

June 28, 2012

EA-12-122

Mr. James P. Gowarty, Jr.
Radiation Safety Officer
CTL Engineering, Inc.
733 Fairmont Road
Morgantown, West Virginia 26501

SUBJECT: NRC INSPECTION REPORT No. 03035093/12-01(DNMS), NOTICE OF VIOLATION AND EXERCISE OF ENFORCEMENT DISCRETION – CTL ENGINEERING, INC.

Dear Mr. Gowarty:

On May 9, 2012, the U.S. Nuclear Regulatory Commission (NRC) conducted an inspection at your facility and at a temporary job site both located in Indianapolis, Indiana, with continued NRC in-office review until May 31, 2012. The in-office review was related to an assessment of your security of licensed material. A telephone exit meeting between Mr. Dan Westphal of your staff and Andrew Bramnik of my staff was conducted on May 31, 2012, to discuss the inspection findings.

During this inspection, the NRC staff examined activities conducted under your license related to public health and safety. Additionally, the staff verified your compliance with the conditions of your license as well as the Commission's rules and regulations. Within these areas, the inspection consisted of selected examination of procedures and representative records, observations of activities, and interviews with personnel.

Based on the results of this inspection, the NRC has determined that a Severity Level IV violation of NRC requirements occurred. The violation was evaluated 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 violation involved the failure 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 your control and constant surveillance, as required by Title 10 of the Code of Federal Regulations (CFR) 30.34(i). The violation is cited in the enclosed Notice of Violation (Notice). The violation is being cited because it was identified by the NRC inspector.

Your staff's oversight of the requirements in 10 CFR 30.34(i) was the root cause of the violation. Specifically, members of your staff believed that a tensioning strap was an adequate barrier when a portable gauge was stored in the back of a parked pickup truck, and failed to lock an exterior garage door leading to the gauge storage location at your Indianapolis facility. In an email to the NRC dated May 10, 2012, your staff provided details and photographs of corrective actions that had been taken to address this issue. The corrective actions included adding a second independent barrier to the transportation case when gauges are in transit and at the permanent storage location. These actions were completed by May 10, 2012.

J. Gowarty

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In accordance with the Enforcement Policy, although such violations of 10 CFR 30.34(i) are normally categorized at Severity Level III and considered for escalated enforcement action, because (1) one physical control existed to prevent loss or theft of the portable gauges; (2) you retained possession of the gauges; (3) the violation was isolated; and (4) no indication of programmatic weakness was identified, the NRC is exercising enforcement discretion to categorize this violation as a Severity Level IV.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken to correct the violation and prevent recurrence is already adequately addressed on the docket in this letter. Therefore, you are not required to respond to this letter unless the description herein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

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 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.

We will gladly discuss any questions you have concerning this inspection.

Sincerely,

/RA/ Robert G. Gatone, Jr. Acting for/

Hironori Peterson, Acting Chief
Materials Inspection Branch
Division of Nuclear Materials Safety

Docket No. 030-35093
License No. 34-18533-02

Enclosure:
Notice of Violation

cc w/encl: Dan Westphal, Field Manager
State of Ohio
State of Indiana

In accordance with the Enforcement Policy, although such violations of 10 CFR 30.34(i) are normally categorized at Severity Level III and considered for escalated enforcement action, because (1) one physical control existed to prevent loss or theft of the portable gauges; (2) you retained possession of the gauges; 3) the violation was isolated; and 4) no indication of programmatic weakness was identified, the NRC is exercising enforcement discretion to categorize this violation as a Severity Level IV.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken to correct the violation and prevent recurrence is already adequately addressed on the docket in this letter. Therefore, you are not required to respond to this letter unless the description herein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

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 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.

We will gladly discuss any questions you have concerning this inspection.

Sincerely,

/RA/ Robert G. Gatone, Jr. Acting for/

Hironori Peterson, Acting Chief
Materials Inspection Branch
Division of Nuclear Materials Safety

Docket No. 030-35093
License No. 34-18533-02

Enclosure:
Notice of Violation

cc w/encl: Dan Westphal, Field Manager
State of Ohio
State of Indiana

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NOTICE OF VIOLATION

CTL Engineering, Inc.
Columbus, Ohio

Docket No. 030-35093
License No. 34-18533-02
EA-12-122

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on May 9, 2012, with continued in-office review until May 31, 2012, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Condition 18 of NRC License No. 34-18533-02 states, in part, that a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal whenever the portable gauge is not under the control and constant surveillance of the licensee are required. Title 10 of the Code of Federal Regulations (CFR) 30.34(i) also states that each portable gauge licensee shall 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.

Contrary to the above, on May 9, 2012, the licensee failed to use a minimum of two independent physical controls that formed tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges were not under the control and constant surveillance of the licensee. Specifically, the licensee secured portable gauges on a pickup truck bed and at its permanent storage location both located at its Indianapolis, Indiana facility, using only one physical control that formed a tangible barrier, and did not maintain control and constant surveillance of the gauges.

This is a Severity Level IV violation (Section 6.3).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to be taken to correct the violation and prevent recurrence, and the date when full compliance will be achieved, is already adequately addressed on the docket in the letter transmitting this Notice of Violation (Notice). However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, Region III, within 30 days of the date of the letter transmitting this Notice. If you contest this enforcement action, you should also provide a copy of your response with the basis for your denial to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

Enclosure

Notice of Violation

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In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated this 28th day of June 2012.