



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION I
2100 RENAISSANCE BLVD., SUITE 100
KING OF PRUSSIA, PA 19406-2713

January 25, 2016

EA-15-184

James Quill, P.E.
Owner
Megan, LLC
d/b/a Fairfield Testing Laboratory
525 John Street, 2nd Floor
Bridgeport, CT 06604

**SUBJECT: MEGAN, LLC, NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF
CIVIL PENALTY - \$3500 NRC INSPECTION REPORT NO. 03017254/2015001**

Dear Mr. Quill:

This letter provides you the U.S. Nuclear Regulatory Commission's (NRC's) enforcement decision for the apparent violation identified during the onsite NRC safety inspection conducted on August 11 and 12, 2015, at the Megan, LLC facility in Bridgeport, Connecticut (and temporary jobsites in Ansonia and Stamford, Connecticut), with continued in-office review through October 14, 2015. The inspection consisted of interviews with Megan, LLC personnel and the examination of selective records to evaluate Megan, LLC's licensed activities as they relate to radiation safety and to compliance with NRC regulations. The inspection also included a review of Megan, LLC's corrective actions in response to a Severity Level III (SL III) violation issued on February 25, 2015 (ML15056A361¹). The February 25, 2015, violation involved multiple examples of the failure to use two independent controls to secure portable gauges from unauthorized removal whenever the gauges were not under licensee control or constant surveillance as required by 10 CFR 30.34(i).

For this most recent inspection, Steve Courtemanche of this office discussed the apparent violation with you during a telephonic exit meeting on October 14, 2015. The apparent violation was also described in the NRC inspection report sent to you with a letter dated November 2, 2015 (ML15308A428). The apparent violation involved a new example of a failure to use two independent controls to secure portable gauges from unauthorized removal whenever the gauges were not under licensee control or constant surveillance. Specifically, the NRC identified that, at a temporary jobsite, a Megan, LLC portable gauge authorized user was storing a gauge in the trunk of a company vehicle. Although the gauge was secured to the vehicle, the vehicle itself was unlocked, allowing access to the trunk by pulling a lever by the driver's seat or folding down the rear seats. Therefore, an unauthorized individual could remove

¹ Designation in parentheses refers to an Agency-wide Documents Access and Management System (ADAMS) accession number. Unless otherwise noted, documents referenced in this letter are publicly-available using the accession number in ADAMS

the gauge by defeating only one control (the cable securing the gauge transport case to the vehicle).

In the November 2, 2015, letter transmitting the inspection report, we requested that you address the apparent violation by either attending a pre-decisional enforcement conference (PEC), providing a written response, or requesting Alternative Dispute Resolution before we made our final enforcement decision. Specifically, we requested additional information regarding corrective actions taken by Megan, LLC to address long-term corrective and preventive actions for the apparent violation on a company-wide basis and to address the occurrence of similar violations within a short time-span. In a letter dated November 27, 2015 (ML15336A007), you provided a response to the apparent violation that accepted the violations and summarized the corrective actions both taken and planned.

Based on the information developed during the inspection, and the information that you provided in your November 27, 2015, letter, 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 were described in detail in the subject inspection report. The failure to properly secure gauges is of significance to the NRC because of the potential for unauthorized individuals to gain control of the radioactive material and misuse it. 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. Because your facility has been the subject of escalated enforcement action within the last two inspections, the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the NRC Enforcement Policy. The NRC determined that identification credit is not warranted because the violation was identified by an NRC inspector, as described in the NRC inspection report. The NRC concluded that credit is warranted for Megan LLC's corrective actions taken to address the violations. Specifically, Megan, LLC initiated prompt and comprehensive corrective actions, including establishing two tangible barriers by locking all doors and windows in the car, and securing the gauge with a cable and lock inside the trunk of the car. Additionally, the RSO has been performing random inspections when gauges are used at temporary job sites to ensure gauges are double locked in the car when not in use, verifying transportation paperwork is visible in the front seat, proper procedures are being followed when the gauge is in use, and improving employee responsibility by issuing a personal fine to hold employees accountable for their actions.

Therefore, to emphasize the importance of self-identification of violations, and in recognition of your previous escalated enforcement action, after consultation with the Director, Office of Enforcement, I have been authorized to issue the Notice of Violation and Proposed Imposition of Civil Penalty (Notice) in the base amount of \$3500. In addition, issuance of this Notice constitutes escalated enforcement action that may subject you to increased inspection effort. Instructions for responding to the proposed civil penalty are provided in the Notice and in NUREG/BR-0254, 'Payment Methods,' a copy of which is enclosed with this letter.

If you disagree with this enforcement sanction, you may deny the violation, as described in the Notice, or you may request alternative dispute resolution (ADR) with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving

conflicts using a neutral third party. The technique that the NRC has decided to employ is mediation. Mediation is a voluntary, informal process in which a trained neutral (the "mediator") works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC's ADR program can be found at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>.

The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as a neutral third party. If you are interested in pursuing this issue through the ADR program, please contact: (1) the ICR at (877) 733-9415; and (2) Blake Welling, Chief, Commercial, Industrial, R&D, and Academic Branch at 610-337-5205 within 10 days of the date of this letter. You may also contact both ICR and Mr. Welling for additional information. Your submitted signed agreement to mediate using the NRC ADR program will stay the 30-day time period for payment of the civil penalties and the required written response, as identified in the enclosed notice, until the ADR process is completed.

The NRC has concluded that information regarding: (1) the reason for the violation; (2) the actions planned or already taken to correct the violation and prevent recurrence; and, (3) the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 03017254/2015001, in your letter dated November 27, 2015, and in this letter. 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 and its enclosure will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response, if you choose to provide one, should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, 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 withholding of such information, you must specifically identify the portions of your response that you seek to have withheld, and provide in detail the bases for your claim of withholding (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).

J. Quill, P.E.

-4-

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

Sincerely,

/RA/ Original Signed by David C. Lew for

Daniel H. Dorman
Regional Administrator

Docket No. 03017254

Enclosures:

1. Notice of Violation and Proposed Imposition of Civil Penalty
2. NUREG/BR-0254, "Payment Methods"

cc w/enclosures:
State of Connecticut

J. Quill, P.E.

-4-

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cc w/enclosures:
State of Connecticut

Distribution: see next page

DOCUMENT NAME: S:\Enf-allg\Enforcement\Proposed-Actions\Region1\Megan LLC NOV-III-CP EA-15-184.docx
ADAMS ML16025A007

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OFFICE	OE**	RI/DNMS	RA		
NAME	L Sreenivas via email	J Trapp/	D Dorman/DCL for		
DATE	1/19/16	01/21/16	01/25/16		

* See previous concurrence page ** OE to perform a quick review

OFFICIAL RECORD COPY

Letter to James Quill, P.E. from Daniel Dorman dated (DATE)

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Region I OE Files (with concurrences)

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

Megan, LLC
Bridgeport, Connecticut

Docket No. 03017254
License No. 06-19279-01
EA-15-184

During an NRC inspection conducted on August 11 and 12, 2015, with continued in-office review through October 14, 2015, for which a telephonic exit meeting was conducted on October 14, 2015, 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 10 CFR 2.205. The particular violation and associated civil penalty is set forth below:

10 CFR 30.34(i) requires, in part, 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 August 12, 2015, Megan, LLC did not use two independent physical controls that form tangible barriers to secure a portable gauge from unauthorized removal when gauges were not under control and constant surveillance of the licensee. Specifically, the gauge was kept in a locked trunk of the car with the locked transportation case secured to the vehicle and the vehicle was unlocked, allowing access to a mechanism which could be used to open the trunk of the vehicle. The gauge user was in a trailer at the temporary jobsite and was not keeping the gauge under control and constant surveillance.

This is a Severity Level III violation. (Enforcement Policy Section 6.3)
Civil Penalty - \$3500 (EA-15-184)

The NRC has concluded that information regarding: (1) the reason for the violation; (2) the actions planned or already taken to correct the violation and prevent recurrence; and (3) the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 03017254/2015001, in a letter from Megan, LLC dated November 27, 2015, and in the letter transmitting this Notice. Therefore, you are not required to respond to the violation unless the description therein does not accurately reflect your corrective actions or your position. If the docketed information does not accurately reflect your corrective actions or your position, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation EA-15-184," 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 I, 2100 Renaissance Boulevard, Suite 100, King of Prussia, PA 19406, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

The Licensee may pay the civil penalty proposed above in accordance with NUREG/BR-0254, "Payment Methods," 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 the Licensee fail to answer within 30 days of the date of this Notice, the NRC will issue an order imposing the civil penalty. Should the Licensee 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. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205 regarding the procedure for imposing 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, 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 the 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 I, 2100 Renaissance Boulevard, King of Prussia, PA, 19106, 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 from the NRC's document 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.

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

Dated this 25th day of January, 2016.