



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION III
2443 WARRENVILLE RD. SUITE 210
LISLE, IL 60532-4352
November 19, 2014

EA-13-251
EN 49556
NMED No. 130560 (closed)

Mr. Randy Morton, Branch Manager
ATC Group Services, Inc.
7988 Centerpoint Drive, Suite 100
Indianapolis, IN 46256-3345

**SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY -
\$3,500; NRC REACTIVE INSPECTION REPORT NO. 03013245/2013001(DNMS)
AND OFFICE OF INVESTIGATIONS INVESTIGATION REPORT NO. 3-2014-005 -
ATC GROUP SERVICES, INC.**

Dear Mr. Morton:

This letter refers to the U.S. Nuclear Regulatory Commission (NRC) inspection conducted on December 4, 2013, at your office in Indianapolis, Indiana, and an Office of Investigations (OI) investigation completed August 12, 2014. The purpose of the inspection and the OI investigation was to review circumstances associated with your report concerning a stolen portable gauge on November 18, 2013. Based on the results of the NRC inspection and investigation, an apparent violation of NRC requirements was identified. The significance of the issue and the need to take corrective actions were discussed with you during an exit meeting on September 4, 2014. Details regarding the apparent violation were provided in the NRC Inspection Report No. 03013245/2013001(DNMS) and OI Investigation Report No. 3-2014-005 letter dated September 15, 2014.

In the letter transmitting the inspection and OI investigation report, we provided you the opportunity to address the apparent violation identified in the report by either attending a predecisional enforcement conference, by providing a written response before we made our final enforcement decision, or by requesting Alternative Dispute Resolution (ADR). In a letter dated October 14, 2014, you provided a response to the apparent violation. In that letter, you addressed your corrective actions. Your immediate corrective actions consisted of: (1) performing prompt notification to the NRC and the local law enforcement, (2) conducting a thorough investigation which resulted in termination of the employee; and (3) briefing and providing employees information in a memo detailing the incident and reinforcing company policy to always maintain control of a gauge and to lock vehicles when unattended. Long-term corrective actions included providing each employee with extensive online and in-house training sessions on a periodic basis. The training encompasses Department of Transportation requirements for the transportation of equipment, the company's Radiation Safety and Security policies and procedures, branch-specific information on the Radiation Safety Program, and awareness training on radiation. We also considered the information you provided in your 30-day written report, dated December 18, 2013.

Based on the information developed during the inspection and the OI investigation, your 30-day report dated December 18, 2013, and the information that you provided in your response dated October 14, 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. The violation involved the failure to control and maintain constant surveillance of a portable gauge containing licensed material when the gauge was in an unrestricted area and not in storage. Specifically, on November 18, 2013, a company employee left the portable gauge in a vehicle, with the vehicle doors unlocked and keys in the ignition. Subsequently, the vehicle was stolen. The employee's oversight, leaving the vehicle unlocked with keys inside, contributed to the theft. Your staff immediately reported the event in an event notification (EN) 49556, and followed up the initial notification with a 30-day written report. The failure to control and maintain constant surveillance of a portable gauge containing licensed material that resulted in theft of the material is of concern to the NRC. The gauge could be tampered with and the sealed source breached, leading to unnecessary exposures to members of the public. Additionally, despite the prompt actions to attempt to recover the gauge, the device has not been recovered as of the date of this letter. Therefore, this violation has been categorized, in accordance with the NRC Enforcement Policy, at Severity Level III.

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

In keeping with Section 2.3.4 of the Enforcement Policy, the NRC is exercising discretion to propose imposition of a civil penalty of at least the base amount for the violation involving the loss of a sealed source or device. The base civil penalty amount for the violation discussed above and included in the enclosed Notice is \$ 3,500.

In your letter dated October 14, 2014, you acknowledged the safety significance of the violation and asked the NRC to consider use of discretion to mitigate its finding to "no violation" and waive the imposition of civil penalty. Further, you emphasized that ATC Group Services, Inc., took immediate and long-term corrective actions to address the violation and to prevent future occurrences.

Although you did provide information that demonstrates that you have taken adequate immediate and long-term corrective actions, the NRC policy normally does not reduce the civil penalty to an amount below the lowest base civil penalty amount of \$3,500 for a violation involving the actual loss of a sealed source or device.

Therefore, to emphasize the importance of maintaining security and control of sealed sources and devices, I have been authorized, after consultation with the Director, Office of Enforcement, to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) in the base amount of \$3,500 for the Severity Level III violation. In addition, issuance of this Notice 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, or if contested, the basis for disputing the violation; (2) the corrective steps that have been taken and

the results achieved; (3) the corrective steps that will be taken; and (4) the date when full compliance will be achieved is already adequately addressed on the docket in your 30-day report dated December 18, 2013, and in your response to the inspection report dated October 14, 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.

In accordance with Title 10 of the *Code of Federal Regulations* (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's Agencywide Documents Access and Management System (ADAMS), accessible from the 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. 030-13245
License No. 13-17732-01

Enclosures:

1. Notice of Violation and Proposed Imposition of Civil Penalty
2. NUREG/BR-0254 Payment Methods (Licensee Only)

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

ATC Group Services, Inc.
Indianapolis, Indiana

Docket No. 030-13245
License No. 13-17732-01
EA-13-251

During a U.S Nuclear Regulatory Commission (NRC) inspection conducted on December 4, 2013, and an Office of Investigations investigation completed August 12, 2014, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the NRC proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and Title 10 of the *Code of Federal Regulations* (CFR) 2.205. The particular violation and associated civil penalty are set forth below:

- A. Title 10 CFR, Section 20.1802 requires that the licensee control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage.

Contrary to the above, on November 18, 2013, the licensee failed to control and maintain constant surveillance of licensed material, a portable gauge, that was in an unrestricted area and that was not in storage. Specifically, a company employee left the gauge locked in the back of an open-bed truck in a store parking lot in Indianapolis, Indiana, with the truck door unlocked and the keys in the ignition.

This is a Severity Level III violation (Section 6.7).
Civil Penalty - \$3,500.

The NRC has concluded that information regarding the reason for the violation and the corrective actions taken and planned to correct the violation and prevent recurrence is already adequately addressed on the docket in your 30-day report dated December 18, 2013, and in your letter dated October 14, 2014. However, if the description therein does not accurately reflect your position or your corrective actions, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 within 30 days of the date of the letter transmitting this Notice of Violation. 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 Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville, MD 20852-2738, with a copy to the Regional Administrator, U.S., Nuclear Regulatory Commission, Region III, 2443 Warrenville Rd, Suite 210, Lisle, IL 60532 and the Document Control Desk, Washington, DC 20555-0001.

You may pay the civil penalty proposed above, in accordance with NUREG/BR-0254 and by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, a statement indicating when and by what method payment was made, or may protest imposition of the civil penalty in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice. Should you fail to answer within 30 days of the date of this Notice, the NRC will issue an order imposing the civil penalty. Should you elect to file an answer in accordance with 10 CFR 2.205

protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violation listed in this Notice, in whole or in part; (2) demonstrate extenuating circumstances; (3) show error in this Notice; or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the response should address the factors addressed in Section 2.3.4 of the Enforcement Policy. Any written answer addressing these factors pursuant to 10 CFR 2.205 should be set forth separately from the statement or explanation provided pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. Your attention is directed to the other provisions of 10 CFR 2.205 regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205 to be due, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The responses noted above as applicable, i.e., Reply to Notice of Violation, Statement as to payment of civil penalty, and Answer to a Notice of Violation, should be addressed to: Patricia Holahan, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region III, 2443 Warrenville Rd, Suite 210, Lisle, IL 60532, and the Document Control Center, 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>. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request that such material is withheld from public disclosure, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

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 November 2014

R. Morton

- 3 -

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's Agencywide Documents Access and Management System (ADAMS), accessible from the 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. 030-13245
License No. 13-17732-01

Enclosures:

1. Notice of Violation and Proposed Imposition of Civil Penalty
2. NUREG/BR-0254 Payment Methods (Licensee Only)

DISTRIBUTION:

See next page

ADAMS Accession No.: ML14324A963
FILE NAME: EA-13-251 ATC Services --draft Final.docx

OFFICE	RIII	RIII	RIII	RIII	D:NMSS
NAME	MGryglak	AMcCraw	PLouden	DRoth	PHenderson ¹
DATE	11/03/14	11/03/14	11/03/14	11/05/14	11/12/14
OFFICE	D:OGC	D:OE	RIII	RIII	
NAME	CScott ²	PHolahan ³	EDuncan	CPederson DJR for	
DATE	11/12/14	11/13/14	11/18/14	11/19/14	

OFFICIAL RECORD COPY

¹ NMSS concurrence provided via email from M. Burgess on November 12, 2014

² OGC concurrence and No Legal Objection provided via email from D. Cylkowski on November 12, 2014

³ OE concurrence provided via email from K. Norman on November 13, 2014

Letter to Mr. Randy Morton from Cynthia D. Pederson dated November 19, 2014

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY -
\$3,500; NRC REACTIVE INSPECTION REPORT NO. 03013245/2013001(DNMS)
AND OFFICE OF INVESTIGATIONS INVESTIGATION REPORT NO. 3-2014-005 -
ATC GROUP SERVICES, INC.

DISTRIBUTION: w/ Encl 1 only

RidsSecyMailCenter
OCADistribution
Mark Satorius
Roy Zimmerman
Patricia Holahan
Shahram Ghasemian
Kerstun Norman
Cynthia Pederson
Darrell Roberts
Marvin Itzkowitz
Catherine Scott
David Cylkowski
Catherine Haney
Pamela Henderson
Michele Burgess
Robert Sun
Barbara Gusack
Brice Bickett
David Gamberoni
Vivian Campbell
Holly Harrington
Hubert Bell

Cheryl McCrary
Robert Goetz
David D'Abate
Barbara Gusack
F. Paul Paduzzi
Patrick Loudon
Julio Lara
Aaron McCraw
MIB Inspectors
Eric Duncan
Richard Skokowski
Allan Barker
Harral Logaras
James Lynch
Viktoria Mitlyng
Prema Chandrathil
Patricia Loughed
Paul Pelke
Magdalena Gryglak
Sarah Bakhsh
Carmen Olteanu
RidsOemailCenter