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U.S. Nuclear Regulatory Commission, Region IV
612 East Lamar Blvd., Suite 400
Arlington, Texas 76011-4125
Attn: Vivian Campbell, Chief
Nuclear Materials Safety Branch A

RECEIVED

JUN 25 2010

DNMS

Re: Response to Apparent Violations in Inspection Report 030-32073/10-001; EA-10-052

Dear Ms. Campbell,

I understand that there were five apparent violations identified as a result of the unannounced inspection conducted February 11, 2010 of our facility. As you may already know, Apex Surveying, Inc. is a small surveying and engineering company based in Riverton, WY. We do not have any branch offices and our total workforce consists of ten employees. We have one nuclear moisture/density portable gauge (Troxler Model 3430). Soil testing is a very small part of our business. One other employee and myself are the only certified gauge users at this time and I personally perform approximately 90% of the work with the gauge.

I will attempt to identify and address each apparent violation as follows;

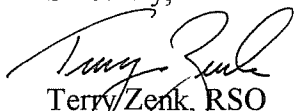
- Violation considered for escalated enforcement: "Failure to secure a portable gauge properly in storage. Only one barrier was used instead of two. The practice violated 10 CFR 30.34(i)." - The reason for the violation was the misunderstanding of the two barrier rule. The locked shed is within the perimeter of a fenced area which is locked every day at the close of business. There are times, however, when the gate is not locked and no one is in the adjacent building (over a lunch period of one hour). This was pointed out at the inspection to be a violation of the rule. Corrective actions were taken by installing an additional hasp and padlock on the shed the day of the inspection. On February 12, 2010 the other gauge user was informed of the proper procedure and necessity of securing both locks on the shed when the gauge is in storage. Any new gauge user will also be instructed in the procedures for storing the gauge onsite.
- Violation 1 not considered for escalated enforcement: "Failure to lock the gauge or its container while in storage. The practice violated License Condition 16 of Amendment 2 to NRC License 49-27058-01." - The reason for the violation was again a misunderstanding of the requirements for storage. I understood the need for locking the plunger only when the gauge was being transported outside of a gauge operators control (such as shipment for calibration). I also misunderstood

the requirement for locking the gauge case while it was secured in the shed. Corrective action was taken by locking the plunger at all times except when the gauge is in use and under the direct control of the operator. The case is also padlocked anytime it is in the secured storage shed. I have instructed the other operator in the requirements for locking the gauge plunger and case whenever the gauge is not in use and under the operator's direct control. The corrective actions occurred February 12, 2010 and have been followed since.

- Violation 2 not considered for escalated enforcement: "Failure to perform periodic audits of the radiation safety program. A violation of 10 CFR 20.1101(c)." - The reason for the violation was not being familiar enough with the requirement. Corrective action was taken and an initial audit was done by downloading a form from APNGA and performing the audit by March 4, 2010. This will be done annually during February to ensure compliance with CFR 20.1110(c).
- Violation 3 not considered for escalated enforcement: "Failure to have the correct identification number on the shipping papers as required by DOT regulations. This is a violation of 10 CFR 71.5 and 49 CFR 172.202(a) and (b)." - The reason for this violation was that I was unaware of the change in the identification number and still was using the outdated number. Corrective action was taken in getting a new identification number sticker for the gauge case and downloading the new identification number on shipping papers within one week of the inspection or by February 18, 2010. I will attempt to stay better informed by paying more attention to changes in the requirements through bulletins and notices that I receive. The previously adopted annual audit will help to prevent this mistake from happening again.
- Violation 4 not considered for escalated enforcement: "Failure to ensure all hazmat employees received recurrent hazmat training as required by DOT regulations. This is a violation of 10 CFR 71.5 and 49 CFR 172.704(c)(2)." - The reason for this violation was ignorance of the requirement for refresher training every three years. It was assumed that the initial training was sufficient for an indefinite period. The gauge users will take part in an online Hazmat training refresher course offered by Troxler (through American Technical Institute, LLP). Copies of the Certificates of the training will be kept on file. This also will be reviewed in the previously adopted annual audit of the radiation safety program. This will prevent violations of regulation in years to come.

I am hoping this explanation for the reason of violation and corrective action taken will adequately address the issues. I intend to monitor our program more closely and welcome any comments or suggestions you have. Thank you for your consideration.

Sincerely,


Terry Zenk, RSO
Apex Surveying, Inc.