



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

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

February 2, 2018

Lt Col. Clay Morgan
Deputy Commander, Fort Worth District
U.S. Army Corps of Engineers
Fort Worth District Safety Office
P.O. Box 17300
Fort Worth, TX 76102-0300

SUBJECT: NRC INSPECTION REPORT 030-14636/2017-001 AND NOTICE OF VIOLATION

Dear Lt. Col. Morgan:

This letter refers to the unannounced inspection conducted on December 6, 2017, at your facility in Fort Hood, Texas. The inspection was an examination of activities conducted under your license as they relate to public health and safety, to confirm compliance with the U.S. Nuclear Regulatory Commission's (NRC) rules, regulations, and with the conditions of your license. Within these areas, the inspection consisted of a selected examination of procedures and representative records, observations of activities, and interviews with personnel. The preliminary inspection findings were discussed with Mr. Patrick Spilman, Ms. Laura Reed, and Ms. Madeline Morgan at the conclusion of the onsite portion of the inspection on December 6, 2017. A final telephonic exit briefing was conducted with you, Ms. Madeline Morgan, radiation safety officer, Ms. Laura Reed, and Mr. Patrick Spilman on January 26, 2018.

Based on the results of this inspection, the NRC has determined that three Severity Level IV violations of NRC requirements occurred. The violations were evaluated in accordance with the NRC Enforcement Policy, which can be found at the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violations are cited and described in the enclosed Notice of Violation (Notice). The violations involved the failure to: 1) secure a portable nuclear gauge with two tangible barriers when not under control and constant surveillance; 2) test sealed sources for leakage and/or contamination at the required interval prior to use or transfer; and 3) implement and maintain the model procedures in Appendix H of NUREG-1556, Vol. 1, Rev. 1, as committed to during the license renewal.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful in preparing your response. You can find the Information Notice on the NRC website at: <http://pbadupws.nrc.gov/docs/ML0612/ML061240509.pdf>. 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 will be (was) achieved should be addressed. The NRC review of your response to the Notice will also determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

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 Title 10 of the *Code of Federal Regulations* (CFR) 2.390(b) to support a request for withholding confidential commercial or financial information).

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, 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>.

Should you have any questions regarding this letter or the enclosed Notice, please contact Jason vonEhr at 817-200-1186, or the undersigned at 817-200-1182.

Sincerely,

/RA/

Michael C. Hay, Chief
Materials Licensing and Inspection Branch
Division of Nuclear Materials Safety

Docket: 030-14636
License: 42-18191-01

Enclosure:
Notice of Violation (Notice)

Cc: Charlotte Sullivan, M.S.A., B.S.N., Manager
Regulatory Licensing Unit Manager
Division for Regulatory Services
Texas Dept. of State Health Services
P.O. Box 149347-Mail Code 2835
Austin, TX 78714-9347

NRC INSPECTION REPORT 030-14636/2017-001 - DATED FEBRUARY 2, 2018.

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NRC-002

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NOTICE OF VIOLATION

U.S. Army Corps of Engineers
Fort Worth District Safety Office
Fort Worth, Texas

Docket No. 030-14636
License No. 42-18191-01

During an NRC inspection conducted on December 6, 2017, three violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A) 10 CFR 30.34(i) requires 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 December 6, 2017, the licensee failed 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 the licensee. Specifically, on December 6, 2017, the licensee had a portable gauge in the back of a licensee vehicle with one independent physical control while not under control and constant surveillance of the licensee.

This is a Severity Level IV violation (NRC Enforcement Policy Section 6.3.d.10)

- B) License Condition 13.C of NRC License 42-18191-01, Amendment No. 13, dated January 27, 2016, requires, in part, that sealed sources removed from storage for use or transfer to another person, and have not been tested within the required leak test interval, shall be tested for leakage and/or contamination before use or transfer.

The Sealed Source and Device Registry defines the leak test frequency for the Troxler Model 3400 Series (NC-646-D-130-S), which includes the Model 3430, as 12 months.

Contrary to the above, around September 2015, the licensee removed sealed sources from storage for use or transfer to another person that had not been tested within the required leak test interval and failed to test for leakage and/or contamination before the use or transfer. Specifically, the licensee transported two Troxler Model 3430 portable gauges containing sealed sources from Fort Sam Houston, Texas, to Fort Hood, Texas, around September 2015, and the most recent leak test of both gauges was conducted on April 30, 2014, a period in excess of the 12 months required by the Sealed Source and Device Registry.

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

- C) License Condition 21.A of NRC License 42-18191-01, Amendment No. 13, dated January 27, 2016, requires, in part, that the licensee conduct its program in accordance with the statements, representations, and procedures contained in the documents, including any enclosures, contained in the application dated December 11, 2015.

The application dated December 11, 2015, under Item No. 10, "Radiation Safety Program - Operating and Emergency Procedures," requires that the licensee implement and maintain the operating and emergency procedures in Appendix H of NUREG-1556, Vol. 1, Rev. 1, dated November 2001, and provide copies of these procedures to all gauge users and at each job site.

Enclosure

Contrary to the above, January 27, 2016 through December 6, 2017, the licensee failed to implement and maintain the operating and emergency procedures in Appendix H of NUREG-1556, Vol. 1, Rev. 1, dated November 2001, and provide copies of these procedures to all gauge users and at each job site. Specifically, from the date of the license renewal, January 27, 2016, through December 6, 2017, the licensee used the prior version of their operating and emergency procedures, which failed to contain several elements or the necessary detail of elements in the NUREG-1556, Vol. 1, Rev. 1 document. These elements include the security of licensed material in use and in storage, proper handling and control of licensed material, routine maintenance, and material accountability.

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

Pursuant to the provisions of 10 CFR 2.201, U.S. Army Corps of Engineers, Fort Worth District Safety Office, 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 IV, 1600 E. Lamar Blvd., Arlington, Texas 76011, 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 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 will be achieved. Your response may reference or include previous 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 requiring information 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.

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.

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>. 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, then 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 material, 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 two working days of receipt.

Dated this February 2, 2018