



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
612 EAST LAMAR BLVD, SUITE 400
ARLINGTON, TEXAS 76011-4125

June 7, 2010

EA-10-075

Travis Rothweiler
Assistant City Manager
City of Twin Falls
305 3rd Avenue
Twin Falls, ID 83301

SUBJECT: NRC INSPECTION REPORT 030-32235/2010-001

Dear Mr. Rothweiler:

This refers to the routine, unannounced inspection conducted on March 17, 2010, with continued in-office review through May 11, 2010, at the City of Twin Falls facility located in Twin Falls, Idaho. This inspection examined activities conducted under your license as they relate to safety and security, to compliance with the Commission's rules and regulations, and with the conditions of your license. Within these areas, the inspection consisted of a selected examination of procedures and representative records, observations of activities, and interviews with personnel. The inspector discussed the preliminary inspection findings with you and Mr. Lauren Craig of your staff at the conclusion of the on-site portion of the inspection. A final exit briefing was conducted telephonically with you and your staff on June 7, 2010. The enclosed report presents the results of this inspection.

Based on the results of this inspection one apparent violation was identified and is being considered for escalated enforcement in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's website at www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html. The apparent violation involved the failure to use a minimum of two independent physical controls to secure portable gauges, whenever portable gauges are not under the control and constant surveillance of the licensee. Specifically, at your facility, portable gauges were stored with only one physical control present to prevent unauthorized removal of the case or the gauge. The circumstances surrounding this apparent violation, the significance of the issue, and the need for lasting and effective corrective actions were discussed with your staff at the inspection exit briefing. You have initiated corrective actions to address the violation. These corrective actions are documented in this report. As a result, it may not be necessary to conduct a predecisional enforcement conference in order to enable the NRC to make an enforcement decision.

Before the NRC makes its enforcement decision, we are providing you an 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 Ms. Vivian Campbell at 817-860-8287 or Mr. Larry Donovan at 817-860-8140 within 7 days of the date of this letter to notify the NRC of your intended response.

If you choose to provide a written response, it should be clearly marked as a "Response to An Apparent Violation in NRC Inspection Report 030-32235/2010-001; EA-10-075," and should include: (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. In presenting your corrective actions, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violation. The guidance in enclosed NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a predecisional enforcement conference.

Since the NRC has not made a final determination in this matter, no Notice of Violation is being issued for the inspection finding at this time. 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 enclosures, and your response, if you decide to provide one, 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's 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. If personal privacy or proprietary information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such information, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of

withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information).

Should you have any questions regarding this letter or the enclosed report, please contact Ms. Vivian Campbell, Chief, Nuclear Materials Safety Branch A, at 817-860-8287.

Sincerely,

/RA/ by Charles L. Cain for

Arthur T. Howell, Director
Division of Nuclear Materials Safety

Docket: 030-32235
License: 11-27081-01

Enclosures:

1. NRC Inspection Report 030-32235/2010-001
2. NRC Information Notice 96-28

cc w/Enclosure 1:
Mark Dietrich
Technical Services Administrator
Idaho Dept. of Environmental Quality
1401 North Hilton
Boise, ID 83706

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ADAMS	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes	X SUNSI Review Complete	Reviewer Initials: LD
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EA-10-075 Choice Letter				
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U.S. NUCLEAR REGULATORY COMMISSION
REGION IV

Docket: 030-32235
License: 11-27081-01
Report: 030-32235/2010-001
EA: EA-10-075
Licensee: City of Twin Falls
Location: 305 3rd Avenue, Twin Falls, Idaho
Dates: March 17 through June 7, 2010
Inspector: Lawrence Donovan, Health Physicist
Nuclear Materials Safety Branch A
Approved By: Vivian Campbell, Chief
Nuclear Materials Safety Branch A
Attachment: Supplemental Inspection Information

ENCLOSURE 1

EXECUTIVE SUMMARY

City of Twin Falls
NRC Inspection Report 030-32235/10-001

This was a routine, unannounced inspection of licensed activities involving the use and storage of byproduct material in portable gauges at the licensee's facility located in Twin Falls, Idaho. The inspection began on March 17, 2010, with continued in-office review through March 30, 2010. This report describes the findings of the inspection.

Program Overview

The City of Twin Falls is authorized to possess and use byproduct material (cesium-137 and americium-241) in the operation of portable moisture density gauges within areas of NRC jurisdiction, including temporary jobsites. Use of portable moisture density gauges is seasonal due to weather conditions. The licensee uses gauges for soil testing throughout the state of Idaho. (Section 1)

Inspection Findings

The licensee did not secure portable gauges using two independent physical controls to prevent unauthorized removal, while in storage at the licensee's permanent storage facility. Specifically, a portable gauge was stored in a Troxler gauge case within a locked closet. The lock on the gauge storage closet was the only independent physical control present to secure the gauge. Neither the rear door of the work lab nor the hallway door that led to the storage closet was locked, and no one was present in the work lab to provide constant surveillance. The failure to use a minimum of two independent physical controls to prevent unauthorized removal of portable gauges when not under the control and constant surveillance of the licensee was identified as a violation of 10 CFR 30.34(i). (Section 2)

Licensee Corrective Actions

The licensee took immediate corrective action by placing a keyed lock on the hallway door that accessed the locked storage closet. Access to the building, hallway, and storage room was limited to three individuals authorized to use the gauges. In addition, the licensee committed to conducting safety meetings at 6-month intervals to review NRC requirements and policies.

Report Details

1 Program Overview (87124)

1.1 Inspection Scope

The inspector reviewed the license and supporting documentation, interviewed licensee personnel, and examined the storage location at the licensed facility. Collectively, the documents described the licensee's implementation of its radiation safety program.

1.2 Observations and Findings

The City of Twin Falls is authorized to use and possess byproduct material in portable moisture density gauges and conducts licensed activities on a seasonal basis due to weather conditions in the Twin Falls, Idaho, area. Licensed gauge activities are generally conducted from April to November, typically 15 to 20 times a year. At the time of the inspection, the licensee had two portable moisture density gauges and employed three authorized users. The gauges were dispatched from the Twin Falls, Idaho, office for work conducted throughout the state of Idaho.

2 Material Security and Control (87124)

2.1 Inspection Scope

The inspector conducted interviews with licensee staff and observed licensed activities at the corporate office in Twin Falls, Idaho. Licensed activities were examined as they relate to the safety and security of the portable gauges and the licensee's efforts to protect members of the public.

2.2 Observations and Findings

10 CFR 30.34(i) requires portable gauge licensees to use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

On March 17, 2010, during a routine, unannounced inspection, the NRC inspector observed that a portable gauge was secured within the licensee's facility with only one independent physical control. The front door to the licensee's facility was locked, but the side entrance door adjacent to the parking lot was unlocked. The NRC inspector entered the building and the laboratory area through the side entrance door. The inspector walked through the laboratory area to a main hallway and discovered an unlocked door that was posted with a "CAUTION RADIOACTIVE MATERIALS" sign. This unlocked door led into an adjacent hallway and a storage closet containing two portable gauges. The storage closet was locked, but only one independent physical control was present. The closet door was posted with a "CAUTION RADIOACTIVE MATERIALS" sign and an NRC Form 3. The inspector followed the "CAUTION, RADIOACTIVE MATERIALS" signs to the location where the gauges were stored and was not challenged by licensee personnel.

The licensee, when questioned about the security of the portable gauges, stated that someone is usually in the lab area. The lab manager was in his office on the telephone when the inspector entered the building and was not able to see the inspector enter the hallway that led to the locked storage closet. The locked storage closet provided only one independent physical control since the side entrance door to the building and the adjacent hallway access door were both unlocked. The licensee's failure to use two independent physical controls that formed tangible barriers to secure the portable gauge from unauthorized removal while not under the control and constant surveillance of the licensee was identified as an apparent violation of 10 CFR 30.34(i). (030-32235/10-001)

2.3 Conclusions

The inspection identified an apparent failure to secure a portable gauge while in storage at the Inberg facility in Twin Falls, Idaho, with a minimum of two independent physical controls. This was identified as an apparent violation of 10 CFR 30.34(i).

3 **Licensee Corrective Actions**

On March 17, 2010, during the inspection, the licensee immediately secured a second keyed lock on the entrance hallway door to the vault area using a pre-existing keyed lock. The keys to the building, hallway door, and storage room are now in the possession of three authorized users only, the RSO, the Assistant RSO and the lab manager. The keys are kept on each individual's own person. In addition, the licensee committed to conducting safety meetings at 6-month intervals to review NRC requirements and policies.

4 **Exit Meeting Summary**

A final telephonic exit briefing was conducted with the licensee's assistant City Manager and Radiation Safety Officer on June 7, 2010, to review the inspection findings as presented in this report. They acknowledged the inspector's findings. No proprietary information was identified.

PARTIAL LIST OF PERSONS CONTACTED

Licensee

Lauren Craig, Lab Manager*
Travis Rothweiler, Assistant City Manager♦
Jackie Fields, RSO♦

*present at entrance meeting
♦present at exit meeting

INSPECTION PROCEDURES USED

87124 Portable and Fixed Gauges

ITEMS OPENED, CLOSED, AND DISCUSSED

Opened

030-32235/10-001 APV Failure to use two independent physical controls to secure a portable gauge from unauthorized removal while not under the control and constant surveillance of the licensee.

LIST OF ACRONYMS USED

CFR *Code of Federal Regulations*
NRC Nuclear Regulatory Commission
APV apparent violation