



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV
1600 E. LAMAR BLVD.
ARLINGTON, TX 76011-4511

June 13, 2017

EA-16-267

Mr. Roger Gibson
Plant Manager
P4 Production, LLC
P.O. Box 816
Soda Springs, ID 83276-0816

SUBJECT: NOTICE OF VIOLATION AND NRC REACTIVE INSPECTION
REPORT 030-32303/2016-001

Dear Mr. Gibson:

This letter refers to the announced, reactive inspection conducted on September 29 and October 12, 2016, at your facility in Soda Springs, Idaho, with continued in-office review of associated records and procedures through February 6, 2017. The inspection was conducted in response to an Event Notification Report (Event 52268) that involved a potential radiation overexposure to members of the public from a fixed nuclear gauge used at Monsanto Company's P4 phosphorus production facility.

In the U.S. Nuclear Regulatory Commission's (NRC's) letter dated April 12, 2017 (Agencywide Documents Access and Management System (ADAMS) Accession ML17045A642), transmitting the subject inspection report, the NRC provided you with the opportunity to address the apparent violations identified in the report by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In a letter dated May 10, 2017 (ADAMS Accession ML17135A332), you provided a written response to the apparent violations.

Based on the information developed during the inspection and the information that you provided in response to the inspection report, the NRC has determined that three violations of NRC requirements occurred. These violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in detail in the NRC's April 12, 2017, letter and inspection report. The violations involved: (1) a failure to ensure that only qualified workers performed licensed work activities; (2) a failure to ensure that work activities be coordinated with the radiation safety officer who was required to, but did not, evaluate exposure-related safety or health concerns, and take appropriate preventative measures; and (3) a failure to ensure that the work activities did not expose personnel to direct contact with a primary beam.

These violations resulted in unnecessary radiation exposure to two members of the public and could have resulted in a radiation overexposure. Therefore, these violations are categorized collectively in accordance with the NRC Enforcement Policy as a Severity Level III problem. The NRC Enforcement Policy, can be found at the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$7,000 is considered for a Severity Level III problem. Because your facility has not been the subject of escalated enforcement actions within the last 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 NRC Enforcement Policy. Your prompt and comprehensive corrective actions were described in: (1) the 30-day written report for Event 52268, dated October 27, 2016 (ADAMS Accession ML16306A447); (2) your correspondence dated February 2, 2017 (ADAMS Accession ML17037D095); (3) the NRC Inspection Report 030-32303/2016-001 dated April 12, 2017 (ADAMS Accession ML17045A642); and (4) your response to the inspection report dated May 10, 2017 (ADAMS Accession ML17135A332).

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 problem constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding: (1) the reason for the violations, (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 subject inspection report and in your letter dated May 10, 2017. 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* (10 CFR) 2.390, of the NRCs "Agency Rules of Practice and Procedure," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room and in the NRC's ADAMS, accessible from the NRC Web site 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 or proprietary 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). The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

If you have any questions concerning this matter, please contact Ms. Vivian H. Campbell of my staff at 817-200-1455.

Sincerely,


Kriss M. Kennedy
Regional Administrator

Docket No. 030-32303
License No. 11-27361-01

Enclosure: Notice of Violation

cc w/enclosure:
Mark Dietrich, Administrator
Idaho Radiation Control Program

Debra Shults, Director
Tennessee Radiation Control Program

NOTICE OF VIOLATION

P4 Production, LLC
Soda Springs, Idaho

Docket No. 030-32303
License No. 11-27361-01
EA-16-267

During an NRC inspection conducted on September 29 and October 12, 2016, three violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. NRC Materials License 11-27361-01, Amendment 6, License Condition 17.A, requires, in part, that fixed nuclear gauge installation and dismantling shall be performed only by individuals who have completed the training specified in the license application dated January 29, 2008, and electronic mail dated June 11, 2008.

Contrary to the above, on November 18, 2015, June 15, 2016, and September 27, 2016, fixed nuclear gauge installation and dismantling was performed by individuals who had not completed the training specified in the license application dated January 29, 2008, and electronic mail dated June 11, 2008. Specifically, the licensee permitted contract workers, who had not received the required training, to perform fixed nuclear gauge installation and dismantling.

- B. NRC Materials License 11-27361-01, Amendment 6, License Condition 25.A, requires, in part, that the licensee conduct its program in accordance with the procedures contained in the license application dated January 29, 2008.

The Ionizing Radiation Safety Procedure 334, Revision 6, contained within the license application, Step 7.6 requires, in part, that any employee or contractor who is working on or near a nuclear source shall coordinate their efforts with the plant radiation safety officer (RSO) or RSO trained personnel. The RSO will review the circumstances of the work to be performed, evaluate any exposure-related safety or health concern, and take preventative measures if an employee's dose rate will exceed 2 millirem per hour.

Contrary to the above, on September 27, 2016, the licensee failed to ensure that any employee or contractor who was working on or near a nuclear source coordinated their efforts with the plant RSO or RSO trained personnel. Subsequently, the RSO failed to review the circumstances of the work to be performed, evaluate any exposure-related safety or health concern, and did not take preventative measures when an employee's dose rate exceeded 2 millirem per hour.

- C. NRC Materials License 11-27361-01, Amendment 6, License Condition 19.A, requires, in part, that a licensee may maintain, repair, or replace device components that do not result in the potential for any portion of the body to come into contact with the primary beam.

Enclosure

Contrary to the above, on September 27, 2016, the licensee did maintain, repair, or replace device components that resulted in the potential for portions of the body to come into contact with the primary beam. Specifically, the licensee dismantled a fixed nuclear gauge in order to attempt repairs on device components while the primary beam was unshielded. This resulted in a contractor's extremity coming into contact with the primary beam.

This is a Severity Level III problem (NRC Enforcement Policy, Section 6.3.c.5).

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance will be achieved is already adequately addressed on the docket in: (1) the 30-day written report for Event 52268, dated October 27, 2016 (ADAMS Accession ML16306A447); (2) your correspondence dated February 2, 2017 (ADAMS Accession ML17037D095); (3) the NRC Inspection Report 030-32303/2016-001 dated April 12, 2017 (ADAMS Accession ML17045A642); and (4) your response to the inspection report dated May 10, 2017 (ADAMS Accession ML17135A332).

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-16-267," 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, U.S. Nuclear Regulatory Commission, Region IV, 1600 E. Lamar Blvd, Arlington, TX 76011 within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

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 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 2 working days of receipt.

Dated this 13th day of June 2017