

March 2, 2010

EA-10-026

Mr. Mike Geisel, P.E.
Director of Planning and Public Works
City of Chesterfield
690 Chesterfield Parkway West
Chesterfield, MO 63017

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 03031272/2010-001(DNMS) –
CITY OF CHESTERFIELD

Dear Mr. Geisel:

On February 5, 2010, a U.S. Nuclear Regulatory Commission (NRC) inspector conducted an inspection at your facility in Chesterfield, Missouri. The purpose of the inspection was to examine activities conducted under your license as they relate to safety and compliance with the Commission's rules and regulations and with the conditions in your license. Within these areas, the inspection consisted of a selected examination of procedures and representative records, observations of activities, and interviews with personnel.

Based on the results of this inspection, one apparent violation was identified and is being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at (<http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>). The apparent violation concerned a failure to use a minimum of two independent physical controls that form tangible barriers to secure a portable gauge, when the gauge was not under the control and constant surveillance of the licensee. The circumstances surrounding the apparent violation, the significance of the issues, and the need for lasting and effective corrective action were discussed with you and members of your staff at the inspection exit meeting on February 5, 2010.

On February 11, 2010, Susan Mueller of your staff provided the inspector with documentation of your corrective actions indicating that: (1) the cables and locks had been acquired so that the gauges could be secured properly in vehicles while the vehicles are unattended; and (2) all gauge users had attended a training session and understood how to properly secure gauges in vehicles using the cables and locks. As a result, it may not be necessary to conduct a predecisional enforcement conference or provide an additional written response in order to enable the NRC to make an enforcement decision.

In addition, since your facility has not been the subject of escalated enforcement actions within the last two inspections, and based on our understanding of your corrective action, a civil penalty may not be warranted in accordance with Section VI.C.2 of the Enforcement Policy. The final decision will be based on the NRC's understanding of your corrective actions as documented in this letter and the enclosed inspection report unless you choose to provide additional information.

Therefore, you are not required to respond to this letter before the NRC makes its enforcement decision unless your understanding differs from the information presented in this letter and the enclosed inspection report. If you disagree with this information, you will be provided the opportunity to either: (1) respond to the apparent violation addressed in this inspection report within 30 days of the date of this letter; or (2) request a predecisional enforcement conference. If a conference is held, it will be open for public observation. The NRC will also issue a press release to announce the conference. Please contact Tamara Bloomer at 630-829-9627 within seven days of the date of this letter to notify the NRC whether you intend to respond, and, if so, how you intend to respond.

If you choose to provide a written response, it should be clearly marked as a "Response to An Apparent Violation in Inspection Report No. 03031272/2010-001(DNMS); EA-10-026" and should include for the 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. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful. You can find the information notice on the NRC website at <http://www.nrc.gov/reading-rm/doc-collections/gen-comm/info-notices/1996/in96028.html>. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. If you choose not to respond, the NRC will proceed with its final enforcement decision.

In addition, please be advised that the number and characterization of apparent violations described in the enclosed inspection report may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, 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 NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. 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.

M. Geisel

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If you have any questions concerning this matter, please contact Tamara Bloomer of my staff at (630) 829-9627.

Sincerely,

/RA/

Steven A. Reynolds, Director
Division of Nuclear Materials Safety

Docket No. 030-31272
License No. 24-23426-01

Enclosure:
Inspection Report No. 03031272/2010-001(DNMS)

cc: Susan S. Mueller, RSO
State of Missouri

M. Geisel

-3-

If you have any questions concerning this matter, please contact Tamara Bloomer of my staff at (630) 829-9627.

Sincerely,

/RA/

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cc: Susan S. Mueller, RSO
State of Missouri

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Letter to Mike Geisel, P.E., from Steve A. Reynolds, dated March 02, 2010.

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 03031272/2010-001(DNMS) –
CITY OF CHESTERFIELD

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U.S. NUCLEAR REGULATORY COMMISSION

REGION III

Docket No. 030-31272

License No. 24-23426-01

Report No.: 03031272/2010-001(DNMS)

EA No.: EA-10-026

Licensee: City of Chesterfield

Location: 690 Chesterfield Parkway West,
Chesterfield, Missouri

Date: February 5, 2010

Exit Meeting: February 5, 2010

Inspector: Geoffrey M. Warren, Health Physicist

Approved by: Tamara E. Bloomer, Chief
Materials Inspection Branch

Enclosure

EXECUTIVE SUMMARY

City of Chesterfield Chesterfield, Missouri NRC Inspection Report 03031272/2010-001(DNMS)

This was a routine inspection conducted on February 5, 2010, to review the activities conducted under the license as they relate to safety and compliance with the Commission's rules and regulations and with conditions in the license. No violations were cited as a result of previous inspections of the licensee conducted in April 1999 and September 2004.

The inspector identified an apparent violation of Title 10 Code of Federal Regulations (CFR) Part 30.34(i) associated with the licensee's failure to use a minimum of two independent physical controls that form tangible barriers to secure a portable gauge whenever the portable gauge was not under the control and constant surveillance of the licensee. This involved the use of only one barrier to prevent removal of a gauge while in storage in a vehicle at temporary job sites in Chesterfield, Missouri. While the gauge was braced in the back of a closed-bed truck, and the bed cap was locked, the gauge was not further secured in the back of the truck, and the gauge user did not maintain constant surveillance of the truck or gauge.

The inspector determined that the root cause for the apparent violation was that licensee personnel misunderstood the requirements in 10 CFR 30.34(i), believing that the lock on the gauge case constituted a barrier to removal of the gauge. Because of this, the licensee believed that the gauges were adequately secured in vehicles. However, the lock on the case would not prevent removal of the gauge in its case.

As corrective action, the Radiation Safety Officer (RSO) committed to: (1) providing chains and locks so that the gauge case could be secured to the inside of the truck bed inside the locked bed cap; and (2) training all gauge users on the requirement to use the chain in addition to the locked bed cap to secure the gauge in its locked case whenever the truck was not under direct supervision by a gauge user. On February 11, 2010, the RSO notified the inspector in writing that both actions had been completed.

Report Details

1 Program Scope and Inspection History

The City of Chesterfield (licensee) used portable gauges to evaluate physical properties at road and construction sites in Chesterfield, Missouri. The licensee was authorized by NRC License No. 24-23426-01 to possess and use portable gauges at temporary job sites anywhere in the United States where the NRC maintains regulatory jurisdiction. At the time of the inspection, the licensee possessed two CPN Model MC gauges at the licensee's facility in Chesterfield, Missouri.

The licensee was previously inspected in April 1999 and September 2004. No violations were cited as a result of these inspections.

2 Security of Portable Gauges

2.1 Inspection Scope

The inspector reviewed the licensee's method of securing portable gauges by interviewing the licensee's RSO and gauge users, observing selected licensed activities, and reviewing selected licensee records.

2.2 Observations and Findings

During the inspection, the inspector asked a gauge user to describe how the gauges were secured in vehicles. The gauge user stated that a gauge would be placed in the back of a closed-bed truck, and the bed cap would be locked. Inside the bed cap, the gauge would be blocked and braced, but not further secured. The gauge and case would be locked at any time that the gauge was not in use. The gauge user, who had most recently used the gauges, on January 13 and 14, 2010, stated that he had secured the gauge in this way. He further stated that, on January 13 and 14, 2010, while he maintained surveillance of the vehicle at most times, he occasionally left the truck unsupervised for short periods and that the gauges were only secured as described above.

Title 10 Code of Federal Regulations (CFR) 30.34(i) requires that the licensee use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever the gauges are not under the control and constant surveillance of the licensee. The licensee's use of a single barrier, the truck bed cap, to prevent removal of a gauge in its case while the gauge was in storage in a vehicle and not under constant surveillance is an apparent violation of 10 CFR 30.34(i).

The root cause of the violation was licensee personnel's misunderstanding the requirement in 10 CFR 30.34(i). The RSO had believed that the lock on each gauge case constituted a barrier, and that the gauges were therefore adequately secured. However, the case lock would not prevent removal of the gauge in its case. The RSO stated to the inspector that the licensee planned to implement the following corrective actions to prevent a similar violation: (1) providing cables and locks so that the gauge case could be secured to the inside of the truck bed inside the locked bed cap; and (2) training the licensee's four gauge users on the requirement to use the cable and lock

in addition to the locked bed cap to secure the gauge in its locked case whenever the truck was not under direct supervision by a gauge user. The RSO further stated that both actions would be completed prior to February 12, 2010, or the next use of the gauge, whichever came first. On February 11, the RSO notified the inspector in writing that both actions had been completed.

The inspector observed that while the gauges were in storage at the licensee's facility, the gauges were secured in a locked storage room inside the locked building. Only licensee personnel had access to the area. As such, this storage met the requirement in 10 CFR 30.34(i).

2.3 Conclusions

The inspector identified an apparent violation of 10 CFR 30.34(i) involving the licensee's failure to use a minimum of two independent physical controls that form tangible barriers to secure the portable gauge whenever the portable gauge was not under the control and constant surveillance of the licensee. The licensee discussed corrective actions to prevent a similar violation.

3 **Other Areas Inspected**

3.1 Inspection Scope

The inspector reviewed other areas of the licensee's radiation safety program by reviewing selected licensee records, including dosimetry and training records, shipping papers, and emergency procedures; observing selected activities; and interviewing the RSO and gauge users.

3.2 Observations and Findings

The licensee performed gauge inventories and leak tests as required, and maintained a dosimetry program which demonstrated that no individual received a radiation exposure in excess of regulatory limits. Shipping papers containing all required information and other appropriate documents were kept in vehicle cabs while the gauge was in transport. Gauge cases had all required labels and markings to meet transport requirements. All gauge users had received appropriate training and understood routine procedures and emergency procedures that would be followed if the gauge had been damaged.

3.3 Conclusions

No violations of NRC requirements were identified.

4 **Exit Meeting Summary**

The inspector discussed the preliminary conclusions, as described in this report, with licensee management during the exit meeting conducted at the licensee's facility on February 5, 2010. The inspector discussed the activities reviewed, the inspection findings, and the apparent violation. The licensee did not identify any information reviewed during the inspection and proposed for inclusion in the inspection report as proprietary in nature.

LIST OF PERSONNEL CONTACTED

- * Matt Dooley, P.E., Gauge User
- * Mike Geisel, P.E., Director of Planning and Public Works
- * Susan Mueller, P.E., RSO
And other gauge users

- * attended the exit meeting on February 5, 2010