



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION II
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW, SUITE 23T85
ATLANTA, GEORGIA 30303-8931

July 8, 1999

EA 99-134

Triad Engineering, Inc.
ATTN: Mr. Dennis C. Chambers, P.E., Sr. V.P.
Corporate Radiation Safety Officer
P.O. Box 889
Morgantown, West Virginia 26505

SUBJECT: NOTICE OF VIOLATION
(NRC INSPECTION REPORT NO. 47-17742-01/99-01)

Dear Mr. Chambers:

This refers to the inspection conducted on May 11, 1999, at the Winchester, Virginia facility. The purpose of the inspection was to review the circumstances surrounding a portable moisture/density gauge that was stolen from a pick-up truck at a construction site located in Fairfax County, Springfield, Virginia. Triad Engineering, Inc. reported the missing licensed material to the NRC on April 29, 1999. The pick-up truck and the portable moisture/density gauge were found by local police on May 1, 1999. The results of the inspection were formally transmitted to you by letter dated June 2, 1999. That letter also provided you the opportunity to respond to the apparent violation or request a predecisional enforcement conference. By letter dated June 28, 1999, you responded to the apparent violation and addressed the root causes and your corrective actions to prevent recurrence. We have reviewed the inspection results and the additional information you provided and have concluded that sufficient information is available to determine the appropriate enforcement action in this matter.

Based on the information developed during the inspection and the information that was provided in your June 28, 1999, response, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the subject inspection report. The violation involves the failure to secure from unauthorized removal or limit access to licensed material, and the failure to control and maintain constant surveillance of licensed material stored in the bed of a pick-up truck at a temporary jobsite, as required by 10 CFR 20.1801 and 10 CFR 20.1802.

The portable moisture/density gauge, contained 7.3 millicuries of cesium 137 and 40 millicuries of americium 241 (Am-241). The 40 millicuries of Am-241 was greater than 1000 times the limit set forth in 10 CFR Part 20, Appendix C. Accordingly, the failure to secure, maintain constant surveillance and restrict access to this licensed material is of concern because members of the public or other personnel could have been exposed to radioactive materials. Therefore, this violation has been categorized in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600 at Severity Level III.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$2,250 is considered for a Severity Level III violation. Because your facility has not been the subject of escalated enforcement actions within the last two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section VI.B.2 of the Enforcement Policy. Your corrective actions included

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(1) immediately notifying the local police and the NRC Operations Center after the incident occurred, (2) publishing a notice to the public announcing the theft of the moisture/density gauge, (3) issuing a memorandum to your staff emphasizing that vehicle and gauge keys shall not be left unattended in the vehicles and shall be under constant surveillance of employees at all times, and (4) discussing the event and the circumstances relevant to the event to all company employees. Based on the above, the NRC determined that credit was warranted for corrective actions.

Therefore, to encourage prompt identification and comprehensive correction of violations and in recognition of the absence of previous escalated enforcement, I have been authorized not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III violation constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding the reasons for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the dates when full compliance was achieved are addressed on the docket in Inspection Report No. 47-11741-01/99-01 and in your June 28, 1999, letter. Therefore, you are not required to respond to this letter unless the description therein does not adequately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if any, will be placed in the NRC Public Document Room.

Sincerely,


fa Luis A. Reyes
Regional Administrator

Docket No. 030-13255
License No. 47-17742-01

Enclosure: Notice of Violation

cc w/encl:
Commonwealth of Virginia
State of West Virginia

NOTICE OF VIOLATION

Triad Engineering, Inc.
Morgantown, West Virginia

Docket No. 030-13255
License No. 47-17742-01
EA 99-134

During an NRC special inspection conducted on May 11, 1999, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10 CFR 20.1801 requires that licensees secure from unauthorized removal or access licensed materials that are stored in controlled or unrestricted areas. 10 CFR 20.1802 further requires that licensees control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage.

10 CFR 20.1003, defines the term "controlled area" as an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee for any reason. 10 CFR 20.1003, defines the term "unrestricted area" as an area, access to which is neither limited nor controlled by the license.

Contrary to the above, the licensee failed to secure from unauthorized removal or limit access to licensed material that was located in an unrestricted area. Specifically, on April 29, 1999, the licensee did not secure a portable moisture/density gauge containing 7.3 millicuries of cesium 137 and 40 millicuries of americium 241, in that, the gauge and gauge keys were stolen along with the pick-up truck as a result of the pick-up truck keys being left in the ignition of the unlocked and unattended vehicle. (01013)

This is a Severity Level III violation. (Supplement VI)

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket in Inspection Report No. 47-17742-01/99-01 and in Triad Engineering, Inc.'s June 28, 1999, letter. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you chose to respond, clearly mark your response as a "Reply to a Notice of Violation," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator, Region II, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Under the authority of Section 182 of the Act, 42 U.S.C. 2232, any response shall be submitted under oath or affirmation.

If you choose to respond, your response will be placed in the NRC Public Document Room (PDR). Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction.

Enclosure

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In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 8th day of July 1999
at Atlanta, Georgia

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