



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION I
2100 RENAISSANCE BLVD., SUITE 100
KING OF PRUSSIA, PA 19406-2713

March 20, 2018

Shawn A. Ray, Chief Engineer
Gatling, LLC
c/o Shawn A. Ray
1822 Trout Road
Albany, OH 45710

SUBJECT: NRC INSPECTION REPORT NO. 99990001/2017004, GATLING, LLC, NEW HAVEN, WEST VIRGINIA, AND NOTICE OF VIOLATION

Dear Mr. Ray:

On September 22, 2017, Steven Courtemanche of this office conducted a safety inspection at your New Haven, WV facility, of activities authorized by your General License. The inspection was an examination of your activities as they relate to radiation safety and to confirm compliance with the Commission's regulations. The inspection consisted of observations of radioactive material in storage on site and interviews with personnel. You currently have four generally licensed fixed gauge devices not in use. Your intentions to keep the devices were discussed on February 2, 2018, by telephone with Mr. Courtemanche as well as the preliminary inspection findings. On March 1, 2018, you discussed your plans to dispose of the gauges and your progress to date. On March 14, 2018, the findings of the inspection were discussed by telephone with you and Mr. Courtemanche at the conclusion of the inspection. On March 14, 2018, Mr. Courtemanche contacted Charles King of Berthold Technologies USA, LLC, who stated that leak tests were performed and the devices were packaged for shipment. However, the devices would not be removed from the licensee's property until the leak test results were received, which would take two to three weeks.

Based on the results of this inspection and in accordance with the NRC Enforcement Policy, the NRC has determined that four violations of NRC requirements occurred. The violations involved: 1) the failure to maintain records showing compliance with the requirements pertaining to leak testing and functional checks of the on/off mechanism; 2) the failure to appoint an individual to ensure the day-to-day compliance with appropriate regulations and requirements; 3) the failure to register devices annually with the Commission and pay the fee; and 4) the failure to perform quarterly physical inventories of devices kept in standby for future use.

The violations are cited in the enclosed Notice of Violation (Notice), because the violations were identified by the NRC. Because of the potential for radiation exposure to employees and the public which could result from failure to comply with NRC requirements, you must conduct your program according to NRC regulations.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. If you have additional information that you believe the NRC should consider, you may provide it in your response to the Notice. The NRC review of your response to the Notice will also determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter 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 document 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, proprietary, or safeguards information so that it can be made available to the Public without redaction.

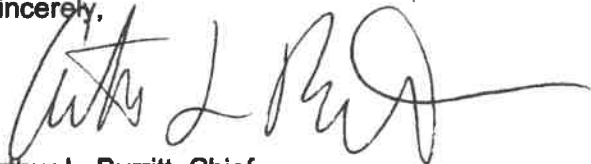
Current NRC regulations and guidance are included on the NRC's Web Site at www.nrc.gov; select **Nuclear Materials; Med, Ind, & Academic Uses**; then **Regulations, Guidance and Communications**. The current Enforcement Policy is included on the NRC's Web Site at www.nrc.gov; select **About NRC, Organizations & Functions; Office of Enforcement; Enforcement documents**; then **Enforcement Policy (Under 'Related Information')**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 8:00 a.m. to 5:30 p.m. EST, Monday through Friday (except Federal holidays).

The NRC's Safety Culture Policy Statement became effective in June 2011. While a policy statement and not a regulation, it sets forth the agency's *expectations* for individuals and organizations to establish and maintain a positive safety culture. You can access the policy statement and supporting material that may benefit your organization on NRC's safety culture Web Site at: <http://www.nrc.gov/about-nrc/safety-culture.html>. We strongly encourage you to review this material and adapt it to your particular needs in order to develop and maintain a positive safety culture as you engage in NRC-regulated activities.

If you have any questions regarding this matter, please contact Steven Courtemanche of my staff at (610) 337-5075 or via electronic mail at Steven.Courtemanche@nrc.gov.

Thank you for your cooperation.

Sincerely,



Arthur L. Burritt, Chief
Commercial, Industrial, R&D,
and Academic Branch
Division of Nuclear Materials Safety
Region I

Docket No. 99990001
General Licensee

Enclosure:
Notice of Violation

cc w/ enclosure: State of West Virginia

S. Ray

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/RA/

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Commercial, Industrial, R&D,
and Academic Branch
Division of Nuclear Materials Safety
Region I

Docket No. 99990001
General Licensee

Enclosure:
Notice of Violation

cc w/ enclosure: State of West Virginia

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| NAME | SCourtemanche/SRC | ABurritt | ALB | | | |
| DATE | 3/15/2018 | 3 | 2018 | | | |

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S. Ray

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Docket No. 99990001
General Licensee

Enclosure: Notice of Violation

cc w/ enclosure: State of West Virginia

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| OFFICE | RI:DNMS | RI:DNMS | | | | |
| NAME | SCourtemanche <i>ARC</i> | ABurritt | | | | |
| DATE | 3/15/2018 | | | | | |

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NOTICE OF VIOLATION

Gatling, LLC
New Haven, WV

Docket No. 99990001
General Licensee

During an NRC inspection conducted on September 22, 2017, with continuing in-office review through March 14, 2018, four violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 31.5(c)(4) requires that the licensee maintain records showing compliance with the requirements of paragraphs (c)(2) and (c)(3) of this section.

10 CFR 31.5(c)(2) requires that the licensee shall assure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than six-month intervals or at such other intervals as are specified in the label.

10 CFR 31.5(c)(3) requires the licensee to ensure that the tests required by paragraph (c)(2) of this section and other testing, installation, servicing, and removal from installation involving the radioactive material, its shielding or containment, are performed.

Contrary to the above, as of February 2, 2018, the licensee did not maintain records showing compliance with the requirements of paragraphs (c)(2) and (c)(3) of 10 CFR 31.5. Specifically, the licensee did not maintain leak test, shutter on/off test, installation, maintenance, and removal from installation records.

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

- B. 10 CFR 31.5(c)(12) requires, in part, that the licensee appoint an individual responsible to ensure the day-to-day compliance with appropriate regulations and requirements.

Contrary to the above, as of March 1, 2018, the licensee appointed an individual who did not ensure the day-to-day compliance with appropriate regulations and requirements. Specifically, the appointed individual did not ensure that the gauges were transferred to the vendor after removal from service.

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

- C. 10 CFR 31.5(c)(13)(ii) requires, in part, that if in possession of a device meeting the criteria of paragraph (c)(13)(i) of this section, register these devices annually with the Commission and pay the fee required by 10 CFR 170.31.

Contrary to the above, as of February 2, 2018, the licensee was in possession of devices meeting the requirements of 10 CFR 31.5(c)(13)(i), but neither registered these devices annually with the Commission nor paid the fee required by 10 CFR 170.31. Specifically, the licensee possessed four Thermo MeasureTech gauges which contained between 50 and 200 millicuries each of cesium-137, did not register the devices with the Commission, and did not pay the required fee since 2016.

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

- D. 10 CFR 31.5(c)(15) requires, in part, that devices kept in standby for future use are excluded from the two-year limit if the general licensee performs quarterly physical inventories of these devices while they are in standby.

Contrary to the above, as of March 1, 2018, the licensee kept devices in standby for future use but did not perform quarterly physical inventories of these devices while they were in standby. Specifically, the licensee did not perform quarterly physical inventories between 2015 and the Commission's on-site visit on September 22, 2017.

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

Pursuant to the provisions of 10 CFR 2.201, Gatling, LLC is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555, with a copy to the Regional Administrator, Region I, 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 for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the 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 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 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 to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, any response which contests an enforcement action shall be submitted under oath or affirmation.

Your response will be placed in the NRC Public Document Room (PDR) and on the NRC Web site. To the extent possible, it should, therefore, not include any personal privacy, proprietary, or safeguards information so that it can be made publically available without redaction. However, if you find it necessary to include such information, you should clearly indicate the specific information that you desire not to be placed in the PDR, and provide the legal basis to support your request for withholding the information from the public.

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

Dated This 27 day of March 2018