



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

April 9, 2010

Docket No. 03030301
EA-10-060

License No. 52-19885-02

Victor E. Rivera
President
Victor E. Rivera Associates
Geotechnical Engineers
Box 198, Station #6
Ponce, PR 00732

SUBJECT: NRC INSPECTION REPORT NO. 03030301/2010001, VICTOR E. RIVERA ASSOCIATES, GEOTECHNICAL ENGINEERS, PONCE, PUERTO RICO

Dear Mr. Rivera:

On March 4, 2010, Sattar Lodhi of this office conducted a safety inspection at 5 Reparto Industrial El Turque, Ponce, Puerto Rico, of activities authorized by the above listed NRC license. The inspection was an examination of your licensed activities as they relate to radiation safety and to compliance with the Commission's regulations and the license conditions. The inspection consisted of observations by the inspector, interviews with personnel, and an examination of representative records. The inspector also reviewed the circumstances surrounding the event that occurred at your temporary job site in Ponce, PR on April 10, 2007. Additional information provided during the telephone conversation on March 10, 2010, between José Rivera Nazario of your organization and Dr. Lodhi of this office was also examined as part of the inspection. The findings of the inspection were discussed with you and Mr. Rivera Nazario of your organization on March 4, 2010, at the conclusion of the site inspection, and in a final exit meeting on March 10, 2010, with Mr. Rivera Nazario. The enclosed report presents the results of this inspection.

Based on the results of this inspection, two apparent violations were identified. The first apparent violation involved the failure to: (1) maintain constant surveillance of licensed material that was in an unrestricted area; and, (2) use a minimum of two independent physical controls that form tangible barriers to secure a portable gauge from unauthorized removal whenever the portable gauge was not under the licensee's control and constant surveillance. This apparent violation is being considered for escalated enforcement action in accordance the NRC Enforcement Policy. The second apparent violation involved the failure to obtain license authorization to possess/store a specific portable gauge. This apparent violation is not being considered for escalated enforcement action. The circumstances surrounding the apparent violations, the significance of the issues, and the need for lasting and effective corrective actions were discussed with you and Mr. Rivera Nazario at the final inspection exit meeting.

The NRC believes we have sufficient information regarding these apparent violations and your corrective and preventative actions 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 2 years or 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. However, before the NRC makes its enforcement decision, we are providing you an opportunity to either: (1) respond to the apparent violations addressed in this inspection report within 30 days of the date of this letter; or, (2) request a predecisional enforcement conference (PEC).

If you choose to provide a written response, it should be clearly marked as a "Response to Apparent Violations in Inspection Report No. 03030301/2010001, EA-10-060" and should include for each 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 was or will be achieved. In presenting your corrective action, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violation. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response.

If you choose to request a PEC, the conference will afford you the opportunity to provide your perspective on the apparent violations and any other information that you believe the NRC should take into consideration before making an enforcement decision. The guidance in the enclosed excerpt from NRC Information Notice 96-28, "Suggested Guidance Relating of Development and Implementation of Corrective Action," may be helpful. If you request a PEC, the NRC will issue a press release to announce the time and date of the conference and the PEC will be open for public observation.

Please contact Marie Miller at (610) 337-5205 within **10** days of the date of this letter, to inform the NRC of your decision. If you do not contact us regarding this matter and an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision based on available information. 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.

Also, current NRC regulations are included on the NRC's website at www.nrc.gov; select **Nuclear Materials; Medical, Industrial, and Academic Uses of Nuclear Material; then Regulations, Guidance, and Communications**. The current NRC Enforcement Policy is included on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 7:00 a.m. to 6:30 p.m. EST, Monday through Friday (except Federal holidays).

In accordance with 10 CFR 2.390 of the NRC's Rules of Practice, a copy of this letter, its enclosure and any additional written response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of the NRC's document system (ADAMS).. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>

V. Rivera

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(the Public Electronic Reading Room). To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction.

Sincerely,

Original signed by John D. Kinneman

John D. Kinneman, Director
Division of Nuclear Materials Safety

Enclosures:

1. NRC Inspection Report No. 03030301/2010001
2. Excerpt from NRC Information Notice 96-28

cc w/encl:

José Rivera Nazario, Radiation Safety Officer
Commonwealth of Puerto Rico

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John D. Kinneman, Director
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José Rivera Nazario, Radiation Safety Officer
Commonwealth of Puerto Rico

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DATE	4/9/2010		4/9/2010	4/9/10	4/9/2010

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