



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

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

March 31, 2015

EA-14-238

Mr. Stanley J. Schultz, Owner
Schultz Surveying & Engineering, Inc.
115 West Jefferson Street
Doniphan, MO 53935

SUBJECT: NOTICE OF VIOLATION – SCHULTZ SURVEYING & ENGINEERING, INC.;
NRC SPECIAL INSPECTION REPORT NO. 03034973/2014001(DNMS)

Dear Mr. Schultz:

This letter refers to the special inspection conducted at your facilities in Lake Ozark and Branson, Missouri, on December 15 and 16, 2014. The purpose of the inspection was to review the circumstances surrounding the possession of licensed material at these locations. 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 telephonic exit meeting that was held on January 13, 2015. Details regarding the apparent violation were provided in NRC Inspection Report No. 03034973/2014001(DNMS) dated January 27, 2015.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violations identified in the report by either providing a written response or requesting a predecisional enforcement conference. In a letter dated February 18, 2015, you provided a response to the apparent violations.

Based on the information developed during the inspection and the information that you provided in your response dated February 18, 2015, 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 your staff routinely stored portable gauges in your Lake Ozark and Branson offices, although these locations were not on your NRC license. This was contrary to the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) 30.34(c). The root cause of the violation was a lack of full understanding of NRC's requirements for storage and use of portable gauges, despite an earlier violation for a similar issue. This is of concern to the NRC because it indicated a programmatic, as opposed to an isolated, misunderstanding of NRC requirements, which could have resulted in improper use and storage of the portable gauges. In turn, this could have resulted in adverse impacts to the health and safety of the general 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 is considered for a Severity Level III violation.

Because your facility has not been the subject of escalated enforcement actions within the last two years or two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. The NRC considered the information that you provided to the inspector at the time of the inspection and the information in your February 18, 2015, letter. Your immediate corrective action was to submit a license amendment to add the additional locations to your NRC license. For long-term actions to prevent recurrence, you revised your procedures and disseminated the revisions to applicable staff in order to put your staff on notice that before storing a gauge long term at a new location, it must first be added to the license through an amendment. On the basis of these corrective actions, the NRC determined that *Corrective Action* credit was 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 February 18, 2015. 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 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

S. Schultz

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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 Patrick L. Loudon Acting for/

Darrell J. Roberts
Acting Regional Administrator

Docket No. 030-34973
License No. 24-32159-01

Enclosure:
Notice of Violation

cc: State of Missouri
Bari Chase, Radiation
Safety Officer

NOTICE OF VIOLATION

Schultz Surveying & Engineering, Inc.
Doniphan, Missouri

Docket No. 03034973
License No. 24-32159-01
EA-14-238

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on December 15 and 16, 2014, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 of the *Code of Federal Regulations* (10 CFR) 30.34(c) requires, in part, that each licensee confine its possession and use of byproduct materials to the locations authorized by the license.

Condition 10 of License No. 24-32159-01 limits the storage of licensed materials to the licensee's facilities located in Poplar Bluff and Doniphan, Missouri.

Contrary to the above, between January 31, 2013, and December 16, 2014, the licensee possessed and stored byproduct material in the form of Troxler 3400 series portable gauges at facilities located in Lake Ozark and Branson, Missouri. These locations were not authorized by the license.

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. 03034973/2014001(DNMS) dated January 27, 2015, and your response dated February 18, 2015. 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-14-238," 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 31st day of March, 2015.

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 Patrick L. Loudon Acting for/

Darrell J. Roberts
Acting Regional Administrator

Docket No. 030-34973
License No. 24-32159-01

Enclosure:
Notice of Violation

cc: State of Missouri
Bari Chase, Radiation
Safety Officer

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OFFICE	RIII	RIII	RIII	D:OE	RIII	RIII
NAME	Lougheed	McCraw	Loudon	Holahan ¹ Norman	Skokowski	Roberts PLL for
DATE	03/03/15	03/03/15	03/03/15	03/24/15	03/31/15	03/31/15

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¹ OE concurrence provided via e-mail from K. Norman on March 24, 2015