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Facsimile transmittal

To: NRC **Fax:** 630-515-1078

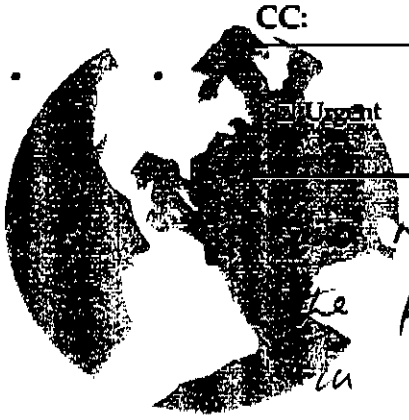
Attn: Steven A. Reynolds

From: Oge Udegbunam **Date:** 12/4/07 **Pages:** 5

RE: NRC Inspection Report 030-36599/2007-001 (DNMS)

CC:

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply X For Your Action



response is being faxed to expedite the process. The original copy is in the mail.

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December 3, 2007

Steven A. Reynolds, Director
Division of Nuclear Material Safety
U S Nuclear Regulatory Commission, Region III
2443 Warrenville Road, Suite 210
Lisle, IL 60532-4352

SUBJECT: RESPONSE TO AN APPARENT VIOLATION IN ISPECTION REPORT No. 030-36599/2007-001; EA -007-276

Dear Mr. Reynolds

This is our response to your letter of November 9, 2007 regarding the apparent violation of 10 CFR 30.34(i) as documented in the letter and the referenced inspection report.

The inspection was necessitated by our telephone report to NRC on September 18, 2007, that a portable nuclear density gauge was stolen from one of our company trucks that was left unattended between September 15 and 18, 2007. The stolen gauge was a Troxler portable gauge model 3440, with 8 millicuries of cesium-137 and 40 millicuries of americium-241: beryllium. During the inspection, it was established that this gauge was not secured with a minimum of two independent physical controls that form tangible barriers, in violation of the requirements of 10 CFR 30.34(i). The following is our response to this apparent violation.

1. The reason for the apparent violation.
Leaving the gauge on an unattended company truck, and not secured to the truck with at least two independent physical controls that form tangible barriers during this period, indeed constitute an apparent violation of 10 CFR 30.34(i).

It was also a complete violation of our company policy which requires all the technicians to return the gauge to a locked non portable storage cabinet in a secure storage area in the basement of our office building.
This apparent violation, therefore, resulted from a technician's error, who failed to comply with an established company policy that is in compliance with all NRC rules.

2. Corrective steps that have been taken and the result achieved.
In order to determine why and how this happened, and how to prevent it from happening again; we conducted a thorough investigation of the circumstances surrounding the loss

of the gauge, and the inspector involved, in accordance with NRC Information Notice 96-28.
Based on our findings, which are documented on our October 17, 2007 letter: Notification 43648, and NRC Inspection Report 030-36599/2007-001, we took the following actions:

I. The inspector involved was immediately reassigned to other duties, and was barred from handling these portable gauges until he can demonstrate the diligence and competency to comply with all NRC and company policies regarding the transport and storage of such portable gauges.

II. Effective the date of reporting the loss of the gauge, we no longer transport portable gauges in open bed pick-up trucks. Currently the gauges are only transported in trucks with locked bed caps, with the transport case secured with a locked chain attached to the vehicle in a manner such that the box cannot be opened without the removal of the chain.

The result achieved with these changes is that in the usual event that the technician forgets to return the gauge to its permanent storage location as required, the unintended vehicle storage would still meet the 10 CFR 30.34(i) requirements.

3. Corrective Steps that Will Be Taken to Avoid Further Violations.
At the end of the 2007 construction season, winter 2007/2008, all the portable gauges will be returned to the permanent storage location in our company facility. During this period we will undertake a comprehensive review of our portable gauge use, handling and storage practices. The purpose of this audit is to identify potential loop holes or deficiencies in the program, with respect to meeting all NRC requirements. From the findings of this audit, a management oversight process will be developed and documented. The purpose of this management oversight is to increase the quality control/quality assurance effort in our program, to verify that everyone involved in the process; including technicians, RSO and the management staff are working in a manner that ensures complete compliance of NRC requirements at all levels.

As noted in our October 17, 2007 letter (Notification No. 43648) Tyme Engineering is considering the installation of the use of a mounted transportation box, bolted to the truck bed, for our open bed pick-up trucks that are used in transporting portable gauges. Such a box is manufactured by Troxler Laboratories, Inc. and provides one of the needed independent barriers, as well as meeting blocking and bracing requirements.

4. The Date When Full Compliance Will Be Achieved.
As was indicated in section 4 of the referenced report of inspection findings, there were no apparent violations of any NRC requirements for the other portable gauge units observed by the NRC inspector. We are, therefore, already in compliance, except for the stolen gauge. The audit referenced earlier is already in progress and will be completed and implemented before the beginning of the 2008 construction season. (April 15, 2008)

5. Enforcement Action.
It is understood that NRC is considering the imposition of a civil penalty against Tyme Engineering, Inc. involving some monetary fine that considers the cost of authorized disposal. Troxler Laboratory, Inc. has informed us that the cost of disposal of the lost gauge is $495.00.

We also request that consideration be given to the circumstances surrounding this apparent violation. It is against our company policy to store a gauge in a truck under any circumstances. All gauges are always returned to a heavy duty locked non portable cabinet inside a secured storage area of our building. This violation occurred because of a technician's error, which also violated the company's standard practice for proper storage of portable gauges.

If you have any questions, or need additional information from us, please contact me at 734-522-0300.

Very truly yours,
TYME ENGINEERING, INC.

Oge Udegbunam, P.E., Ph.D.
President

cc A. Rudder, RSO
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