



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

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

September 10, 2018

EA-18-099

Mr. Sergio Meilman, P.E., Ph.D.
Director of Operations and Radiation
Safety Officer
Environmental Protection Industries, Inc.
16650 S. Canal Street
South Holland, IL 60473

SUBJECT: NOTICE OF VIOLATION - ENVIRONMENTAL PROTECTION INDUSTRIES, INC.;
NRC SPECIAL INSPECTION REPORT NO. 15000012/2018002(DNMS)

Dear Mr. Meilman:

This letter refers to the U.S. Nuclear Regulatory Commission (NRC) telephone contact with you on July 5, 2018, concerning activities involving the possession and use of a portable nuclear gauge in the State of Indiana, and the continued in-office review, through July 27, 2018, of information you provided to the NRC. During the contact with you and the review of information you provided, an apparent violation of NRC requirements was identified. The circumstances surrounding the apparent violation, the significance of the issue, and the need for lasting and effective corrective actions were discussed with you during a telephone exit meeting on July 27, 2018. Details regarding the apparent violation were provided in NRC Inspection Report No. 15000012/2018002(DNMS), dated August 6, 2018. The inspection report can be found in the NRC's Agencywide Documents Access and Management System (ADAMS) at Accession Number ML18218A572. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violation 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 August 21, 2018, (ML18235A265) you provided a response to the apparent violation.

Based on the information developed during the inspection and the information that you provided in your response to the inspection report, dated August 21, 2018, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the subject inspection report. The violation involved the failure to file NRC Form 241 prior to possessing and performing activities using a portable nuclear gauge containing licensed material in the State of Indiana, a non-Agreement State under NRC jurisdiction.

The root cause of the violation was your lack of awareness that the use of licensed materials in the State of Indiana required authorization from the NRC. The failure to submit an initial NRC Form 241 as required by Title 10 of the *Code of Federal Regulations* (CFR), Section 150.20 is significant because the failure to file for reciprocity prevents the NRC from inspecting these activities and ensuring that licensed material is being used safely and in accordance with NRC requirements. Therefore, this violation has been categorized in accordance with the NRC

Enforcement Policy at Severity Level III. In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$7250 is considered for a Severity Level III violation.

Because your facility has not been the subject of escalated enforcement actions previously, 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 Enforcement Policy. Immediate corrective action included suspending use of the portable moisture density gauge upon notification of the violation. Additional corrective actions included: (1) filing NRC Form 241 for calendar year 2018; (2) providing all dates and locations where work was performed in Indiana in 2018; and (3) identifying all nearby non-Agreement States. Based on the corrective actions listed above, credit for Correction Action was warranted.

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 violation constitutes escalated enforcement action that may subject you to increased inspection effort. The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

The NRC has concluded that information regarding: (1) the reason for the violation; (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 Inspection Report No. 15000012/2018002(DNMS), and your August 21, 2018, letter. 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 "Rules of Practice," a copy of this letter, its enclosure, and your response, if any, 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 should not include any personal privacy, proprietary, or safeguards 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

S. Meilman

- 3 -

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).

Sincerely,

/RA by Darrell J. Roberts acting for/

K. Steven West
Regional Administrator

Docket No. 150-00012
State of Illinois License No. IL-02294-01

Enclosure:
Notice of Violation

cc w/encl: State of Illinois
State of Indiana

Letter to S. Meilman from K. Steven West, dated September 10, 2018

SUBJECT: NOTICE OF VIOLATION - ENVIRONMENTAL PROTECTION INDUSTRIES, INC.;
NRC SPECIAL INSPECTION REPORT NO. 15000012/2018002(DNMS)

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|-------------|-------------|----------|-----------|------------|------------|----------|
| NAME | KLambert:jc | GWarren | CLipa | JPeralta 1 | RSkokowski | KSWest |
| DATE | 8/29/18 | 8/30/18 | 8/31/18 | 9/5/18 | 9/6/18 | 09/10/18 |

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Environmental Protection Industries, Inc.
South Holland, Illinois

Docket No. 150-00012
License No. IL-02294-01
EA-18-099

During a U. S. Nuclear Regulatory Commission (NRC) telephone contact with you on July 5, 2018, and the continued in-office review, through July 27, 2018, of information you provided to the NRC, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 of the *Code of Federal Regulations* (CFR) 150.20(a) provides, in part, that any person who holds a specific license from an Agreement State is granted an NRC general license to conduct the same activity in non-Agreement States, provided that the provisions of 10 CFR 150.20(b) have been met.

Title 10 CFR 150.20(b)(1) requires, in part, that any person engaging in activities in non-Agreement States shall, at least three days before engaging in each activity for the first time in a calendar year, file a submittal containing an NRC Form 241, "Report of Proposed Activities in non-Agreement States," with the Regional Administrator of the appropriate NRC regional office.

Contrary to the above, on several occasions between June 11, 2018, and July 5, 2018, Environmental Protection Industries, Inc., a licensee of the State of Illinois, possessed and used a portable gauge containing licensed radioactive materials at temporary job sites in the State of Indiana, a non-Agreement State, without first filing a Form 241 with the Regional Administrator of the appropriate NRC regional office. Specifically, the company used licensed materials in NRC jurisdiction for 17 days during the aforementioned period without providing the required documentation to the NRC prior to engaging in each activity for the first time in 2018.

This is a Severity Level III violation (Section 6.9).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 15000012/2018002(DNMS), and your August 21, 2018, letter. 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-18-099)," 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 III, 2443 Warrenville Road, Suite 210, Lisle, IL 60532-4352 within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

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.

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

Enclosure

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.

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

Dated this 10th day of September 2018