



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

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

May 10, 2016

EA-16-035
EN 51305
NMED No. 150454 (Closed)

Mr. Mark Sieracke, Principle
Weaver Consultants Group
400 Ann Street, Suite 201A
Grand Rapids, MI 49504

SUBJECT: NOTICE OF VIOLATION – WEAVER CONSULTANTS GROUP;
NRC SPECIAL INSPECTION REPORT NO. 03038128/2016001(DNMS)

Dear Mr. Sieracke:

This letter refers to the U.S. Nuclear Regulatory Commission (NRC) inspection conducted on January 21, 2016, at your Grand Rapids, Michigan facility. The purpose of the inspection was to review the circumstances associated with an event involving damage to a portable gauge that occurred on August 10, 2015. In addition, the NRC inspector examined selected activities performed under your NRC license to ensure that those activities were being performed in accordance with NRC requirements. During the inspection, an apparent violation of NRC requirements was identified. The circumstances surrounding this apparent violation, the significance of the issue, and the need for lasting and effective corrective action were discussed with Mr. Jeffrey Blum of your staff on February 26, 2016. Details regarding the apparent violation were provided in NRC Inspection Report No. 03038128/2016001(DNMS), dated March 8, 2016. The inspection report can be found in the NRC's Agencywide Documents Access and Management System (ADAMS) at Accession Number ML16069A112. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violation identified in the report by: (1) providing a written response; (2) requesting a predecisional enforcement conference, or (3) providing no further response. You provided a written response to the apparent violation in a letter dated March 28, 2016.

Based on the information developed during the inspection, as well as the information you provided in your response dated March 28, 2016, 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 your staff's failures to maintain constant surveillance of a portable gauge containing licensed material that was in an unrestricted area and not in storage, and use a minimum of two independent physical controls that form tangible barriers to secure the gauge from unauthorized removal when the gauge was not under the control and constant surveillance of the licensee, as required by Title 10 of the *Code of Federal Regulations* (CFR) 20.1802 and

10 CFR 30.34(i). Specifically, on August 10, 2015, an Authorized User (AU) did not control and maintain constant surveillance of an unsecured gauge when it was in an unrestricted area and not in storage at a temporary job site. While the AU was reviewing paperwork, he found that he needed additional forms. He did not have any additional forms with him in the field and would have to return to the field office. He forgot that he had left the gauge behind the truck. He backed up the truck to return to the field office and struck the gauge.

The root cause of the violation was human error. The employee was distracted while searching for forms and did not maintain constant surveillance of the gauge. The failure to maintain constant surveillance in an unrestricted area or use of two independent physical barriers to properly secure the gauge 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 not been the subject of escalated enforcement actions within the last 2 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 determined that credit was warranted for *Corrective Action*. Specifically, the corrective actions included: (1) notification of the Radiation Safety Officer of the incident, (2) surveying and assessing the condition of the gauge, (3) transporting the gauge to the licensee's base facility, (4) properly securing and storing the gauge while awaiting leak test results, and (5) shipping the gauge to the manufacturer for decommissioning. Additionally, immediately after the incident, you issued a written company incident alert and followed up with a phone call informing each authorized user of the August 10, 2015, event and emphasizing the NRC 10 CFR 20.1802 and 30.34 (i) regulations and the company radiation safety plan associated with use, storage, and surveillance of portable nuclear moisture density gauges. Further, you required authorized users to review the company's radiation safety plan during the mid-year refresher training. Lastly, you incorporated the facts and the circumstances associated with the August 10, 2015, incident in your company-wide 2016 training.

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 your written response dated March 28, 2016. Therefore, you are not required to respond to the Notice enclosed with 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.

M. Sieracke

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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 ADAMS. 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: 030-38128
License No: 21-32761-01

Enclosure:
Notice of Violation

cc: State of Michigan
Jeffrey A. Blum, Radiation
Safety Officer

NOTICE OF VIOLATION

Weaver Consultants Group
Grand Rapids, Michigan

License No. 21-32761-01
Docket No. 030-38128
EA-16-035

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on January 21, 2016, 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* (CFR) 20.1802 requires, in part, 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.

Title 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 10, 2015, the licensee failed to maintain control and constant surveillance of a portable gauge containing licensed material that was in an unrestricted area and not in storage, and the licensee did not use a minimum of two independent physical controls that form tangible barriers to secure the gauge from unauthorized removal when the gauge was not under the control and constant surveillance of the licensee. Specifically, an authorized gauge user left the gauge behind the truck while searching for additional forms to record gauge readings and did not maintain control and constant surveillance of the gauge or use two independent physical controls when the gauge was not under constant surveillance.

This is a Severity Level III violation (Sections 6.3 and 6.7).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and to prevent recurrence, and the date when full compliance will be achieved, is already adequately addressed on the docket in Inspection Report No. 03038128/2016001 and your written response dated March 28, 2016. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201, if the description herein 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-16-035" 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, 2443 Warrenville Road, Suite 210, Lisle, IL 60532, 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

Enclosure

<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 2 working days of receipt.

Dated this 10th day of April, 2016.

M. Sieracke

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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 ADAMS. 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: 030-38128
License No: 21-32761-01

Enclosure:
Notice of Violation

cc: State of Michigan
Jeffrey A. Blum, Radiation
Safety Officer

DISTRIBUTION:
See next page

ADAMS Accession No.: ML16132A387

OFFICE	RIII		RIII		RIII		D:OE	
NAME	M. Gryglak SB for		McCraw		Giessner CAL for		Holahan ¹	
DATE	04/22/16		04/22/16		04/22/16		05/06/16	
OFFICE	RIII		RIII				RIII	
NAME	Skokowski		Pederson DJR for					
DATE	05/09/16		05/10/16					

OFFICIAL RECORD COPY

¹ OE concurrence provided via e-mail from Kerstun Norman on May 06, 2016

Letter to Mr. Mark Sieracke from Ms. Cynthia D. Pederson dated May 10, 2016

SUBJECT: NOTICE OF VIOLATION – WEAVER CONSULTANTS GROUP;
NRC SPECIAL INSPECTION REPORT NO. 03038128/2016001(DNMS)

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