

# YAMADA AND SONS, INC.

P.O. BOX 4699 • 733 KANOELEHUA AVENUE • HILO, HAWAII 96720-4699  
CONTRACTOR'S LICENSE NO. AC-1714 • P.U.C. CERTIFICATE NO. 5035-C

December 27, 2010

U.S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, DC 20555-0001

Regional Administrator, Region IV  
612 E. Lamar Blvd., Suite 400  
Arlington, Texas, 76011

Subject: NRC Inspection Report 030-33594/2010-001

## REPLY TO A NOTICE OF VIOLATION

Dear Sir:

After the inspection conducted by Mr. James Thompson in October, 2010, one aspect that became clear is that in recent years, we have not been giving to our Radiation Safety Program the attention required of the license.

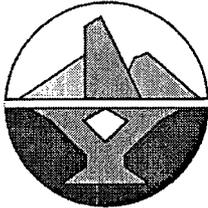
In discussions with key personnel, which included the RSO, the President and the Operations Director, the primary reason the listed violations occurred was due to the failure to perform certain procedures and documentation.

Recent changes in the company have been linked to these occurrences. The company went through a transitioning period resulting the closing of some areas of the company's business, loss of managerial personnel, and the cutback of staff and employees. This had the effect that some responsibilities and duties had been reassigned and merged and, in this environment, a loss of oversight and implementation of the program occurred. Since 2006, the RSO has changed twice. The last change occurred in July 2009. As the owner/operator of a single Sealed Source Device, it is felt that having the merged/added responsibility of an RSO is achievable. The current RSO has attended training in 1994 and is reviewing the extensive material available on-line at [www.apnga.com](http://www.apnga.com). This review and those violations on the inspections report will be remedied and corrected by January 31, 2011.

To address those violations:

A. Condition 13.A of NRC Materials License 53-29072-01 requires a leak test to be performed annually. Our records indicate that on the date of inspection, the last leak test documented was performed in February 2008. We have since had a leak test performed on October 21, 2010 with the results showing that the source may remain in service. We have added the Safety Dept.

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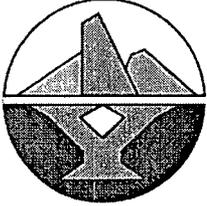
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as an additional safeguard to these procedures, as they do for other areas in the company, to act as back-up for reminders as to when certain deadlines are at hand and procedures are in compliance. Additionally, new notices have been placed at the storage area showing the date of the last leak test and on the clipboards of the daily log-out and the inventory sheets with reminders of the date of the next leak test. Attached is a copy of the current leak test.

B. Condition 16 of NRC Materials License 53-29072-01 requires that a physical inventory be performed at 6 month intervals. Our records indicate that an inventory has not been documented since February 2008. A physical inventory was performed on October 27, 2010, with no deficiencies noted. The physical inventory shows no damage to the source housing, no damage to the transportation case, no missing or damaged labels, and the leak test shows no leaks to the source rod. Additionally, this physical inventory procedure has also been added as a note on the daily log-out sheets at the storage area. These daily log-out sheets will be collected and filed monthly instead of when space runs out on the sheet to further encourage compliance in this area. We would like to add that with having only one device, there has not been a single month since February 2008 to the date of the inspection that this device has not been in use. In essence, we constantly verify the physical condition of the device, although it was not formally documented.

C. This section makes reference to 49 CFR 172.704(c) (2), which states that hazmat employees shall receive recurrent hazmat training at least once every three years. The notice of violation further states that the licensee failed to provide recurrent training to four of their hazmat employees since April 2005 to the date of the inspection, which is in excess of 3 years. Our records indicate that this is the case. We have since provided and will review in a classroom setting, literature to those employees that would likely fall into the category of needing this training and will limit the handling of the device to these trained individuals. We expect to have this training completed by January 31, 2011. Currently, we have 5 employees badged. Of these, 1 has only recently completed his basic training and so has only recently been badged. The others have received training and have been badged for a number of years. Of these 5, only 3, including the RSO and the recently badged employee, will be expected to operate the gauge in the near future. Of these 5, only 2, including the RSO have operated and/or transported the nuclear gauge since 2005 and only these 2 are expected to transport the gauge to various locations in the near future. These are the group that is referred to as needing this training. Other employees that are badged but are unlikely to operate or transport the gauge will, prior to handling the device, receive training.

D. This section makes reference to 10 CFR 20.1101(c) which requires that the licensee shall review its radiation program content and implementation at least annually. It further states that the licensee has failed to review the radiation



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protection program for the period April 2005 to the date of inspection. Our records indicate that this is the case. We have done an audit on November 1, 2010 and are currently in the process of correcting deficiencies found. With the completion of training, this is expected to be complete by January 31, 2011. The audit is attached. We will conduct another audit in February 2011 to monitor progress to this program.

We felt that it was necessary to respond to the timeliness this citation calls for although we cannot provide all the documentation at this time to show current compliance to the license. It can be seen that the violations cited began to occur at about the time of the changes that the company has gone through. We are working and committed to becoming compliant and regret that it could not be achieved at the time of the inspection. We appreciate the assistance from the NRC and Mr. James Thompson in achieving that end.

Thank You,

A handwritten signature in black ink that reads "Curtis Yamada". The signature is written in a cursive, flowing style.

Curtis Yamada  
Construction Manager  
Radiation Safety Officer

CPN International - InstroTek  
4057 Port Chicago Hwy, Ste 100  
Concord, CA 94520  
925-363-9770, Fax 925-363-9385

10/29/2010  
Test Number: 1

Curtis Yamada  
Yamada & Sons  
733 Kanoelehua Ave  
Hilo, HI 96720

Phone: (808) 933-8400  
Fax: (808) 933-8415

### LEAK TEST CERTIFICATE

CA Materials License #1100-07

This certifies that leak test analysis was conducted on the sample with the following information. The results shown below accurately represent the level of removable contamination.

Gauge Model: MC3  
Gauge S/N: M380208957

Test Date: 10/21/2010

Source (Model/Serial#)	Reading in microCuries
Am-241/Be	0.00002
Cs-137	0.00000

Note: 0.005 microCuries (185 Bq) or greater is considered a leaking source. The source(s) tested above may remain in use.

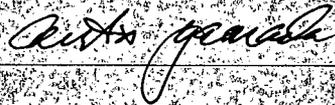
Reviewed by:



Date:

10/29/10

Customer Signature:



Date:

11/9/10

\*CPN gauges are 50 mCi Am241:Be and 10 mCi Cs-137. Humboldt gauges are 40 mCi Am241:Be and 10 mCi Cs-137. InstroTek Gauge is 40 mCi Am241:Be and 10 mCi Cs-137. Troxler gauges, all, except 4640, are 40 mCi Am241:Be and 8 mCi Cs-137. Troxler 4640 is 8 mCi Cs-137.

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Hilo Hi. 96720

## **Annual Audit**

Licensee's Name: Yamada and Sons, Inc. License No.: 53-29072-01

Auditor: Curtis A. Yamada Date of Audit: 11/1/10 Telephone No.: (808) 933-8402

### **1. Audit History**

- a. Last audit of this location conducted on (date). 8/2004.
- b. Were previous audits conducted yearly? 2000-2004 are last audits conducted.
- c. Were records of previous audits maintained? 2000-2004.
- d. Were any deficiencies identified during last two audits, or two years, whichever is longer? YES.
- e. Were corrective actions taken? YES.

### **2. Organization and Scope of Program**

- a. If the mailing address or place of use changed, was the license amended? N/A.
- b. If ownership changed or bankruptcy filed, was NRC prior consent obtained or was the NRC notified? N/A.
- c. If the RSO was changed, was the license amended? YES.  
Does the new RSO meet NRC training requirements? YES.
- d. If the designated contact person for NRC changed, was NRC notified? YES
- e. Does the license authorize all of the NRC-regulated radionuclides contained in gauges possessed? Yes.
- f. Are the gauges as described in the Sealed Source and Device (SSD) Registration Certificate or Sheet? Yes.  
Have copies of (or access to) SSD Certificates? Yes.  
Have Manufacturers' manuals for operation and maintenance? Yes.
- g. Are the actual uses of gauges consistent with the authorized users on the license? Yes.
- h. Is the RSO fulfilling his / her duties? NO.

### **3. Training and Instructions to Workers**

- a. Were all workers who are likely to exceed 100 mrem/yr instructed per [10 CFR 19.12]? N/A.  
Refresher training provided, as needed [10 CFR 19.12]? NO.

- b. Did each gauge operator attend an approved course prior to using gauges? Yes.
- c. Are training records maintained for each gauge operator? Yes.
- d. Did interviews with operators reveal that they know the emergency procedures? Yes.
- e. Did this audit include observations of operators using the gauge in a field situation? YES.
- f. Operating Gauge? YES.  
Performing routine cleaning and lubrication? NO.  
Transporting gauge? YES.  
Storing gauge? Yes.
- g. Did the operator demonstrate safe handling and security during transportation, use, and storage? YES.
- h. HAZMAT training provided as required? [49 CFR 172.701, 49 CFR 172.702, 49 CFR 172.703, 49 CFR 172.704]? No.

#### **4. Radiation Survey Instruments**

- a. If the licensee possesses its own survey meter does it meet the NRC's criteria? N/A.
- b. If the licensee does not possess a survey meter, are specific plans made to have one available? No.
- c. Is the survey meter needed for non-routine maintenance calibrated as required [10 CFR 20.1501]? N/A.
- d. Are calibration records maintained? N/A.

#### **5. Gauge Inventory**

- a. Is a record kept showing the receipt of each gauge? [10 CFR 30.50(a)(1)]? Yes.
- b. Are all gauges received physically inventoried every six months? NO.
- c. Are records of inventory results with appropriate information maintained? NO.

#### **6. Personnel Radiation Protection**

- a. Are ALARA considerations incorporated into the radiation protection program? YES.
- b. Is documentation kept showing that unmonitored users receive  $\leq 10\%$  of limit? [10 CFR 20.1502(a)]. NO.
- c. Did unmonitored users' activities change during the year which could have put them over 10% of limit? No.
- d. If yes to c. above, was a new evaluation performed? N/A.
- e. Is external dosimetry required (user receiving  $> 10\%$  of limit)? YES.  
And is dosimetry provided to users? Yes.

- 1) Is the dosimetry supplier NVLAP approved? [ 10 CFR 20.1501c ]  
Yes.
- 2) Are the dosimeters exchanged monthly for film badges and at the industry recommended frequency for TLDs? Quarterly.
- 3) Are dosimetry reports reviewed by the RSO when they are received? Yes
- 4) Are the records NRC Forms or equivalent? [10 CFR 20.2104(d), 10 CFR 20.2106c] YES.
  - NRC-4 "Cumulative Occupational Exposure History" completed? Yes.
  - NRC-5 "Occupational Exposure Record for a Monitoring Period" completed? Yes.
- 5) If a worker declared her pregnancy, did the licensee comply with 10 CFR 20.1208? N/A.
  - Were records kept of embryo / fetus dose per 10 CFR 20.2106(e)? N/A.
- f. Are records of exposures, surveys, monitoring, and evaluations maintained? [10 CFR 20.2102, 10 CFR 20.2103, 10 CFR 20.2106] Yes.

## 7. Public Dose

- a. Are gauges stored in a manner to keep doses under 100 mrem in a year? [10 CFR 20.1301(a)(1)] YES
- b. Has a survey or evaluation been performed per 10 CFR 20.1501(a)?  
YES  
Have there been any additions or changes to the storage, security, or use of surrounding that would necessitate a new survey or evaluation? No.
- c. Do unrestricted area radiation levels exceed 2 mrem in any one hour? [10 CFR 20.1301(a)(2)] NO
- d. Are gauges stored in a manner that would prevent unauthorized use or removal? [10 CFR 20.1801] Yes.
- e. Records maintained? [10 CFR 20.2103, 10 CFR 20.2107] Yes.

## 8. Operating and Emergency Procedures

- a. Have operating and emergency procedures been developed? YES
- b. Do they contain the required elements? YES
- c. Does each operator have a current copy (telephone numbers) of the operating and emergency procedures? NO.
- d. Did any emergencies occur? No.  
If so, were they handled properly by the operator? N/A.  
Were appropriate corrective actions taken? N/A.

## 9. Leak Tests

- a. Was each sealed source leak tested every 6 months or at the prescribed intervals? NO. Current leak test: 10/21/10.
- b. Was the leak test performed as described in correspondence with NRC and according to the license? YES.
- c. Are records of results retained with the appropriate information included? YES.
- d. Were any sources found leaking and if yes, was NRC notified? No leaks detected with current leak test. Cleared for continued usage.

## 10. Maintenance of Gauges

- a. Are Manufacturer's procedures followed for routine cleaning and lubrication of gauge? Yes
- b. Does the source rod remain attached to the gauge during cleaning? YES.
- c. Is non-routine maintenance performed where the source or source rod is detached from the gauge? NO.  
If yes, was it performed according to license requirements (e.g., extent of work, individuals performing the work, procedures, dosimetry, survey instrument, compliance with 10 CFR 20.1301 limits)? N/A.

## 11. Transportation

- a. DOT-7A or other authorized packages used? [49 CFR 173.415, 49 CFR 173.416(b)] YES
- b. Package performance test records on file? YES
- c. Special form sources documentation?[49 CFR 173.476(a)] YES
- d. Package has 2 labels (ex. Yellow-II) with TI, Nuclide, Activity, and Hazard Class? [49 CFR 172.403, 49 CFR 173.441] YES
- e. Package properly marked? [49 CFR 172.301, 49 CFR 172.304, 49 CFR 172.310, 49 CFR 172.324] YES
- f. Package closed and sealed during transport? [49 CFR 173.475(f)] YES
- g. Shipping papers prepared and used? [49 CFR 172.200(a)] N/A
- h. Shipping papers contain proper entries? Yes
- i. Shipping papers within drivers reach and readily accessible during transport? [49 CFR 177.817(e)] Yes.
- j. Secured against movement? [49 CFR 177.834] Yes
- k. Placarded on vehicle, if needed? [49 CFR 172.504] N/A.
- l. Proper overpacks, if used? [49 CFR 173.25] N/A.
- m. Any incidents reported to DOT? [49 CFR 171.15,16] No incidents.

## 12. AUDITOR'S INDEPENDENT SURVEY MEASUREMENTS ( IF MADE )

- a: Describe the type, location, and results of measurements:  
Do any radiation levels exceed regulatory limits? N/A.

## 13. NOTIFICATION AND REPORTS

- a: Was any radioactive material lost or stolen? No.  
Were reports made? [10 CFR 20.2201, 10 CFR 30.50] N/A.
- b: Did any reportable incidents occur? No.  
Were reports made? [10 CFR 20.2202, 10 CFR 30.50] N/A.
- c: Did any overexposures and high radiation levels occur? No.  
Reported? [10 CFR 20.2203, 10 CFR 30.50] N/A.
- d: If in any events (as described in items a through c above ) did occur, what was the root cause? N/A.  
Were corrective actions appropriate? N/A.
- e: Is the licensee aware of the telephone number for NRC Emergency Operations Center? [(301) 816-5100] YES

## 14. POSTING AND LABELING

- a: NRC-3 "Notice to Workers" posted? [10 CFR 19.11] YES
- b: NRC Regs., license documents posted or a notice posted? [10 CFR 19.11, 10CFR 21.6] YES
- c: Other postings and labeling? [10 CFR 20.1902, 10 CFR 20.1904] NO

## 15. RECORD KEEPING FOR DECOMMISSIONING

- a: Records kept of information important to decommissioning? [10CFR 30.35(g)] N/A
- b: Records include all information outlined in [ 10 CFR 30.35(g) ]? N/A.

## 16. BULLETINS AND INFORMATION NOTICES

- a: NRC Bulletins, NRC information notices, NMSS Newsletters, received? Yes.
- b: Appropriate training and action taken in response? Yes.

## 17. SPECIAL LICENSE CONDITIONS OR ISSUES

- a. Did auditor review special license conditions or other issues ( e.g. non-routine maintenance)? YES.

## 18. DEFICIENCIES IDENTIFIED IN AUDIT; CORRECTIVE ACTIONS

- a. Summarize problems and/or deficiencies identified during the audit? Failure to monitor program consistently. Failure to execute and document procedures according to license, leading to non-compliance status.
- b. If problems and/or deficiencies were identified in this audit, describe the corrective actions planned or taken? Corrected issues regarding testing and inventory. Training is being implemented with completion deadline set at January 31, 2011. Inclusion of Safety Dept. to provide additional oversight of procedural compliance. Ongoing review of radiation protection program.  
Are corrective actions planned or taken at ALL licensed locations (not just location audited)? YES, location audited is only location.
- c. Provide any other recommendations for improvement.

## 19. EVALUATION OF OTHER FACTORS

- a. Is senior licensee management appropriately involved with the radiation protection program and/or RSO oversight? YES
- b. Does RSO have sufficient time to perform his radiation safety duties? With implementation of actions, YES.
- c. Does licensee have sufficient staff to support the radiation protection program? With implementation of actions, YES.