

June 27, 2006

Joseph A. Wolfe
Radiation Safety Officer
Baker Inspection Group LLC
413 Applegrove Street NW
North Canton, OH 44720

SUBJECT: NRC INSPECTION REPORT NO. 030-37029/06-002(DNMS) AND NOTICE OF VIOLATION

Dear: Mr. Wolfe:

This refers to the inspection conducted on April 11, 2006, at the Bayer Polymers facility located on State Route 2 in New Martinsville, West Virginia, with continued NRC in-office review through June 2, 2006. The NRC in-office review included receipt and review of a number of records faxed to our Region I office following the New Martinsville, West Virginia inspection. The enclosed report presents the results of this inspection.

The inspection was an examination of activities conducted under your NRC license as they relate to safety and compliance with the Commission's rules and regulations. Within these areas, the inspection consisted of selected examination of procedures and representative records, observations of activities, and interviews with personnel.

Based on the results of this inspection, the NRC has determined that a Severity Level IV violation of NRC requirements occurred. The violation involved storage of radioactive material at a site in West Virginia, a non-Agreement State for a period of 264 days, which is greater than the 180 days authorized by the general license in 10 CFR 150.20(b)(4). The violation was evaluated 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**. 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 NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and to prevent recurrence is already adequately addressed on the docket in the enclosed report. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you chose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 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 available electronically for

J. Wolfe

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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>.

Sincerely,

/RA/

John R. Madera, Chief
Materials Inspection Branch

Docket No. 030-37029
License No. 34-32570-01

Enclosures:

- 1. Notice of Violation
- 2. Inspection Report 030-37029/06-002(DNMS)

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NOTICE OF VIOLATION

Baker Inspection Group LLC
North Canton, OH

Docket No. 030-37029
License No. 34-32570-01

During an NRC inspection conducted between April 11 and June 2, 2006, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 150.20(a) provides, in part, that any person who holds a specific license from an Agreement State is granted an NRC general license to conduct the same activity in non-Agreement States, provided that the provisions of 10 CFR 150.20(b) have been met.

10 CFR 150.20(b)(4) requires that the licensee not, under the general license granted by 10 CFR 150.20(a), possess or use radioactive materials, or engage in the activities authorized by the general license for more than 180 days in any calendar year.

Contrary to the above, from January 1, 2005 through December 6, 2005, Baker Inspection Group, LLC, possessed radioactive materials in West Virginia, a non-Agreement State, for 264 days.

This is a Severity Level IV 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 030-37029/06-002(DNMS). However, you are required to submit a written statement or explanation pursuant to 10 CFR Part 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose 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, DC 20555 with a copy to the Regional Administrator, Region III, 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, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, any response which contests an enforcement action shall be submitted under oath or affirmation.

If you choose to respond, your response 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>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

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

Dated this 27th day of June 2006

U.S. NUCLEAR REGULATORY COMMISSION

REGION III

Docket Nos.: 03037029, 15000034

License Nos.: 34-32570-01, OH-03320770014

Report Nos. 030-37029/06-001(DNMS), 150-00034/06-002(DNMS)

Licensee: Baker Inspection Group, LLC

Address: 413 Applegrove Street NW
North Canton, Ohio 44720

Location Inspected: Bayer Polymers
State Route 2
New Martinsville, West Virginia

Inspection Dates: April 11, 2006 through June 2, 2006

Inspectors: Michael Reichard, Health Physicist, Region I
Richard Ladun, Health Physicist, Region 1

Approved By: John R. Madera, Chief
Materials Inspection Branch

EXECUTIVE SUMMARY

**Baker Inspection Group, LLC
North Canton, Ohio
NRC Inspection Report No. 03037029/06-002**

This was an unannounced inspection of licensed activities of Baker Inspection Group, LLC at the licensee's New Martinsville, West Virginia location. Industrial radiography was not being performed at the time of the inspection.

Baker Inspection Group, LLC is authorized to perform industrial radiography in Ohio under License OH-03320770014. Baker Inspection Group filed for reciprocity under 10 CFR 150.20, so that they could perform industrial radiography work at Bayer Polymer's New Martinsville, West Virginia facility. Region III granted the request on November 11, 2004 and again in January of 2005. The NRC granted Baker Inspection Group, LLC NRC License No. 34-32570-01 on December 6, 2005. Therefore, this inspection covered licensed and reciprocity operations.

The licensee stored licensed radioactive material at the New Martinsville location for 264 days during 2005 prior to receiving NRC License No. 34-32570-01 on December 6, 2005. This is an apparent violation of the 10 CFR 150.20, which requires, in part, that the licensee not possess or use radioactive material, or engage in activities authorized in 10 CFR 150.20(a) for more than 180 days in any calendar year. Licensed material was used on 135 days at the New Martinsville, West Virginia location in 2005 prior to December 6, 2005.

The root cause of the violation was the Radiation Safety Officer's misunderstanding of the reciprocity requirement in 10 CFR 150.20(a). The Radiation Safety Officer stated that he thought that the number of days of use was to be kept under 180 days, instead of days of storage or use.

The licensee's corrective action was to apply for an NRC license. The licensee currently has NRC License No. 34-32570-01 and no longer needs to work under reciprocity; therefore, this violation is unlikely to recur.

Report Details

1 Organization and Scope of the Program

1.1 Inspection Scope

The inspectors discussed the organizational structure and program scope of Baker Inspection Group with the RSO.

1.2 Observations and Findings

The inspectors found the organizational structure to be as described in the application dated May 11, 2005.

The license authorizes Baker Inspection Group to perform industrial radiography work at temporary job sites in NRC jurisdiction. The licensee has only performed radiological work at the Bayer's New Martinsville, West Virginia facility and in Ohio under Ohio License OH-03320770014.

1.3 Conclusions

No violations or safety concerns were identified.

2 Management Oversight of the Program

2.1 Inspection Scope

The inspectors interviewed the Radiation Safety Officer regarding his knowledge of the radiation safety program and regulatory requirements.

2.2 Observations and Findings

The RSO is directly involved in the radiation safety program. The RSO appears to have a firm grasp on NRC rules and regulations, with the exception of the reciprocity requirements.

2.3 Conclusions

No violations or safety concerns were identified.

3 Reciprocity

3.1 Inspection Scope

The inspectors reviewed storage and use records for the New Martinsville, West Virginia location.

3.2 Observations and Findings

Baker Inspection Group, LLC currently is authorized by NRC License No. 34-32570-01 to use byproduct material for industrial radiography at Bayer Polymer's New Martinsville, West Virginia facility and temporary job sites anywhere in the United States where the U.S. Nuclear Regulatory Commission maintains jurisdiction for regulating the use of licensed material. Baker Inspection Group maintains a corporate headquarters in North Canton, Ohio, and periodically transfers licensed materials between their Ohio and West Virginia locations.

Title 10 CFR 150.20(a) provides, in part, that any person who holds a specific license from an Agreement State is granted an NRC general license to conduct the same activity in non-Agreement States, provided that the provisions of 10 CFR 150.20(b) have been met. Title 10 CFR 150.20(b)(4) requires that the licensee not, under the general license granted by 10 CFR 150.20(a), possess or use radioactive materials, or engage in the activities authorized by the general license for more than 180 days in any calendar year. The licensee conducted radiography under reciprocity at the New Martinsville, West Virginia facility from November 11, 2004, until they received their NRC license on December 6, 2005. The exact dates of storage and use during 2005 were not immediately obtainable during the inspection as some records were located at the licensee's facility in Ohio. On April 13, 2006, the licensee faxed the complete records to the inspectors. The records indicate that radioactive material was stored in New Martinsville, West Virginia, a non-Agreement State, for 264 days and used on 135 days in 2005 prior to December 6, 2005. The inspectors identified a violation of 10 CFR 150.20(b)(4) involving the licensee's possession of radioactive materials in West Virginia, a non-Agreement State, for 264 days.

The RSO indicated that he thought that he had asked someone at the NRC Region I office about whether the 180 days, referred to in the reciprocity agreement, regarded days of use or days of storage. The RSO stated he thought the answer that he had received was that the days of use were limited to 180 days. The inspectors agreed to ask relevant NRC staff members about the possible discussion. The RSO stated that he would search through his emails and notes to try and determine the name of the Region I staff member. The inspectors attempted to determine the licensee's NRC contact, but were unsuccessful. As of June 2, 2006, the RSO was unable to provide additional information about this contact.

The licensee implemented corrective action to the violation by applying for an NRC license on May 11, 2005. On December 6, 2005, NRC issued License No. 34-32570-01, authorizing Baker Inspection, LLC, to conduct radiographic operations at temporary job sites anywhere the NRC has regulatory jurisdiction.

3.3 Conclusions

One violation was identified involving the licensee's storage of licensed material in NRC jurisdiction, a non-Agreement State, for greater than 180 days during calendar year 2005. The licensee implemented appropriate corrective action that included obtaining an NRC license to conduct radiographic operations in West Virginia.

4 Facilities and Equipment

4.1 Inspection Scope

The inspectors toured the New Martinsville facility and interviewed the RSO regarding the facilities and equipment.

4.2 Observations and Findings

As of the time of the inspection, all work in NRC jurisdiction had been performed at the Bayer facility in New Martinsville, West Virginia, though the licensee is authorized to use licensed material at temporary job sites. The radiography truck is stored in a dedicated concrete building. License material use takes place in the dedicated building or immediately outside for items too large to be taken inside this building. The building is divided between a garage area, where the radiography truck is stored, and an office area. The office area is separated from the garage area by a concrete wall.

The licensee possessed two dosimeters, two alarming rate meters, and two survey instruments. All were in calibration and in good working order.

4.3 Conclusions

No violations or safety concerns were identified.

5 Material Receipt, Use, Transfer, and Control

5.1 Inspection Scope

The inspectors interviewed the RSO regarding material receipt, use, transfer, and control and reviewed applicable records.

Industrial radiography work was not being performed at the time of the inspection.

5.2 Observations and Findings

The Bayer facility has 24-hour security maintaining control over all entrances. Access to the radiography truck is limited to authorized users through a system of keys and locks on the building and radiography truck.

Use logs were clear and complete.

5.3 Conclusions

No violations or safety concerns were identified.

6 Training of Workers

6.1 Inspection Scope

The inspectors reviewed the training records of the three radiographers and one assistant radiographer.

6.2 Observations and Findings

The training records, including industrial radiography certification cards, demonstrated that the required training had been performed.

6.3 Conclusions

No violations or safety concerns were identified.

7 Radiation Surveys

7.1 Inspection Scope

The inspectors reviewed the survey records.

7.2 Observations and Findings

The survey records were complete and indicated that all radiation levels were within acceptable limits.

7.3 Conclusions

No violations or safety concerns were identified.

8 Radiation Protection

8.1 Inspection Scope

The inspectors reviewed the dosimetry records.

8.2 Observations and Findings

The records demonstrated that radiation exposures to the authorized users were within regulatory limits.

8.3 Conclusions

No violations or safety concerns were identified.

9 Radioactive Waste Management

9.1 Inspection Scope

The inspectors interviewed the RSO regarding transfer for disposal of licensed material.

9.2 Observations and Findings

No licensed material had been transferred for disposal at the time of the inspection.

9.3 Conclusions

No violations or safety concerns were identified.

10 Posting and Labeling

10.1 Inspection Scope

The inspectors observed required postings and labeling during a tour of the facility.

10.2 Observations and Findings

A tour of the storage location and radiography truck by the inspectors determined that all required postings and labeling were present.

10.3 Conclusions

No violations or safety concerns were identified.

11 Transportation

11.1 Inspection Scope

The inspectors reviewed the transportation logs and shipping papers.

11.2 Observations and Findings

The inspectors found the transportation logs and shipping papers to meet NRC regulatory requirements and license conditions.

11.3 Conclusions

No violations or safety concerns were identified.

12 Records

12.1 Inspection Scope

The inspectors reviewed records including leak test records, inventory records, dosimetry records, annual review records, training records, calibration records, survey records, and use logs.

12.2 Observations and Findings

The records were current, neat, easily retrievable and complete.

12.3 Conclusions

No violations or safety concerns were identified.

13 Exit Meeting

The inspectors performed a telephone exit meeting with the Radiation Safety Officer on June 2, 2006. The inspector reviewed the inspection and discussed the apparent violation. The inspector reminded the Radiation Safety Officer that this was an assist inspection for the NRC's Region III office; therefore, any enforcement action would come from Region III. The licensee's staff did not identify any information reviewed during the inspection as proprietary in nature.

PARTIAL LIST OF PERSONS CONTACTED

Licensee

Joseph A. Wolfe, Radiation Safety Officer