

February 3, 2010

United States
Department of
Agriculture

Office of the
Assistant Secretary
For Administration

Office of
Homeland Security
and Emergency
Coordination

Radiation
Safety Division
5601 Sunnyside
Avenue
Room 2L205
MS 5510
Beltsville, MD
20705

Ms. Judith Joustra
U.S. Nuclear Regulatory Commission
Region I
475 Allendale Road
King of Prussia, Pennsylvania 19406-1415

License No. 19-00915-03

Docket No. 030-04530

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Reply to a Notice of Violation

Dear Ms. Joustra:

This is in response to your letter dated January 5, 2010, and the enclosed Notice of Violation. The USDA does not contest the violations. Radioactive sealed sources containing millcurie quantities of cesium-137 and americium-241 in a portable moisture density gauge were transferred to a researcher at West Virginia University (WVU) without the prior approval of the USDA Radiation Safety Division (RSD.) In addition, the USDA did not verify that WVU was licensed to use the gauges prior to the transfer.

The violations were caused by the lack of understanding by USDA Forest Service field office personnel of the requirement for specific authorization from the RSD prior to any transfer of radioactive materials. Although the Forest Service field personnel verified that the WVU employee to whom the gauge was transferred had received appropriate radiation safety training, they did not follow RSD policy requiring specific written authorization from RSD prior to transferring the gauge. The gauge was transferred to a researcher at WVU without RSD knowledge and therefore RSD could not verify that the University was licensed to possess the gauges. The RSD subsequently determined that WVU is licensed to possess the gauge, however, the specific researcher that received the gauge had not been approved to use radioactive materials by the WVU radiation safety office.

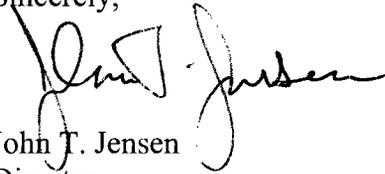
Immediately following the inspection, the Forest Service field location manager notified employees at the location that the gauges could not be transferred without management approval. Full compliance was immediately achieved and there were no additional, unauthorized transfers. The location manager had previously determined that the gauges were no longer needed for their research activities. RSD coordinated the return of all the gauges to the manufacturer prior to December 31, 2009.

NMSS/RGNI MATERIALS-004

To avoid further violations, RSD will 1) provide written instruction to each Radiation Use Permit holder on the requirements for transfers of radioactive materials, 2) revise audit procedures to improve review of this requirement during the 2010 annual radiation safety program audit, 3) review compliance with this requirement during future RSD radiation safety inspections at all locations, and 4) emphasize this requirement during refresher radiation safety training programs.

The USDA is committed to an effective radiation safety program; we feel these actions will improve radiation safety and program compliance throughout USDA. If you have any questions or need additional information, please contact me on 301-504-2441.

Sincerely,

A handwritten signature in black ink, appearing to read "John T. Jensen". The signature is written in a cursive style with a large initial "J".

John T. Jensen
Director