. CLIENT NAME, ADDRESS, CITY/COUNTY, STATE, ZIP CODE John Ligon Bldg. 54322 Arizona Street Ft. Huachuca, AZ 85613		9. ACTUAL PHYSICAL ADDRESS OF WORK LOCATION (Street and Number or other location. Give as complete an address or directions as possible.) Thunder Mountain Evaluation Center Ft. Huachuca, AZ 85613	
		10. CLIENT TELEPHONE NUMBER (Include Area Code) 520-538-2382	11. WORK LOCATION TELEPHONE NUMBER (Include Area Code) 520-459-2997

12. DATES SCHEDULED		13. NUMBER OF WORK DAYS	14. ADD	15. DELETE	16. LOCATION REFERENCE NUMBER
FROM	TO				NUMBER TO BE ASSIGNED BY NRC
Jan. 6, 2002	Jan. 12, 2002	5			001262

LIST ADDITIONAL WORK SITES ON SEPARATE SHEET(S) TO INCLUDE ALL INFORMATION CONTAINED IN ITEMS 9-16 ABOVE.

17. LIST RADIOACTIVE MATERIAL, WHICH WILL BE POSSESSED, USED, INSTALLED, SERVICED, OR TESTED (Include description of type and quantity of radioactive material, sealed sources, or devices to be used.)
 No more than 3.0 curies of tritium (³H) contained in a sealed tube neutron generator manufactured by MF Physics Model 325 PH, within PELAN device.

18. AGREEMENT STATE SPECIFIC LICENSE WHICH AUTHORIZES THE UNDERSIGNED TO CONDUCT ACTIVITIES WHICH ARE THE SAME, EXCEPT FOR LOCATION OF USE, AS SPECIFIED IN ITEM 9. ABOVE. (Four copies of the specific license must accompany the initial NRC Form 241.)	LICENSE NUMBER 203-017-83	STATE KY	EXPIRATION DATE July 31, 2002
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19. CERTIFICATION (MUST BE COMPLETED BY APPLICANT)

I, THE UNDERSIGNED, HEREBY CERTIFY THAT:

- All information in this report is true and complete.
- I have read and understand the provision of the general license 10 CFR 150.20 reprinted on the instructions of this form; and I understand that I am required to comply with these provisions as to all byproduct, source, or special nuclear material which I possess and use in non-Agreement States or offshore waters under the general license for which this report is filed with the U.S. Nuclear Regulatory Commission.
- I understand that activities, including storage, conducted in non-Agreement States under general license 10 CFR 150.20 are limited to a total of 180 days in calendar year. With the exception of work conducted in off-shore waters, which is authorized for an unlimited period of time in the calendar year.
- I understand that I may be inspected by NRC at the above listed work site locations and at the Licensee home office address for activities performed in non-Agreement States or offshore waters.
- I understand that conduct of any activities not described above, including conduct of activities on dates or locations different from those described above or without NRC authorization, may subject me to enforcement action, including civil or criminal penalties.

CERTIFYING OFFICER - RSO or Management Representative (Name and Title) Mary J. Reynolds, RSO	SIGNATURE	DATE
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WARNING: False statements in this certificate may be subject to civil and/or criminal penalties. NRC regulations require that submissions to the NRC be complete and accurate in all material respects. 18 U.S.C. Section 1001 makes it a criminal offense to make a willfully false statement or representation to any department or agency of the United States as to any matter within its jurisdiction.

FOR NRC USE ONLY	REVIEWING OFFICIAL (Typed/Printed Name and Title)	SIGNATURE	DATE	TOTAL USAGE -- DAYS TO DATE
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