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August 24, 2005

U.S. Nuclear Regulatory Commission
Attn: Document Control Desk
Washington, D.C. 20555

RE: **REPLY TO NOTICE OF VIOLATION**
INSPECTION 03036681/2005001
LICENSE NO. 45-30965-01

Sir:

This letter contains the response to the violation identified during the NRC inspection performed on July 15, 2005 by Jenny Johansen. In a summary statement, I do not contest any of the violations as listed and state that all the issues in violation were scheduled for completion; however, were overlooked as attention was focused elsewhere during the hectic pace of a developing company. When these issues of violation were discovered and discussed in the recent inspection, steps were immediately taken to insure compliance with the Code of Federal Regulations. As such, these violations should never occur again by performing mandatory in-house audits on a monthly basis as company policy with this Notice clearly posted as a reminder to avoid further violations.

The violations noted are listed below in there entirety with corrective steps that have been taken and results achieved. In addition, the response contains dates when full compliance was achieved.

A. 10 CFR 30.34 (i) requires that each portable gauge licensees shall use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

   Contrary to the above, as of July 15, 2005, a second independent physical control that forms a tangible barrier to secure the licensee's portable gauge from unauthorized removal was not present and the gauge was not under the control and constant surveillance of the licensee.

   Compliance Action Taken: Immediately, the gauge was chained and locked in a fixed position in the storage trailer per license to meet the requirement of a second independent physical control. The chain passes through both side handles of the gauge box. This action was completed on July 15, 2005.

B. 10 CFR 71.5(a) requires that a licensee who transports licensed material outside of the site of usage, as specified in the NRC license, or where transport is on public highways, or who delivers licensed material to a carrier for transport, comply with the applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation (DOT) in 49 CFR Parts 170 through 189.

   1. 49 CFR 172.202(a) and (b) require in part, with exceptions not applicable here, that the shipping description of a hazardous material on the shipping paper include, in the

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following sequence: (1) the proper shipping name prescribed for the material in 172.101 (2) the hazard class prescribed for the material as shown in Column 3 of the 172.101 Table, and (3) the identification number prescribed for the material as shown in Column 4 of the 172.101 Table. Pursuant to 49 CRF 172.101, radioactive material is classified as hazardous material.

Contrary to the above, between October 28, 2004 and April 30, 2005, the licensee transported licensed material on public highways in Virginia and a shipping paper was not included with the shipment.

Compliance Action Taken: A Bill of Lading was developed in accordance with 49CFR 172.202 (a) and (b) immediately. Further, Emergency Response Information was laminated to the backside of the Bill of Lading. The laminations are fixed in the cab of designated vehicles within reach of the driver location. The Bill of Lading and Emergency Response Information is also contained in the front of the instrument booklet kept in the gauge box for use in the event the gauge is transported in other vehicles. It was made company policy that the gauge never be transported without the Bill of Lading present in reach of the driver. This action was completed on July 18, 2005.

2. 49 CRF 172.403 requires, in part, with exceptions not applicable here, that each package of radioactive material be labeled, as appropriate with two RADIOACTIVE WHITE-I, RADIOACTIVE YELLOW-II, or RADIOACTIVE YELLOW-III labels on opposite sides of the package. The contents, activity, and transportation index must be entered in the blank spaces on the label using a legible and durable, weather resistant means. The contents entered on the label must include the name of abbreviation (e.g., ^{99}Mo) of the radionuclides as taken from the listing in 49 CFR 173.435, or for mixtures of radionuclides, those nuclides determined in accordance with provisions of 49 CFR 173.433(f), with consideration of space available on the label. The activity must be expressed in terms of the appropriate SI units (e.g. Becquerel, Terabecquerel etc...), or in terms of appropriate SI units followed by customary units (e.g., curies, millicuries, or microcuries).

   Contrary to the above, from October 28, 2004 until July 15, 2005, there were no Yellow II labels on a carrying case used to transport a Troxler Model 3411B, Serial No.13043 containing 8 mCi of cesium-137 and 40 mCi of americium-241 on the public highways in Virginia.

   Compliance Action Taken: Yellow II labels were immediately order from InstroTek. Once received, information of contents and activity required were entered on the labels and the labels were attached to the gauge box accordingly. An inspection will be made each time the gauge is removed from storage for compliance. It was made company policy that the gauge will not be transported without proper labels in accordance with 49 CFR 172.403. This action was completed by July 18, 2005.

3. 49 CFR 172.702 requires that each Hazmat employer shall ensure that each Hazmat employee is trained and tested, and that no Hazmat employee performs any function subject to the requirements of 49 CFR 171-77 unless trained, in accordance with Subpart H of 49 CFR Part 172. The terms Hazmat Employer and Hazmat Employee are defined in 49 CFR 171.8. 49 CFR 172.704(c) (2) states that a Hazmat employee shall receive the training required by this subpart a least once every three years.

Contrary to the above, as of July 15, 2005, the licensee, a Hazmat employer, did not ensure that its Hazmat employee, who performed functions subject to the requirements of 49 CFR Parts 171-177 during the years 2004-2005, had received the required training at least once every three years. Specifically, the last raining was received in 2000.

Compliance Action Taken: HAZMAT training was immediately scheduled and received by the employee as stated. A HAZMAT Certificate is on file for all employees that perform functions subject to the requirements of 49 CFR Parts 171-177. This action was completed on July 19, 2005.

C. Condition 14 of License No. 45-30965-01 requires, in part, that sealed sources containing licensed material be tested for leakage and/or contamination at intervals not to exceed six months.

Contrary to the above, as of July 15, 2005, sealed sources containing approximately 8 millicuries of Cesium-137 and 40 millicuries of Americium-241 in a Troxler Model 3411B, Serial No. 13043, gauge device were not tested for leakage and/or contamination at intervals not to exceed six months. Specifically, the gauge was used during the periods of October 2004, March and April 2005 and the leak tests required by April 30, 2005 were not performed, as required.

Compliance Action Taken: Leak testing was performed as instructed by Troxler and analyzed by InstroTek. Results of analyses are as follows:

Source	Reading (mCi)
47 8353	0.000000
50 1421	0.000171

Results indicate that leakage of each source is less than 0.005 mCi; therefore, the sources may remain in service. A Leak Test Certificate is on file for inspection. This action was completed on July 18, 2005 with analyses completed on August 3, 2005.

We trust that our expedient response to these violations will prove favorable with regard to further enforcement action upon review.

Mark A. Viola, P.E.
President and Owner

cc: Regional Administrator
US Nuclear Regulatory Commission
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