



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION III
2443 WARRENVILLE RD. SUITE 210
LISLE, ILLINOIS 60532-4352

August 19, 2014

EA-14-106

Mr. William Burton Benesek, P.E.
Director of Transportation
City of St. Peters
P.O. Box 9
St. Peters, Missouri 63376

SUBJECT: NOTICE OF VIOLATION – CITY OF ST. PETERS; NRC ROUTINE INSPECTION
REPORT NO. 03018256/2014001(DNMS)

Dear Mr. Benesek,

This letter refers to the routine inspection conducted at your St. Peters, Missouri, facility on June 2, 2014. The purpose of the inspection was to review activities performed under your U.S. Nuclear Regulatory Commission (NRC) license to ensure that activities were being performed in accordance with NRC requirements. During the inspection, an apparent violation of NRC requirements was identified. The significance of the issue and the need for lasting and effective corrective actions were discussed with your staff during the exit meeting held on June 2, 2014. Details regarding the apparent violation were provided in NRC Inspection Report No. 03018256/2014001(DNMS) dated July 1, 2014.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violation identified in the report by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In a letter dated August 1, 2014, you provided a written response to the apparent violation.

Based on the information developed during the inspection and the information that you provided in your response dated August 1, 2014, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the subject inspection report. Specifically, the NRC identified that, in 2009, you hired two interns for the summer and provided partial training on the use of portable nuclear density gauges. However, the interns were allowed to use the gauges in the field without supervision. The training provided by your staff did not meet your license conditions, in that, it was not the manufacturer's training program for gauge users which included topics such as radiation safety, radiation physics, or regulatory requirements, and a written test. The root cause of this apparent violation was that your radiation safety officer was not familiar with the specific training requirement on your license. This is of significant concern to the NRC because the untrained individuals could have used the gauge improperly resulting in adverse impacts to the health and safety of themselves and members of the public. Therefore, this violation has been categorized, in accordance with the NRC Enforcement Policy, at Severity Level III.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$3,500 would normally be considered for a Severity Level III violation.

Because your facility has not been the subject of escalated enforcement actions within the last two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process described in Section 2.3.4 of the Enforcement Policy. The NRC reviewed the corrective actions described in your August 1, 2014, letter. The NRC noted that as an immediate corrective action, you placed your portable gauges into secure storage and prohibited their use until long-term corrective actions could be completed. As long-term corrective actions, you committed to have a certified consultant train your radiation safety officer and authorized users on portable gauge radiation safety, radiation physics, regulatory requirements, and hazardous materials. You also stated that you would have the radiation safety officer and an additional employee take radiation safety officer training. Furthermore, you committed to adding this training as recurrent training in the City of St. Peters training database, such that your staff would continue to take gauge training on an annual basis and radiation safety officer on a triennial basis. Based on these corrective actions, the NRC has determined that *Corrective Action* credit is warranted.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III violation constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding: (1) the reason for the violation; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in the inspection report and in your letter dated August 1, 2014. Therefore, you are not required to respond to this letter unless the description therein 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.

We also acknowledge receipt of your response, dated July 31, 2014, to the Severity Level IV Notice of Violation in NRC Inspection Report No. 03018256/2014001(DNMS). Your August 1, 2014, letter supplemented your July 31, 2014, response to the Notice of Violation. The NRC has no further questions on your responses to these issues. Your corrective actions will be examined during future inspections.

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 and in the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the

W. Benesek

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NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

Sincerely,

/RA by Darrell J. Roberts acting for/

Cynthia D. Pederson
Regional Administrator

Docket No. 030-18256
License No. 24-20326-01

Enclosure:
Notice of Violation

cc: State of Missouri
Jason Lewis, Radiation Safety Officer

NOTICE OF VIOLATION

City of St. Peters
St. Peters, Missouri

Docket No. 03018256
License No. 24-20326-01
EA-14-106

During a U. S. Nuclear Regulatory Commission (NRC) inspection conducted on June 2, 2014, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Condition 12 to NRC License No. 24-20326-01 requires, in part, that licensed material be used by, or under the supervision and in the physical presence of, individuals who have successfully completed the manufacturer's training program for gauge users.

Contrary to the above, from approximately May through August 2009, the licensee failed to ensure that licensed material was used by, or under the supervision and in the physical presence of, individuals who had successfully completed the manufacturer's training program for gauge users. Specifically, the licensee allowed two individuals to use licensed material without supervision at temporary job sites in St. Peters, Missouri, and the individuals had not completed the manufacturer's training for gauge users.

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

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 03018256/2014001(DNMS) dated July 1, 2014, and your response dated August 1, 2014. 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, EA-14-106," 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 of Violation (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, United States 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 in 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>. Therefore, 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.

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

Dated this 19th day of August, 2014

Enclosure

NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

Sincerely,

/RA by Darrell J. Roberts acting for/

Cynthia D. Pederson
Regional Administrator

Docket No. 030-18256
License No. 24-20326-01

Enclosure:
Notice of Violation

cc w/encl: State of Missouri
Jason Lewis, Radiation Safety Officer

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OFFICE	RIII	RIII	RIII	D:OE	RIII	RIII
NAME	Lougheed	McCraw	Louden JBG for	Holahan ¹	Orth	Pederson
DATE	08/06/14	08/07/14	08/07/14	08/19/14	08/19/14	08/19/14

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¹ OE concurrence provided via email from K. Norman on August 19, 2014