



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

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

October 12, 2016

EA-16-180

Mr. Michael Bowman, Sr.
Assistant Director
White Earth Department of Transportation
36671 Marten Drive
White Earth, MN 56591

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 03038436/2016001(DNMS)
WHITE EARTH DEPARTMENT OF TRANSPORTATION

Dear Mr. Bowman:

On August 9, 2016, an inspector from the U.S. Nuclear Regulatory Commission (NRC) conducted a routine inspection at your facility in White Earth, Minnesota. The purpose of the inspection was to review activities performed under your NRC license to ensure that activities were being performed in accordance with NRC requirements. The enclosed inspection report presents the results of the inspection (Enclosure 2).

During this inspection, the NRC staff examined activities conducted under your license related to public health and safety. Additionally, the staff examined your compliance with the Commission's rules and regulations as well as the conditions of your license. Within these areas, the inspection consisted of selected examination of procedures and representative records, observations of activities, and interviews with personnel.

Based on the results of this inspection, one apparent violation of NRC requirements was identified and is being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The apparent violation concerned the failure to use a minimum of two independent physical controls to secure a portable moisture density gauge from unauthorized removal, whenever the gauge was not under the control and constant surveillance, as required by Title 10 of the *Code of Federal Regulations* (CFR) Section 30.34(i).

Because the NRC has not made a final determination in this matter, the NRC is not issuing a Notice of Violation for this inspection finding at this time. Mr. Ryan Craffey of my staff conducted a final exit meeting by telephone with you on September 21, 2016 to discuss the inspection findings, the circumstances surrounding this apparent violation, the significance of the issue, and the need for lasting and effective corrective action.

Before the NRC makes its enforcement decision, we are providing you an opportunity to either: (1) respond in writing to the apparent violation addressed in this inspection report within 30 days of the date of this letter; or (2) request a Predecisional Enforcement Conference (PEC). **Please contact Aaron T. McCraw at 630-829-9650 or Aaron.McCraw@nrc.gov within 10 days of the date of this letter to notify the NRC of your intended response.**

If you choose to provide a written response, it should be clearly marked as "Response to the Apparent Violation in Inspection Report No. 03038436/2016001(DNMS); EA-16-180," and should include, for the apparent violation: (1) the reason for the apparent violation, or, if contested, the basis for disputing the apparent violation; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken to avoid further violations; and (4) the date when full compliance was or will be achieved. In presenting your corrective actions, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violation. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be useful in preparing your response. You can find the information notice on the NRC's website at: <http://www.nrc.gov/reading-rm/doc-collections/gen-comm/info-notices/1996/in96028.html>. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a PEC.

If you choose to request a PEC, it will afford you the opportunity to provide your perspective on the apparent violation and any other information that you believe the NRC should take into consideration before making an enforcement decision. The topics discussed during the PEC may include the following: information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned to be taken. If a PEC is held, it will be open for public observation, and the NRC will issue a press release to announce the time and date of the conference.

Because your facility has not been the subject of escalated enforcement action within the last two years or two inspections, a civil penalty may not be warranted in accordance with Section 2.3.4 of the Enforcement Policy. In addition, based upon NRC's understanding of the facts and your corrective actions, it may not be necessary to conduct a PEC in order to enable the NRC to make a final enforcement decision. Our final decision will be based on your confirming on the license docket that the corrective actions previously described to the staff have been or are being taken.

Please be advised that the number and characterization of the apparent violations described in the enclosed inspection report may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

The NRC has also determined that five Severity Level (SL) IV violations of NRC requirements occurred. The violations were also evaluated in accordance with the NRC Enforcement Policy. These violations concerned the failure to: (1) test a sealed source for leakage and/or contamination at the intervals required by Condition 13.A of NRC Materials License No. 22-32823-01; (2) have access to a survey instrument, as required by Condition 22.A; (3) review the content of the radiation protection program, as required by 10 CFR 20.1101(c); (4) comply with the applicable requirements of the U.S. Department of Transportation (DOT) regulations in 49 CFR 177.704(c)(2) for recurrent hazmat training, as required by 10 CFR 71.5(a); and (5) comply with the applicable requirements of the DOT regulations in 49 CFR 177.817(a) for the use of shipping papers, as required also by 10 CFR 71.5(a). The violations are cited in the enclosed Notice of Violation (Notice)(Enclosure 1). The NRC is citing the violations in the Notice because the inspector identified them.

You are required to respond to this letter regarding the SL IV violations, and should follow the instructions specified in the enclosed Notice when preparing your response. The guidance in Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may also be useful in preparing this response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

The NRC determined, and is concerned, that the root cause of the apparent violation and the Security Level IV violations was the lack of adequate oversight of your radiation protection program. In addition to the items listed in the preceding paragraphs, your written response should also include a discussion of what measures you have implemented or will implement to strengthen the oversight of your radiation protection program to ensure that radioactive materials will be used safely, securely, and in accordance with regulatory requirements.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, will be made available electronically for public inspection in the NRC's Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC's website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made publicly available without redaction.

M. Bowman

-4-

Please feel free to contact Mr. Craffey if you have any questions regarding this inspection. Mr. Craffey can be reached at 630-829-9655.

Sincerely,

/RA/

John B. Giessner, Director
Division of Nuclear Materials Safety

Docket No. 030-38436
License No. 22-32823-01

Enclosures:

1. Notice of Violation
2. IR 03038436/2016001(DNMS)

cc w/encl: Michael James LaChapelle,
Radiation Safety Officer
State of Minnesota

M. Bowman

-4-

Please feel free to contact Mr. Craffey if you have any questions regarding this inspection. Mr. Craffey can be reached at 630-829-9655.

Sincerely,

/RA/

John B. Giessner, Director
Division of Nuclear Materials Safety

Docket No. 030-38436
License No. 22-32823-01

Enclosures:

1. Notice of Violation
2. IR 03038436/2016001(DNMS)

cc w/encl: Michael James LaChapelle,
Radiation Safety Officer
State of Minnesota

DISTRIBUTION w/encl:

RidsSecyMailCenter
OCADistribution
Victor McCree
Glenn Tracy
Patricia Holahan
Paul Peduzzi
Robert Fretz
Kerstun Norman
Cynthia Pederson
Darrell Roberts
Edward Williamson
Mauri Lemoncelli
Scott Moore
Daniel Collins
John Tappert
Michele Burgess

Robert Sun
Sophie Holiday
Brian Holian
Michael Layton
Shyrl Coker
Brice Bickett
David Gamberoni
Michael Hay
Richard Skokowski
Holly Harrington
Hubert Bell
Kimberly Howell
David D'Abate
Jeremy Bowen
John Giessner
Christine Lipa

Aaron McCraw
MIB Inspectors
Allan Barker
Harral Logaras
James Lynch
Viktoria Mitlyng
Prema Chandrathil
Kenneth Lambert
Paul Pelke
Magdalena Gryglak
Sarah Bakhsh
Jim Clay
Carmen Olteanu
RidsOemailCenter
OEWEB Resource

ADAMS Accession Number: ML16286A612

Publicly Available Non-Publicly Available Sensitive Non-Sensitive

To receive a copy of this document, indicate in the concurrence box "C" = Copy without attach/encl "E" = Copy with attach/encl "N" = No copy

OFFICE	RIII-DNMS		RIII-DNMS		RIII-EICS		RIII-DNMS	
NAME	RCraffey:ps		AMcCraw		RSkokowski KLambert for		JGiessner	
DATE	10/3/2016		10/6/2016		10/7/2016		10/12/2016	

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

White Earth Department of Transportation
White Earth, Minnesota

License No. 22-32823-01
Docket No. 030-38436

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on August 9, 2016, five violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. Condition 13.A of NRC Materials License No. 22-32823-01 requires that sealed sources shall be tested for leakage and/or contamination at intervals not to exceed the intervals specified in the certificate of registration issued by NRC under Title 10 of the *Code of Federal Regulations* (CFR) Section 32.210 or by an agreement state.

Certificate of Registration No. NR-0587-D-104-S, dated May 25, 2004 and issued by the NRC under 10 CFR 32.210, states that the leak test frequency of Seaman C-100, C-200, and C-300 portable moisture density gauges is 6 months.

Contrary to the above, the White Earth Department of Transportation failed to test a Seaman C-300 portable gauge, containing a sealed source of radium-226, at intervals not to exceed 6 months. Specifically, the licensee failed to test the sealed source in the gauge between July 1, 2011 and August 9, 2016, and interval greater than 6 months.

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

- B. Condition 22.A of NRC Materials License No. 22-32823-01 requires in part that the licensee shall conduct its program in accordance with the statements, representations, and procedures contained in the application dated May 6, 2011.

Item 10.2 of the application dated May 6, 2011 states that “[we will] have access to and use a radiation survey meter that meets the criteria in the section entitled “Radiation Protection Program – Instruments” in NUREG-1556, Vol.1, Rev. 1, dated November 2001.”

Contrary to the above, as of August 9, 2016, the White Earth Department of Transportation did not have access to or use a radiation survey meter.

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

- C. Title 10 CFR 20.1101(c) requires that the licensee shall periodically (at least annually) review the radiation protection program content and implementation.

Contrary to the above, as of August 9, 2016, the White Earth Department of Transportation failed to periodically (at least annually) review the radiation protection program content and implementation. Specifically, the licensee has not reviewed the radiation protection program and implementation since the license was issued on June 13, 2011.

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

D. Title 10 CFR 71.5(a) requires that each licensee who transports licensed material outside the site of usage, as specified in the NRC license, or where transport is on public highways, or who delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the DOT regulations in 49 CFR Parts 107, 171 through 180, and 390 through 397, appropriate to the mode of transport.

1. Title 49 CFR 172.702 requires that each hazmat employer shall ensure that each hazmat employee is trained and tested, and that no hazmat employee performs any function subject to the requirements of 49 CFR Parts 171-177 unless trained, in accordance with Subpart H of 49 CFR Part 172. The terms Hazmat Employer and Hazmat Employee are defined in 49 CFR 171.8.

Title 49 CFR 172.704(a) specifies the elements of hazmat employee training as: (1) general awareness/familiarization training, (2) function-specific training, (3) safety training; (4) security awareness training; and (5) in-depth security training, if applicable.

Title 49 CFR 172.704(c)(2) requires, in part, that a hazmat employee receive initial training and recurrent training at least once every three years.

Contrary to the above, as of August 9, 2016, the White Earth Department of Transportation did not provide recurrent training at least once every three years for its hazmat employees that satisfied the requirements in Subpart H to 49 CFR Part 172, and the licensee otherwise meets the definition of a hazmat employer in 49 CFR 171.8. Specifically, the licensee's sole hazmat employee (the authorized gauge user) had not been provided recurrent hazmat training since initially receiving this training on January 26, 2011, an interval of greater than three years.

This is a Severity Level IV violation (Section 6.8).

2. Title 49 CFR 177.817(a) states, in part, that a person may not transport a hazardous material by highway unless that person has received a shipping paper prepared in accordance with Part 172 of this subchapter.

Contrary to the above, on September 20, 2015, and on previous occasions, the White Earth Department of Transportation's authorized gauge user transported a Seaman C-300 portable moisture density gauge, containing a Class 7 (radioactive) hazardous material, on public highways without a shipping paper.

This is a Severity Level IV violation (Section 6.8).

Pursuant to the provisions of 10 CFR 2.201, White Earth Department of Transportation is hereby required to submit a written statement or explanation 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). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include: (1) the reason for the violations, or, if contested, the basis for disputing the violations or their severity level, (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 was

or will be achieved. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

Your response will be made available electronically for public inspection in the NRC's Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC's website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made publicly available without redaction.

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, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

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

Dated this 12th day of October 2016.

**U.S. Nuclear Regulatory Commission
Region III**

Docket No. 030-38436

License No. 22-32823-01

Report No. 03038436/2016001(DNMS)

EA No. EA-16-180

Licensee: White Earth Department of Transportation

Facility: 36671 Marten Drive
White Earth, Minnesota

Inspection Date: August 9, 2016

Exit Meeting Date: September 21, 2016

Inspector: Ryan Craffey, Health Physicist

Approved By: Aaron T. McCraw, Chief
Materials Inspection Branch
Division of Nuclear Materials Safety

EXECUTIVE SUMMARY

White Earth Department of Transportation NRC Inspection Report 03038436/2016001(DNMS)

This was an unannounced, routine inspection of the White Earth Department of Transportation (the licensee), authorized by U.S. Nuclear Regulatory Commission (NRC) Materials License No. 22-32823-01 to possess and use moisture density gauges containing byproduct material. At the time of the inspection, the licensee had one Seaman C-300 gauge, stored on the premises of the White Earth Tribal Council's Public Works Division in White Earth, Minnesota.

As a result of this inspection, the NRC identified an apparent violation of Title 10 of the *Code of Federal Regulations* (CFR) Section 30.34(i) for the failure to use a minimum of two independent physical controls that form tangible barriers against unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee. The inspector found that the licensee stored its gauge in an unlocked transport case inside an unlocked storage cabinet in the back of an open garage, and there were no individuals continuously present to maintain control or constant surveillance of the gauge.

The inspector determined that the root cause of the apparent violation was a lack of adequate oversight for the radiation protection program. As corrective action, the licensee installed a second locking hasp on the door to the storage cabinet, and locked the first hasp. The inspector also discussed this requirement with the licensee's staff to ensure that they understood the requirement and recognized the importance of gauge security.

The inspector also identified Severity Level IV violations regarding the failure to: (1) test a sealed source for leakage and/or contamination at the intervals required by Condition 13.A of NRC Materials License No. 22-32823-01; (2) have access to a survey instrument, as required by Condition 22.A; (3) review the content of the radiation protection program, as required by 10 CFR 20.1101(c); (4) comply with the applicable requirement of the DOT regulations in 49 CFR 177.704(c)(2) for recurrent hazmat training, as required by 10 CFR 71.5(a); and (5) comply with the applicable requirement of the U.S. Department of Transportation (DOT) regulations in 49 CFR 177.817(a) for the use of shipping papers, as required also by 10 CFR 71.5(a).

The inspector determined that the root cause of these five violations was also a lack of adequate oversight for the radiation protection program. The licensee has taken or has committed to take a number of corrective actions regarding these violations, as described in the body of this report.

REPORT DETAILS

1 Program Overview and Inspection History

The licensee was authorized by NRC Materials License No. 22-32823-01 to use or store sealed sourced of byproduct material in portable gauging devices at a facility in White Earth, Minnesota, and to use these devices for measuring physical properties of materials at temporary job sites on lands under exclusive Federal jurisdiction within the White Earth Indian Reservation, which encompassed around 1,100 square miles of land in northwest Minnesota. At the time of the inspection, the licensee had one Seaman C-300 gauge (containing approximately 4.5 millicuries of radium-226), and one active authorized user (AU) on staff.

The NRC conducted an initial inspection of the licensee on September 14, 2011. No violations were identified during the inspection.

2 Security of Portable Gauges

2.1 Inspection Scope

The inspector toured the facility in White Earth to evaluate the licensee's measures for materials security. The inspector also interviewed the licensee's RSO, AU, and other staff to discuss the implementation of these measures.

2.2 Observations and Findings

The inspector identified an apparent violation of 10 CFR 30.34(i) for the failure to 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 a licensee.

The inspector found upon his arrival that the gauge was stored in an unlocked transport case inside an unlocked storage cabinet in the back of an open garage, and that there were no individuals continuously present to maintain control or constant surveillance of the device.

The premises of this facility were bordered by a chain-link fence with a gate at the driveway; however, the gate was normally open during business hours, as were each of the roll-up doors into the garage where the gauge was stored, and the garage was readily accessible from the street. The cabinet in which the gauge was stored did have a locking hasp on the door; however, the padlock hanging on the hasp was not closed.

The gauge was the only piece of equipment stored in this cabinet, and the licensee's sole AU was the only individual with keys to the padlock. The AU suspected that the padlock was open because he had forgotten to close it when last returning the gauge to storage – estimated, based on records of past projects, to have been on May 14, 2016. There was no indication that anyone else had accessed this cabinet or the gauge itself since that time; other licensee staff stated that they had no reason or desire to access an area posted as containing radioactive material.

The inspector determined that the root cause of this apparent violation was a lack of adequate oversight for the radiation protection program. The licensee's RSO acknowledged that he took little interest in the gauge since he did not use it. Consequently, he did not ensure: (1) that there were sufficient engineering or procedural controls to maintain two barriers, or (2) that the controls in place were used properly.

As corrective action, the licensee maintained control and constant surveillance of the gauge until it could complete installation of a second locking hasp on the door to the storage cabinet. The licensee completed this installation before close of business on the day of the inspection, and after locking the gauge inside the cabinet, provided a photograph to the inspector as confirmation that compliance had been restored. The inspector discussed this requirement with licensee's RSO, AU, and office manager to ensure that they understood the requirement and recognized the importance of gauge security.

2.3 Conclusions

The inspector identified an apparent violation of 10 CFR 30.34(i) for the failure to 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 a licensee.

3 Sealed Source Leak Testing

3.1 Inspection Scope

The inspector interviewed the licensee's staff to discuss routine maintenance of the moisture density gauge, and reviewed a selection of applicable records.

3.2 Observations and Findings

The inspector identified a violation of Condition 13.A of NRC Materials License No. 22-32823-01 for the failure to test the sealed source in its portable gauge for leakage and/or contamination specified in the applicable certificate of registration.

The certificate of registration for a Seaman C-300 gauge (NR-0587-D-104-S), dated May 25, 2004, and issued by the NRC under 10 CFR 32.210, states that the leak test frequency of Seaman C-100, C-200, and C-300 portable moisture density gauges is 6 months.

Through interviews with the staff and a review of available leak test records, the inspector found that the licensee had never performed a leak test of the gauge; the last documented test had been performed by the manufacturer on July 1, 2011 (an interval exceeding 6 months), prior to initially transferring the gauge to the licensee.

The inspector determined that the root cause of this violation was a lack of adequate oversight for the radiation protection program. As corrective action, the licensee's staff collected a leak test during the inspection, using a kit which the manufacturer had provided when it transferred the gauge to the licensee, and placed the shipment in the

mail for analysis by the manufacturer. The inspector performed a preliminary survey of the kit using a Ludlum 2403 survey meter with a model 44-9 pancake probe (calibrated on November 23, 2015) prior to mailing; the results of the survey were indistinguishable from background. The licensee also committed to creating multiple electronic calendar reminders to ensure that future leak tests were collected at the required intervals.

3.3 Conclusions

The inspector identified a violation of Condition 13.A of NRC Materials License No. 22-32823-01 for the failure to test the sealed source in its portable gauge for leakage and/or contamination specified in the applicable certificate of registration.

4 **Surveys**

4.1 Inspection Scope

The inspector toured the licensee's facility to conduct independent surveys, and interviewed the licensee's staff to discuss the implementation of emergency procedures, including their use of survey instruments.

4.2 Observations and Findings

A. Availability of Survey Instruments

The inspector identified a violation of Condition 22.A of NRC Materials License No. 22-32823-01 for the failure to have access to and use a radiation survey meter.

Through interviews with staff, the inspector found that the licensee did not possess a survey meter, nor did it have a pre-existing arrangement with another entity or organization to gain access to that instrument in the event of an emergency.

The inspector determined that the root cause of the violation was a lack of adequate oversight for the radiation protection program. As corrective action, the licensee committed to contact other nearby organizations which use moisture density gauges, and to establish an agreement with one of them to obtain access to a survey instrument in the event of an emergency.

B. Independent Surveys

The inspector conducted independent surveys using a ThermoFisher Scientific RadEye G Gamma Survey Meter (calibrated on April 22, 2016). Readings at the surface of the gauge were consistent with those indicated in the previously mentioned certificate of registration. Readings in unrestricted areas in the vicinity of the gauge storage cabinet were below limits to members of the public.

4.3 Conclusions

The inspector identified a violation of Condition 22.A of NRC Materials License No. 22-32823-01 for the failure to have access to and use a radiation survey meter.

5 Transportation of Hazardous Material

5.1 Inspection Scope

The inspector interviewed the licensee's staff to discuss the transportation of hazardous material on public highways, and reviewed a selection of applicable records.

5.2 Observations and Findings

A. Hazmat Training

The inspector identified a violation of 10 CFR Section 71.5(a) for the failure to ensure that each hazmat employee is trained and tested every three years, as required by 49 CFR 172.704(c)(2).

Through a review of records, the inspector found that the licensee's AU, a hazmat employee, had last received the training and testing required by Subpart H of 49 CFR Part 172 on January 26, 2011 (an interval exceeding three years).

The inspector determined that the root cause of the violation was a lack of adequate oversight for the radiation protection program. As corrective action, the licensee committed to find a provider for this training, and to ensure that its AU received the training before transporting the gauge again.

B. Shipping Papers

The inspector identified a second violation of 10 CFR 71.5(a) for the failure to use shipping papers, as required by 49 CFR 177.817(a).

Through interviews with staff, the inspector found that the licensee did not prepare or use a shipping paper to accompany the gauge when transporting it to temporary job sites via public highway on September 20, 2015, or on previous occasions. The inspector noted that the manufacturer had included an example shipping paper as part of the material it initially provided to the licensee when it transferred the gauge in 2011; however, that example was not fully completed, nor had it been used during transport; instead, it had been stored since receipt in a filing cabinet with other gauge records at the licensee's facility in White Earth.

The inspector determined that the root cause of the violation was a lack of adequate oversight for the radiation protection program. As corrective action, the licensee completed the example shipping paper, and placed it in the gauge case for future use. The inspector discussed this requirement with licensee's staff to ensure that they understood the requirement, and that the shipping paper must be accessible, as required by 49 CFR 177.817(e), during any future transport of the gauge.

5.3 Conclusions

The inspector identified two violations of 10 CFR 71.5(a) for the failure to use shipping papers, as required by 49 CFR 177.817(a), and for the failure to ensure that each

hazmat employee is trained and tested every three years, as required by 49 CFR 172.704(c)(2).

6 Radiation Protection Program Oversight

6.1 Inspection Scope

The inspector interviewed the licensee's staff to discuss the oversight of the radiation protection program.

6.2 Observations and Findings

The inspector identified a violation of 10 CFR 20.1101(c) for the licensee's failure to periodically (at least annually) review the content and implementation of the radiation protection program.

Through interviews with staff, the inspector found that the licensee had never reviewed the content and implementation of the program since the licensee was issued (a period greater than annually).

The inspector determined that the root cause of the violation was a lack of adequate oversight for the radiation protection program. As corrective action, the licensee committed to review and consider the example checklist in NUREG-1556 Vol. 1, Rev.1, and to perform an audit thereafter. The licensee was also considering the submission of a request to name the AU as RSO.

6.3 Conclusions

The inspector identified a violation of 10 CFR 20.1101(c) for the licensee's failure to periodically review the content and implementation of the radiation protection program.

7 Other Areas Inspected

7.1 Inspection Scope

The inspector interviewed the licensee's staff to discuss the use of portable gauges on temporary job sites. The inspector did not observe the conduct of licensed activities, as none were scheduled or in progress at the time of the inspection.

7.2 Observations and Findings

The inspector interviewed the licensee's AU and discussed the manner in which he used the portable gauge when needed at a temporary job site. The AU demonstrated a satisfactory awareness of radiation protection principles and ALARA practices.

7.3 Conclusions

The inspector had no findings of significance in these areas.

8 Exit Meeting Summary

The NRC inspector presented preliminary inspection findings following the onsite inspection on September 21, 2016. The licensee did not identify any documents or processes reviewed by the inspectors as proprietary. The licensee acknowledged the findings presented.

LIST OF PERSONNEL CONTACTED

- # Michael Bowman, Sr. – Assistant Director, Public Works Division
Michael James LaChappelle – Civil Engineer (Radiation Safety Officer)
Bucky Tibbetts – Civil Engineer (Authorized User)

- # Attended exit meeting on September 21, 2016

INSPECTION PROCEDURE USED

87124: Fixed and Portable Gauge Programs