



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION IV
1600 E. LAMAR BLVD.
ARLINGTON, TX 76011-4511

August 14, 2017

EA-17-027

Mr. Kenneth R. Criley
Radiation Safety Officer
Geo-Logic Associates, Inc.
143 E. Spring Hill Drive
Grass Valley, CA 95945

SUBJECT: NOTICE OF VIOLATION AND NRC INSPECTION REPORT 150-00004/2017-003

Dear Mr. Criley:

This letter refers to the unannounced inspection conducted on January 12-13, 2017, of your activities involving portable nuclear gauges at the Puerto Rico Dump, Saipan, and the Ordot Dump, Guam. The purpose of the inspection was to examine activities conducted under your license as they relate to using byproduct material in portable nuclear gauges on Guam and Saipan, both areas of the U.S. Nuclear Regulatory Commission's (NRC's) jurisdiction. The inspection consisted of an examination of procedures and representative records, observations of facilities and activities, independent radiation measurements, and interviews with personnel.

In the letter transmitting the inspection report, dated May 11, 2017 (Agencywide Documents Access and Management System (ADAMS) Accession ML17115A222), we provided you the opportunity to address the apparent violations identified in the inspection report by either attending a predecisional enforcement conference, requesting alternative dispute resolution, or by providing a written response before we made our final enforcement decision. In a letter dated June 9, 2017 (ADAMS Accession ML17206A103), you provided a response to the apparent violations, and in electronic mail dated July 10, 2017 (ADAMS Accession ML17206A104), you provided supplemental information regarding your corrective actions.

Additionally, as part of your corrective actions, on June 23, 2017, you applied for an NRC-specific license to possess and use portable nuclear gauges in areas of NRC jurisdiction. On June 29, 2017, the NRC issued Geo-Logic Associates, Inc., NRC-specific license number 04-35435-01, docket number 030-39058, for the possession and use of portable nuclear gauges in areas of NRC jurisdiction.

Based on the information developed during the inspection, and the information that you provided in your response to the inspection report dated May 11, 2017, the NRC has determined that five 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 subject inspection report. The violations involved failures to: (1) limit activities involving radioactive materials in Non-Agreement States to 180 days in calendar year (CY) 2014; (2) possess and use byproduct material except as authorized in a specific or general license issued in accordance with the NRC regulations, in CYs 2015 and 2016; (3) file a submittal to the NRC at least 3 days before engaging in activities in NRC jurisdiction for the first time in CY 2017; (4) use a minimum of two independent physical controls that form tangible barriers to secure portable nuclear gauges from unauthorized removal whenever portable

nuclear gauges are not under the control and constant surveillance of the licensee; and (5) provide hazmat employees the training required by Title 49 of the *Code of Federal Regulations* (49 CFR) Part 172, Subpart H, at least once every 3 years.

The NRC evaluated the significance of the violations. The failures to: (1) limit activities involving radioactive material in Non-Agreement States to 180 days in CY 2014; (2) possess and use byproduct material except as authorized in a specific or general license for CYs 2015 and 2016; and (3) file a submittal to the NRC at least 3 days before engaging in activities in NRC jurisdiction in CY 2017, are considered significant by the NRC because they impact the NRC's regulatory process and the NRC's ability to perform its regulatory function. Therefore, these violations are categorized collectively in accordance with the NRC Enforcement Policy as a Severity Level III problem. The two additional failures to: (1) use a minimum of two of two independent physical controls that form tangible barriers, and (2) provide hazmat training at least once every 3 years, were categorized as Severity Level IV violations.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$7,000 is considered for a Severity Level III violation. Because your activities have not been previously inspected by the NRC, there is no inspection or enforcement history for the NRC to consider when determining whether a civil penalty is warranted. The NRC, therefore, 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 corrective actions were described in your letter dated June 9, 2017, and you provided supplemental corrective actions in an electronic mail dated July 10, 2017. Additionally, as part of your corrective actions, you applied for an NRC-specific license to possess and use portable nuclear gauges in areas of NRC jurisdiction. You received a license on June 29, 2017. Based on these corrective actions, the NRC has concluded that *Corrective Action* credit is warranted.

Therefore, to emphasize the importance of: (1) understanding the NRC requirements and complying with the terms and conditions of general and specific licenses issued by the NRC; and (2) implementing prompt and comprehensive corrective actions to address the violations, 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 your letter dated June 9, 2017, electronic mail dated July 10, 2017, and through the issuance of your NRC-specific license. 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 "Agency Rules of Practice and Procedure," 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 or from 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>.

Sincerely,

/RA/

Kriss M. Kennedy
Regional Administrator

Docket Nos. 150-00004 and 030-39058
License No. General License Pursuant to
10 CFR 150.20 and Specific
License 04-35435-01

Enclosure: Notice of Violation

cc w/enclosure:
Gonzalo Perez
California Department of Health Services

M. Thomas Nadeau
Guam Department of Health and
Social Services

NRC INSPECTION REPORT 150-00004/2017-003; AND NOTICE OF VIOLATION – DATED August 15, 2017

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ADAMS ACCESSION NUMBER: ML17201Q437

SUNSI Review: ADAMS: Non-Publicly Available Non-Sensitive Keyword:
 By: JFK Yes No Publicly Available Sensitive

OFFICE	MLIB	C:MLIB	TL:ACES	OGC	NMSS	OE
NAME	JFKatanic	VHCampbell	MCHay	CHair	MBurgess	SWoods
SIGNATURE	/RA/	/RA/	/RA	NLO/ E	/RA/ E	/RA/ E
DATE	7/24/17	7/24/17	7/31/17	8/7/17	8/3/17	8/4/17
OFFICE	D:DNMS	RA				
NAME	MRSshaffer	KMKennedy				
SIGNATURE	LH for /RA/	/RA/				
DATE	8/8/17	8/14/17				

NOTICE OF VIOLATION

Geo-Logic Associates, Inc.
Grass Valley, CA

Docket Nos.: 150-00004; 030-39058
License No.: General License Pursuant
to 10 CFR 150.20;
04-35435-01
EA-17-027

During an Nuclear Regulatory Commission (NRC) inspection conducted on January 12-13, 2017, at the Puerto Rico Dump, Saipan, and the Ordot Dump, Guam, five violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 150.20(a)(1) requires, in part, that any person who holds a specific license from an Agreement State, where the licensee maintains an office for directing the licensed activity and retaining radiation safety records, is granted a general license to conduct the same activity in non-Agreement States.

10 CFR 150.20(b)(4) requires, in part, that the general licensee shall not, under the general license concerning activities in non-Agreement States or in areas of exclusive Federal jurisdiction within Agreement States, possess or use radioactive materials, or engage in the activities authorized by 10 CFR 150.20(a) for more than 180 days in any calendar year (CY).

Contrary to the above, in CY 2014, from August 19, 2014 to December 31, 2014, Geo-Logic Associates, Inc. (GLA) possessed and used radioactive materials, and engaged in the activities authorized by 10 CFR 150.20(a) for more than 180 days in the CY. Specifically, GLA filed for reciprocity with NRC in CY 2014, and commenced activities in NRC jurisdiction on February 20, 2014. From August 19 to December 31, 2014, GLA possessed or used radioactive materials, or engaged in the activities authorized by 10 CFR 150.20(a) more than 180 days in CY 2014, on Guam, a non-Agreement State and area of NRC jurisdiction.

- B. 10 CFR 30.3(a) requires, in part, that no person shall manufacture, produce, transfer, receive, acquire, own, possess, or use byproduct material except as authorized in a specific or general license issued in accordance with the regulations in 10 CFR Chapter I.

Contrary to the above, during CYs 2015 and 2016, GLA possessed and used byproduct material and these activities were not authorized in a specific or general license issued in accordance with the regulations in 10 CFR Chapter I. Specifically, for 365 days in CY 2015 and for 366 days in CY 2016; GLA possessed and used byproduct material in two portable nuclear gauges on Guam and Saipan, both non-Agreement States and areas of NRC jurisdiction, and these activities were not authorized in a specific or general license issued in accordance with the NRC's regulations in 10 CFR Chapter I.

- C. 10 CFR 150.20(a)(1) requires, in part, that any person who holds a specific license from an Agreement State, where the licensee maintains an office for directing the licensed activity and retaining radiation safety records, is granted a general license to conduct the same activity in non-Agreement States.

Enclosure

10 CFR 150.20(b)(1) requires, in part, that the general licensee shall, at least 3 days before engaging in each activity for the first time in a CY, file a submittal containing an NRC Form 241, "Report of Proposed Activities in Non-Agreement States," a copy of its Agreement State-specific license, and the appropriate fee as prescribed in 10 CFR 170.31.

Contrary to the above, beginning on January 1, 2017, GLA engaged in activities in NRC jurisdiction and failed to file a submittal containing an NRC Form 241, "Report of Proposed Activities in Non-Agreement States," a copy of its Agreement State-specific license, and the appropriate fee as prescribed in 10 CFR 170.31. Specifically, GLA engaged in activities starting on January 1, 2017, and filed its submittal containing an NRC Form 241, "Report of Proposed Activities in Non-Agreement States," a copy of its Agreement State-specific license, and the appropriate fee as prescribed in 10 CFR 170.31, on January 26, 2017, a period of 26 days after engaging in activities for the first time in CY 2017.

This is a Severity Level III problem (NRC Enforcement Policy Section 6.9.c).

- D. 10 CFR 150.20(b) requires, in part, that general licenses provided in 10 CFR 150.20 are subject to all applicable rules, regulations, and orders of the NRC including the provisions of 10 CFR 30.34.

10 CFR 30.34(i) requires that each portable nuclear gauge licensee shall use a minimum of two independent physical controls that form tangible barriers to secure portable nuclear gauges from unauthorized removal whenever portable nuclear gauges are not under the control and constant surveillance of the licensee.

Contrary to the above, on January 13, 2017, GLA failed to use a minimum of two independent physical controls that form tangible barriers to secure portable nuclear gauges from unauthorized removal whenever portable nuclear gauges are not under the control and constant surveillance of the licensee. Specifically, on January 13, 2017, at GLA's portable nuclear gauge storage location at the Ordot Dump, Guam, only one tangible barrier was used to secure a portable nuclear gauge from unauthorized removal and the gauge was not under the control and constant surveillance of the licensee.

This is a Severity Level IV violation (NRC Enforcement Policy Section 6.3.d.).

- E. 10 CFR 150.20(b) requires, in part, that the general licenses provided in 10 CFR 150.20 are subject to the provisions of 10 CFR Part 71.

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

49 CFR 172.704(c)(2) requires, in part, that a hazmat employee must receive the training required by 49 CFR Part 172, Subpart H, at least once every three years.

Contrary to the above, from February 20, 2014, through January 13, 2017, licensee hazmat employees failed to receive the training required by 49 CFR Part 172, Subpart

H, at least once every 3 years. Specifically, between February 20, 2014, and January 13, 2017, GLA employees transported Class 7 (radioactive) material on multiple occasions on public highways on Guam and Saipan, and the employees last received the required training between 1987 and 2007, greater than 3 years prior to the transportation activities.

This is a Severity Level IV Violation (NRC Enforcement Policy Section 6.8.d).

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in your letter dated June 9, 2017, electronic mail dated July 10, 2017, and through the issuance of your NRC specific license. 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-17-027," 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 IV, 1600 E. Lamar Blvd, Arlington, Texas 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 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, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

To the extent possible, your response 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).

In accordance with 10 CFR 19.11, you may be required to post this Notice within 2 working days of receipt.

Dated this 14th day of August 2017