



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

July 20, 2005

Docket No. 03028905
EA No. 05-130

License No. 08-23557-01

Wasi Khan, Chief of QA/QC Division
District Department of Transportation
Government of the District of Columbia
2000 14th Street, N.W., 4th Floor
Washington, DC 20009

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 03028905/2005001

Dear Mr. Khan:

This refers to the inspection conducted on March 1, 2005 and April 20, 2005 at your facilities located in Washington, DC. This inspection was an examination of activities conducted under your license as they relate to safety and compliance with the Commission's rules and regulations and with the conditions of your license. Within these areas, the inspection consisted of selected examination of procedures and representative records, observations of activities, and interviews with personnel. During the inspection, it was found that one of your portable nuclear gauges containing NRC licensed radioactive material was missing. As a result, this inspection also included a review of your efforts to find the missing gauge and your subsequent corrective actions. The enclosed report presents the results of this inspection.

Based on the results of this inspection, it appears your activities were not conducted in full compliance with NRC requirements. Specifically,

1. You failed to secure licensed material from unauthorized removal or access as required by 10 CFR 20.1801 and 20.1802.
2. You failed to submit a complete and adequate written report concerning the missing licensed material within 30 days of identification as required by 10 CFR 20.2201(b).
3. You failed to conduct an adequate physical inventory every six months to account for all sealed sources and/or devices as required by Condition 16 of the license.
4. You failed to annually review the radiation protection program as required by 10 CFR 20.1101(c).
5. You failed to use the correct "UN" number on a gauge carrying case as required by 10 CFR 71.5(a) and 49 CFR 172.301.
6. You failed to lock gauges or their containers when in storage, as required by Condition 17 of your license.

7. You failed to test a sealed source that was in storage for more than 10 years for leakage, as required by Condition 14.C. of the license.

The circumstances surrounding the apparent violations, the significance of the loss of licensed material, and the need for lasting and effective corrective action were discussed with members of your staff at the inspection exit meeting on April 20, 2005. Since that meeting, you have provided additional information, including discussions of your corrective actions, in written documents, the last of which is dated May 16, 2005, and which are discussed in the enclosed inspection report.

The violation involving the failure to secure licensed material is being considered for escalated enforcement in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at www.nrc.gov; select **What we Do, Enforcement**, then **Enforcement Policy**. Before the NRC makes a final enforcement decision, we are providing you an opportunity to either (1) respond in writing, within 30 days of the date of this letter, to the apparent violations described in the inspection report (see discussion below), to the significance of the violations and to the amount of the civil penalty that would result from application of the Enforcement Policy, or (2) request a Predecisional Enforcement Conference (PEC). In making your decision, you should be aware that a revision to the NRC Enforcement Policy became effective on February 16, 2001 (Section VII.A.1.g) which states that cases involving the loss, abandonment, or improper transfer or disposal of a sealed source or device should normally result in a civil penalty.

If you decide to provide a written response, it should be clearly marked as a "Response to Apparent Violations in Inspection Report No. 03028905/2005001" 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.

If you decide to request a PEC, it will be held at the Region I office in King of Prussia, PA, will be open for public observation and the NRC will issue a press release to announce the Conference. The decision to offer a PEC does not mean that the NRC has determined that violations have occurred or that enforcement action will be taken. The conference will be held to achieve a common understanding of the facts in the case, obtain appropriate information so that we can determine whether violations occurred, to determine the significance of any violations which did occur, to understand how the violations were identified, and to understand any corrective actions taken or planned by the Government of the District of Columbia. The conference will provide the opportunity for you to provide your perspective on these matters, including any errors in the inspection report, and any other information that you believe the NRC should take into consideration in making an enforcement decision.

In presenting your corrective actions, whether in writing or at a PEC, 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

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IMPLEMENTATION OF CORRECTIVE ACTION," may be helpful. A written response should be submitted under oath or affirmation and may reference or include previous docketed correspondence, if the correspondence adequately addresses the required information.

You must contact Mr. John D. Kinneman at (610) 337-5252 within 10 days of the date of this letter to notify the NRC of your decision to either provide a written response or participate in a PEC. If you do not request a PEC and do not provide a written response within the time specified above, we will make an enforcement decision based on the available information.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, 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 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). 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. Since the enclosed report contains information concerning your inventories of radioactive material and the location of your storage areas, it will not be available for public inspection.

Thank you for your cooperation.

Sincerely,

Original signed by George Pangburn

George Pangburn, Director
Division of Nuclear Materials Safety

Docket No. 030-28905
License No. 08-23557-01

Enclosures:

1. Inspection Report (Non-Public in ADAMS)
2. Excerpt from NRC Information Notice 96-28

cc:

Lawrence Chung, Radiation Safety Officer

W. Khan
Government of the District of Columbia

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