



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BLVD
ARLINGTON, TEXAS 76011-4511

August 20, 2013

EA-13-164

Mr. Michael McIntire, President
and Radiation Safety Officer
Southwest X-Ray Corporation
P.O. Box 130
Glenrock, WY 82637

SUBJECT: NRC INSPECTION REPORT 030-37579/2013-001

Dear Mr. McIntire:

This letter refers to the routine, unannounced inspection conducted on July 8, 2013, at your facility in Casper, Wyoming, with continued in-office review through August 14, 2013. The purpose of the inspection was to determine whether activities authorized under your license were conducted safely and in accordance with the U.S. Nuclear Regulatory Commission (NRC) requirements. The purpose of the in-office review was to further evaluate the findings from the inspection and to review the adequacy of the corrective actions that you provided in your letter dated July 30, 2013 (NRC Agencywide Documents Access and Management System (ADAMS) accession number ML13231A028). The inspector discussed the preliminary inspection findings with you at the conclusion of the onsite portion of the inspection on July 8, 2013. A telephonic exit briefing was conducted with you by Mr. Michael Vasquez, Chief, Nuclear Materials Safety Branch-A on August 14, 2013.

During this inspection, the NRC examined activities conducted under your license as they relate to public health and safety and compliance with the Commission's rules and regulations and with the conditions in your license. Within these areas, the inspection consisted of an examination of selected procedures and representative records, observations of activities, and interviews with personnel. The enclosed report presents the results of the inspection.

Based on the results of this inspection, two apparent violations were identified and are being considered for escalated enforcement action 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 apparent violations involve: (1) the failure to conduct radiographic operations with a radiographer accompanied by another qualified radiographer or qualified radiographer's assistant; and (2) the failure to ensure a radiographer's

assistant was under the personal supervision of a radiographer while using radiographic exposure devices. Since the NRC has not made a final determination in this matter, no Notice of Violation is being issued for this inspection at this time. The circumstances surrounding these apparent violations, the significance of the issues, and the need for lasting and effective corrective actions were discussed with you during the August 14, 2013, telephonic exit briefing.

During the exit briefing, Mr. Michael Vasquez explained that you had the option of meeting with the NRC in a Pre-decisional Enforcement Conference or in Alternative Dispute Resolution. On August 16, 2013, you decided to meet with the NRC in a pre-decisional enforcement conference. The conference will be conducted in the NRC Region IV office on Thursday, September 12, 2013, at 1 pm. It will be open for public observation, and the NRC may issue a press release to announce the time and date of the conference. Directions to the NRC Region IV office are also enclosed with this letter.

The September 12 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 conference will be conducted to obtain information to assist the NRC in making an enforcement decision. The topics discussed during the conference may include the following: (1) information to determine whether violations occurred; (2) information to determine the significance of the violations; (3) information related to the identification of the violations; and (4) information related to any corrective actions taken or planned to be taken. 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 violations.

The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful. You can find the Information Notice on the NRC website at: <https://www.nrc.gov/reading-rm/doc-collections/gen-comm/info-notices/1996/in96028.html>.

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, and its enclosures will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. If you provide any written response to the apparent violations, 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 you have any questions concerning this matter, please contact Michael Vasquez of my staff at 817-200-1130.

Sincerely,

/RA/

Anton Vogel, Director
Division of Nuclear Materials Safety

Docket: 030-37579
License: 49-29277-01

Enclosures:
As stated

cc w/Enclosure 1:
Mr. Scott W. Ramsay
Radiological Services Supervisor
Wyoming Office of Homeland Security
5500 Bishop Blvd.
Door #1
Cheyenne, WY 82009

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<input checked="" type="checkbox"/> Publicly Available	<input type="checkbox"/> Non-publicly Available	<input type="checkbox"/> Sensitive	<input checked="" type="checkbox"/> Non-sensitive	
<u>Category:</u>		<u>KEYWORD:</u>		
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DLStearns	GMVasquez	RSBrowder	HJGepford	
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Letter to Mr. Michael McIntire from Anton Vegel, dated August 20, 2013.

SUBJECT: NRC INSPECTION REPORT 030-37579/2013-001

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U.S. NUCLEAR REGULATORY COMMISSION
REGION IV

Report: 030-37579/2013-001
Docket: 030-37579
License: 49-29277-01
EA: EA-13-164
Licensee: Southwest X-Ray Corporation
Facility: Field Station
Location Inspected: Renauna Avenue, Casper, Wyoming
Inspection Date: July 8, 2013
Inspectors: Don Stearns, Health Physicist
Approved By: G. Michael Vasquez, Chief
Nuclear Materials Safety Branch A
Division of Nuclear Materials Safety
Attachment: Supplemental Information

Enclosure

EXECUTIVE SUMMARY

Southwest X-Ray Corporation NRC Inspection Report 030-37579/2013-001

This was a routine, unannounced inspection of Southwest X-Ray Corporation involving the use of byproduct material for industrial radiographic operations conducted on July 8, 2013, at a field station located in Casper, Wyoming. The inspection consisted of a review of selected records and procedures, direct observations, and discussions with licensee personnel as related to radiation safety and security and to compliance with the Commission's rules and regulations, as well as the conditions of the license. This report describes the findings of the inspection.

Program Overview

Southwest X-Ray Corporation is authorized to conduct industrial radiography under the U.S. Nuclear Regulatory Commission (NRC) License 49-29277-01 at temporary job sites throughout the United States where the NRC maintains jurisdiction for regulating the use of licensed material. (Section 1)

Apparent Violations

- Failure to ensure that radiography was conducted with a radiographer accompanied by another qualified radiographer or qualified radiographer's assistant. This was identified as an apparent violation of 10 CFR 34.41(a). (Section 2.2)
- Failure to ensure that the radiographer's assistant was under the personal supervision of a radiographer while using radiographic exposure devices. This was identified as an apparent violation of 10 CFR 34.46(c). (Section 2.2)

Corrective Actions

- The licensee immediately stopped radiography until the qualified radiographer was available to supervise the radiographer's assistant and act as a second qualified person to observe the operations and be capable of providing immediate assistance to prevent unauthorized entry.
- The licensee provided an additional corrective action in its letter dated July 30, 2013 (refer to the U.S. Nuclear Regulatory Commission (NRC) Agencywide Documents Access and Management System (ADAMS) accession number ML13231A028).

REPORT DETAILS

1 Program Overview (87121)

1.1 Inspection Scope

On July 8, 2013, the inspector observed radiographic operations and reviewed the NRC license and correspondence, statements, representations, and procedures provided by the licensee in support of its application for the license. The inspector reviewed records maintained by the licensee and interviewed licensee personnel. Collectively, the activities observed and the documents reviewed described the licensee's implementation of its NRC license requirements and its radiation safety program.

1.2 Observations and Findings

Southwest X-Ray Corporation is authorized under NRC Materials License 49-29277-01 to possess and use byproduct material for industrial radiographic operations at locations specified on the license and at temporary job sites in the United States where the NRC maintains jurisdiction for regulating the use of byproduct material. At the time of the inspection, the licensee had one qualified radiographer and one qualified radiographer's assistant.

2 Inspection Findings (87121)

2.1 Inspection Scope

The inspector conducted an unannounced inspection of licensed activities at the licensee's authorized field station in Casper, Wyoming. The inspector observed radiographic operations, conducted interviews with licensee personnel, and reviewed documentation pertaining to licensee's operating and emergency procedures, transportation procedures, and annual refresher training.

2.2 Observations and Findings

Apparent Violation of 10 CFR 34.41(a)

Title 10 of the Code of Federal Regulations (CFR) 34.41(a) requires, in part, that whenever radiography is performed at a location other than a permanent radiographic installation, the radiographer must be accompanied by at least one other qualified radiographer or an individual who has met the requirements of 34.43(c). The additional qualified individual shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. Radiography may not be performed if only one qualified individual is present.

When the inspector arrived at the licensee's facility, his survey meter indicated that radiography was being performed. The inspector entered the shop area and observed an individual performing radiography of items placed on a flatbed truck at the far end of the building. When the inspector suspected that only one individual was conducting radiography, the inspector approached the individual and asked if he was an assistant radiographer or a qualified radiographer. The individual stated that he was an assistant radiographer. The inspector then asked if a second qualified individual was in the area.

The assistant radiographer stated that the qualified radiographer was in the area earlier, but might have gone into the office. The inspector and the assistant proceeded to the office area and found the radiographer in the office. The radiographer, also the radiation safety officer for the licensee, was not in a position to observe radiographic operations and was not capable of providing immediate assistance if needed. The failure to have at least one additional qualified individual observe the operations and be capable of providing immediate assistance to prevent unauthorized entry was identified as an apparent violation of 10 CFR 34.41(a). (030-37579/13001-01)

Apparent Violation of 10 CFR 34.46

Title 10 CFR 34.46 requires that whenever a radiographer's assistant uses radiographic exposure devices, associated equipment, or sealed sources, or conducts radiation surveys required by § 34.49(b) to determine that the sealed source has returned to the shielded position after an exposure, the assistant shall be under the personal supervision of a radiographer. The personal supervision must include: (1) the radiographer's physical presence at the site where the sealed sources are being used; (2) the availability of the radiographer to give immediate assistance if required; and, (3) the radiographer's direct observation of the assistant's performance of the above referenced operations.

The inspector observed that the radiographer was in the office area of the facility and therefore the radiographer could not directly observe the radiographer's assistant using the radiographic exposure device and conducting the radiation surveys required by 10 CFR 34.49(b). The failure to supervise a radiographer's assistant during use of a radiographic exposure device was identified as an apparent violation of 10 CFR 34.46. (030-37579/13001-02)

2.3 Conclusions

The inspectors identified two apparent violations: (1) failure to ensure that radiography was conducted with a radiographer accompanied by another qualified radiographer or qualified radiographer's assistant, as required by 10 CFR 34.41(a); and (2) failure to supervise the assistant radiographer, as required by 10 CFR 34.46.

3 Corrective Actions

The licensee immediately stopped radiography until the qualified radiographer was available to supervise the assistant radiographer and act as a second qualified person to observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. By letter dated July 30, 2013, (ADAMS accession number ML13231A028), the licensee also stated that the radiographer reviewed the issue with the radiographer's assistant.

4 Exit Meeting Summary

A preliminary exit briefing was conducted at the conclusion of the onsite inspection with the RSO. A final exit briefing was conducted by telephone with radiation safety officer on August 14, 2013. The licensee acknowledged the inspector's findings. No proprietary information was discussed.

SUPPLEMENTAL INFORMATION

PARTIAL LIST OF PERSONS CONTACTED

Michael McIntire, Owner and Radiation Safety Officer
Kurt McIntire, Assistant Radiographer

INSPECTION PROCEDURES USED

87121 Industrial Radiography Programs

ITEMS OPENED, CLOSED, AND DISCUSSED

Opened

030-37579/13001-01	APV	The licensee failed to ensure that radiography was conducted with a radiographer accompanied by another qualified radiographer or qualified radiographer's assistant. This was identified as an apparent violation of 10 CFR 34.41(a).
030-37579/13001-02	APV	The licensee failed to ensure that the radiographer's assistant was under the personal supervision of a radiographer while using radiographic exposure devices. This was identified as an apparent violation of 10 CFR 34.46(a).

Closed

None

Discussed

None

LIST OF ACRONYMS

APV Apparent Violation
CFR Code of Federal Regulations
NRC Nuclear Regulatory Commission