



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET SW SUITE 23T85
ATLANTA, GEORGIA 30303-8931

July 11, 2003

EA-03-121

Tamfelt, Inc.
ATTN: Jack Faling
Radiation Safety Officer
520 24th Avenue
Longview, Washington 98632

SUBJECT: NRC INSPECTION REPORT NO. 99990002/2003003

Dear Mr. Faling:

This refers to an initial onsite inspection that was conducted on December 27, 2002, at the offices of Daniel Kaidel in Chesapeake, Virginia. The purpose of the inspection was to examine activities conducted under the NRC license issued on July 12, 2002, with respect to radiation safety and compliance with NRC regulations and the conditions of the license. During the inspection, it was determined that Mr. Kaidel, while an employee of Tamfelt, Inc., had been operating under Tamfelt's Washington State license in NRC jurisdiction prior to the issuance of the NRC license. Following the inspection, NRC staff held several telephone interviews with you as the Tamfelt Radiation Safety Officer (RSO) for the Washington State license and with Tamfelt corporate staff. Our last telephone conversation with you occurred on June 26, 2003, during which the issue of reciprocity was discussed. The enclosed report presents the results of this inspection and the subsequent telephone discussions.

Based on the results of this inspection, two apparent violations were identified and are being considered for escalated enforcement action in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600. The current Enforcement Policy is included on the NRC's Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Enforcement Policy**. The apparent violations involved, (1) the possession and use of a portable gauge between March 22, and July 12, 2002, in areas of NRC jurisdiction without a specific or general NRC license as required by 10 CFR 30.3, and (2) the failure to file an NRC Form 241 to authorize work within NRC jurisdiction under State of Washington License Number WN-I0492-1, as required by 10 CFR 150.20.

The circumstances surrounding the two apparent violations, the significance of the issues, and the need for lasting and effective corrective action were discussed with you during the exit telephone conversation on June 26, 2003. As a result, it may not be necessary to conduct a predecisional enforcement conference in order to enable the NRC to make an enforcement decision.

Before the NRC makes its enforcement decision, we are providing you an opportunity to either: 1) respond to the apparent violations addressed in this inspection report within 30 days of the date of this letter, or 2) request a predecisional enforcement conference. If a conference is held, it will be open for public observation. The NRC will also issue a press release to announce the conference. Please contact Thomas R. Decker at 404-562-4721 within seven days of the date of this letter to notify the NRC of your intended response.

If you choose to provide a written response, it should be clearly marked as a "Response to Apparent Violations in Inspection Report No. 99990002/2003003; EA-03-121" and should include for each apparent violation: 1) the reason for the apparent violation, or, if contested, the basis for disputing the apparent violation, 2) the corrective steps that have been taken and the results achieved, 3) the corrective steps that will be taken to avoid further violations, and 4) the date when full compliance will be achieved. In presenting your corrective action, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violations. The guidance in the enclosed excerpt from NRC Information Notice 96-28, "SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION," may be helpful. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a predecisional enforcement conference.

In addition, please be advised that the number and characterization of apparent violations described in the enclosed inspection report may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response (if you choose to provide one) will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (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.

If you have any questions about this inspection, please contact Mr. Thomas Decker of my staff at the number provided above.

Sincerely,

/RA/

Douglas M. Collins, Director
Division of Nuclear Material Safety

Docket No. 99990002
License No. WN-10492-1(State of Washington)

Enclosures: (See page 3)

Tamfelt, Inc.

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- Enclosures: 1. Inspection Report No. 99990002/2003003
2. NRC Information Notice 96-28

cc w/encls:

State of Washington

State of North Carolina

Commonwealth of Virginia

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U. S. NUCLEAR REGULATORY COMMISSION

REGION II

Docket No.: 99990002

License No.: Washington License Number: WN-I0492-I

Report No.: 99990002/2003003

Licensee: Tamfelt, Inc.

Location: 520 24th Avenue
Longview, WA 98632
Storage in Chesapeake, VA and a temporary job site in
Lynchburg, VA

Inspection Dates: December 27, 2002, June 26, 2003, as well as several associated
communications

Inspector: Andy Miller, Health Physicist
Materials Licensing/Inspection Branch 2
Division of Nuclear Materials Safety

Approved by: Thomas Decker, Chief
Materials Licensing/Inspection Branch 1
Division of Nuclear Materials Safety

EXECUTIVE SUMMARY

Tamfelt, Inc.
NRC Inspection Report No. 99990002/2003003

An initial onsite inspection was conducted on December 27, 2002, at the offices of Daniel Kaidel in Chesapeake, Virginia. At the time of the inspection, the licensee possessed NRC License No. 45-25593-01 issued on July 12, 2002. During the inspection, it was determined that a representative of the licensee (Daniel Kaidel), an employee of Tamfelt, Inc., had been operating under Tamfelt's Washington State license in NRC jurisdiction prior to the issuance of the NRC license. As a result of the inspection of Daniel Kaidel, several telephone communications were held with the Tamfelt Radiation Safety Officer (RSO) under the Washington State license as well as with Tamfelt corporate staff to determine the facts. The inspection examined the circumstances and dates where the licensee failed to file for reciprocity with the NRC for use of licensed material in NRC jurisdiction. From discussions and reviews, the inspector determined that the licensee used licensed material in areas of exclusive federal jurisdiction without filing for reciprocity.

Attachments

List of Persons Contacted
Inspection Procedures Used
List of Acronyms

REPORT DETAILS

1. Background, Scope of Licensed Activities, & Management Oversight (87124 FE-1)

a. Scope:

The inspector interviewed the licensee's representative and evaluated the licensee's records to determine if the licensee safely conducted licensed activities in accordance with NRC requirements.

b. Background:

Interviews of cognizant licensee personnel and a review of records indicated that Tamfelt, Inc. of Canton, Massachusetts, held NRC License No. 20-18489-03 until its termination on June 28, 2001. Material previously licensed by the NRC was transferred to Tamfelt, Inc. who held Washington State License No. WN-10492-1 at the time of transfer. The Washington State license authorized the use of NDC Systems Model 104P portable gauging devices containing up to 150 millicuries (mCi) of Americium 241 (Am-241) in sealed sources for measurement of moisture content in press fabrics at temporary job sites in areas not under exclusive federal jurisdiction, throughout the State of Washington. Based on a review of records and discussions with the licensee, the inspector determined that on April 7, 2002, a representative of Tamfelt, Inc. completed radiation safety training from the gauge manufacturer at their facility in California. This individual then applied for a license from the NRC on April 18, 2002. The NRC issued License No. 45-25593-01 to Daniel Kaidel on July 12, 2002.

c. Observations and Findings:

Based on discussions and a review of records, the inspector determined that on or about March 21, 2002, Tamfelt, Inc. of Longview WA shipped an NDC Model 104PD gauge, serial number 1121 to a hotel in Asheville, NC. A Tamfelt, Inc. employee took possession of the gauge and used the gauge on that date at the Jackson Paper Mill in Sylva, NC. After using the gauge at the facility in NC, on March 22, 2002, this individual transported the gauge to his residence in Chesapeake, VA. Based on discussions with this individual, the inspector determined that he secured and stored the gauge in the garage of his residence. On May 21, 2002, this individual transported and used the gauge at the Georgia Pacific Big Island plant near Lynchburg, VA. Based on a review of records in the Region II office, the inspector determined that Tamfelt, Inc. of Longview, WA had not filed for reciprocity with the NRC for storage and use of licensed materials in Virginia. At that time, Mr. Kaidel did not have an NRC license. Virginia is not an Agreement State and is an area of exclusive federal jurisdiction. The failure to file for and receive reciprocity prior to receipt, possession and use of licensed material in a Non-Agreement State was identified as an apparent violation of 10 CFR 150.20. The receipt, possession, and use of licensed material within an area of NRC jurisdiction without a specific or general NRC license, was identified as an apparent violation of 10 CFR 30.3.

On or about September 26, 2002, the NRC licensee again transported the gauge to the Georgia Pacific Big Island plant near Lynchburg, VA. The licensee gave the gauge to an unlicensed and unqualified individual who worked for Tamfelt, Inc. who was based in Raleigh, NC. The individual who had transported the gauge then terminated his employment relationship with Tamfelt, Inc. on that date.

d. Conclusion:

The inspector identified apparent violations for (1) the possession and use of a portable gauge between March 22, 2002 and July 12, 2002, in areas of NRC jurisdiction without a specific or general NRC license as required by 10 CFR 30.3, and (2) the failure to file an NRC Form 241 to authorize work within NRC jurisdiction under State of Washington License No. WN-I0492-1, as required by 10 CFR 150.20.

EXIT MEETING SUMMARY

An exit meeting was held via telephone with the licensee's RSO on June 26, 2003. The overall findings from the inspection were discussed, including the apparent violations of NRC requirements. The licensee did not offer any dissenting comments during either discussion. The licensee did not specify any information reviewed during the inspection as proprietary in nature.

ATTACHMENT

1. PERSONS CONTACTED

Licensee

Jack Faling, RSO, Tamfelt, Inc. Longview, WA
Daniel, Kaidel, RSO, NRC License 45-25593-01, Chesapeake, VA
David Powers, Corporate Manager, Canton, MA
David Blaylock, Sales Manager, Tamfelt, Raleigh, NC

2. INSPECTION PROCEDURE USED

IP 87124 Fixed and Portable Gauges

3. LIST OF ACRONYMS USED IN THIS REPORT

| | |
|--------|-------------------------------|
| CFR | Code of Federal Regulations |
| Am-241 | Americium 241 |
| mCi | millicurie |
| NRC | Nuclear Regulatory Commission |
| RSO | Radiation Safety Officer |

NOTE: The following information is an updated excerpt from an NRC Information Notice (96-28) issued in 1996.

NRC INFORMATION NOTICE 96-28

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS
WASHINGTON, D.C. 20555

May 1, 1996

NRC INFORMATION NOTICE 96-28: SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION

Addressees

All material and fuel cycle licensees.

Purpose

The U.S. Nuclear Regulatory Commission (NRC) is issuing this information notice to provide addressees with guidance relating to development and implementation of corrective actions that should be considered after identification of violation(s) of NRC requirements. It is expected that recipients will review this information for applicability to their facilities and consider actions, as appropriate, to avoid similar problems. However, suggestions contained in this information notice are not new NRC requirements; therefore, no specific action nor written response is required.

Background

On June 30, 1995, NRC revised its Enforcement Policy (NUREG-1600)¹ 60 FR 34381, to clarify the enforcement program's focus by, in part, emphasizing the importance of identifying problems before events occur, and of taking prompt, comprehensive corrective action when problems are identified. Consistent with the revised Enforcement Policy, NRC encourages and expects identification and prompt, comprehensive correction of violations.

In many cases, licensees who identify and promptly correct non-recurring Severity Level IV violations, without NRC involvement, will not be subject to formal enforcement action. Such violations will be characterized as "non-cited" violations as provided in Section VI.A of the Enforcement Policy. Minor violations are not subject to formal enforcement action. Nevertheless, the root cause(s) of minor violations must be identified and appropriate corrective action must be taken to prevent recurrence.

If violations of more than a minor concern are identified by the NRC during an inspection, licensees will be subject to a Notice of Violation and may need to provide a written response, as required by 10 CFR 2.201, addressing the causes of the violations and corrective actions taken to prevent recurrence.

¹Copies of NUREG-1600 can be obtained by calling the contacts listed at the end of the Information Notice.

In some cases, such violations are documented on Form 591 (for materials licensees) which constitutes a notice of violation that requires corrective action but does not require a written response. If a significant violation is involved, a predecisional enforcement conference may be held to discuss those actions.

The quality of a licensee's root cause analysis and plans for corrective actions may affect the NRC's decision regarding both the need to hold a predecisional enforcement conference with the licensee and the level of sanction proposed or imposed.

Discussion

Comprehensive corrective action is required for all violations. In most cases, NRC does not propose imposition of a civil penalty where the licensee promptly identifies and comprehensively corrects violations. However, a Severity Level III violation will almost always result in a civil penalty if a licensee does not take prompt and comprehensive corrective actions to address the violation.

It is important for licensees, upon identification of a violation, to take the necessary corrective action to address the noncompliant condition and to prevent recurrence of the violation and the occurrence of similar violations. Prompt comprehensive action to improve safety is not only in the public interest, but is also in the interest of licensees and their employees. In addition, it will lessen the likelihood of receiving a civil penalty. Comprehensive corrective action cannot be developed without a full understanding of the root causes of the violation.

Therefore, to assist licensees, the NRC staff has prepared the following guidance, that may be used for developing and implementing corrective action. Corrective action should be appropriately comprehensive to not only prevent recurrence of the violation at issue, but also to prevent occurrence of similar violations. The guidance should help in focusing corrective actions broadly to the general area of concern rather than narrowly to the specific violations. The actions that need to be taken are dependent on the facts and circumstances of the particular case.

The corrective action process should involve the following three steps:

1. Conduct a complete and thorough review of the circumstances that led to the violation.
Typically, such reviews include:
 - Interviews with individuals who are either directly or indirectly involved in the violation, including management personnel and those responsible for training or procedure development/guidance. Particular attention should be paid to lines of communication between supervisors and workers.
 - Tours and observations of the area where the violation occurred, particularly when those reviewing the incident do not have day-to-day contact with the operation under review. During the tour, individuals should look for items that may have contributed to the violation as well as those items that may result in future violations. Reenactments (without use of radiation sources, if they were involved in the original incident) may be warranted to better understand what actually occurred.
 - Review of programs, procedures, audits, and records that relate directly or indirectly to the violation. The program should be reviewed to ensure that its overall objectives and requirements are clearly stated and implemented. Procedures should be reviewed to determine whether they are complete, logical, understandable, and meet their objectives (i.e., they should ensure compliance with the **current** requirements). Records should be

reviewed to determine whether there is sufficient documentation of necessary tasks to provide an auditable record and to determine whether similar violations have occurred previously. Particular attention should be paid to training and qualification records of individuals involved with the violation.

2. Identify the root cause of the violation.

Corrective action is not comprehensive unless it addresses the root cause(s) of the violation. It is essential, therefore, that the root cause(s) of a violation be identified so that appropriate action can be taken to prevent further noncompliance in this area, as well as other potentially affected areas. Violations typically have direct and indirect cause(s). As each cause is identified, ask what other factors could have contributed to the cause. When it is no longer possible to identify other contributing factors, the root causes probably have been identified. For example, the direct cause of a violation may be a failure to follow procedures; the indirect causes may be inadequate training, lack of attention to detail, and inadequate time to carry out an activity. These factors may have been caused by a lack of staff resources that, in turn, are indicative of lack of management support. Each of these factors must be addressed before corrective action is considered to be comprehensive.

3. Take prompt and comprehensive corrective action that will address the immediate concerns **and** prevent recurrence of the violation.

It is important to take immediate corrective action to address the specific findings of the violation. For example, if the violation was issued because radioactive material was found in an unrestricted area, **immediate** corrective action must be taken to place the material under licensee control in authorized locations. After the immediate safety concerns have been addressed, timely action must be taken to prevent future recurrence of the violation. Corrective action is sufficiently comprehensive when corrective action is broad enough to reasonably prevent recurrence of the specific violation as well as prevent similar violations.

In evaluating the root causes of a violation and developing effective corrective action, consider the following:

1. Has management been informed of the violation(s)?
2. Have the programmatic implications of the cited violation(s) and the potential presence of similar weaknesses in other program areas been considered in formulating corrective actions so that both areas are adequately addressed?
3. Have precursor events been considered and factored into the corrective actions?
4. In the event of loss of radioactive material, should security of radioactive material be enhanced?
5. Has your staff been adequately trained on the applicable requirements?
6. Should personnel be re-tested to determine whether re-training should be emphasized for a given area? Is testing adequate to ensure understanding of requirements and procedures?
7. Has your staff been notified of the violation and of the applicable corrective action?
8. Are audits sufficiently detailed and frequently performed? Should the frequency of periodic

audits be increased?

9. Is there a need for retaining an independent technical consultant to audit the area of concern or revise your procedures?
10. Are the procedures consistent with current NRC requirements, should they be clarified, or should new procedures be developed?
11. Is a system in place for keeping abreast of new or modified NRC requirements?
12. Does your staff appreciate the need to consider safety in approaching daily assignments?
13. Are resources adequate to perform, and maintain control over, the licensed activities? Has the radiation safety officer been provided sufficient time and resources to perform his or her oversight duties?
14. Have work hours affected the employees' ability to safely perform the job?
15. Should organizational changes be made (e.g., changing the reporting relationship of the radiation safety officer to provide increased independence)?
16. Are management and the radiation safety officer adequately involved in oversight and implementation of the licensed activities? Do supervisors adequately observe new employees and difficult, unique, or new operations?
17. Has management established a work environment that encourages employees to raise safety and compliance concerns?
18. Has management placed a premium on production over compliance and safety? Does management demonstrate a commitment to compliance and safety?
19. Has management communicated its expectations for safety and compliance?
20. Is there a published discipline policy for safety violations, and are employees aware of it? Is it being followed?

This information notice requires no specific action nor written response. If you have any questions about the information in this notice, please contact one of the technical contacts listed below.

Michael F. Weber, Director
Division of Fuel Cycle Safety and Safeguards
Office of Nuclear Material Safety
and Safeguards

Donald A. Cool, Director
Division of Industrial and Medical Nuclear Safety
Office of Nuclear Material Safety
and Safeguards

Technical contacts: (Updated as of September 30, 2002)

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