

Louis Berger

July 15, 2019

ATTN: Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Re: License No. 31-31412-01
Docket No. 03038306
Reply to Notice of Violations

To Whom It May Concern:

This is in reply to the revised letter dated July 5, 2019 from Ms. Anne DeFrancisco, Acting Chief, providing Louis Berger U.S., Inc. a Notice of Violation (copy enclosed) related to the above referenced license.

In response we offer the following corrective action plan with the goals of 1) compliance with regulatory requirements and 2) recurrence prevention:

Violation A. - Sealed source device leak testing not to exceed specified 6 month intervals.

1. *Reason:* Reminders to perform this requirement were not two deep (two personnel responsible).
2. *Corrective actions taken and results:* The RSO (Michael Solie) and the Technician who works directly for the RSO (James Perkins) have been made responsible for the testing. They have set alerts and reminders on their Outlook calendars on their computers to remind them to perform the leak tests within the specified intervals. The most recent leak tests performed was 4/19/19.
3. *Corrective actions to be taken to avoid further violations:* Outlook calendar alerts and reminders will be updated annually by the two above named individuals. If there is a change in staff, the RSO or I will make another staff member responsible for the leak testing and the setting of reminders on their calendars.
4. *Date of full compliance:* 4/19/19 when the most recent leak tests were performed.

Violation B. - Physical inventory of sealed source devices not to exceed specified 6 month intervals.

1. *Reason:* Reminders to perform this requirement were not two deep (two personnel responsible).
2. *Corrective actions taken and results:* The RSO (Michael Solie) and the Technician who works directly for the RSO (James Perkins) have been made responsible for the physical inspections. They have hung a separate log on a clip board where the equipment is being stored verifying that the gauge is present (not just the case) and that the serial # is verified. They have also set alerts and reminders on their Outlook calendars on their computers to remind them to perform the physical inspections within the specified intervals. The most recent physical inspections performed were 4/19/19 and 5/14/19.
3. *Corrective actions to be taken to avoid further violations:* Outlook calendar alerts and reminders will be updated annually by the two above named individuals. If there is a change in staff, the

Louis Berger

RSO or I will make another staff member responsible for the physical inspections, maintenance of the clip board log and the setting of reminders on their calendars.

4. *Date of full compliance:* 5/14/19 when the most recent physical inspection was performed.

Violation C. – Logging the gauges into the daily use log when the gauge was returned to storage.

1. *Reason:* The previous Daily Utilization Form was vague and did not make the requirement clear to the authorized users.
2. *Corrective actions taken and results:* The RSO (Michael Solie) and the Technician who works directly for the RSO (James Perkins) have revised the Daily Utilization Form so it is more clear that the equipment must be “signed back in” when returned to storage. Also, they have been made responsible for training each user to perform this task and for periodically checking the log for compliance.
3. *Corrective actions to be taken to avoid further violations:* Training of users will be on-going. Protocols are in place to instruct each user to sign a statement that they understand the requirements.
4. *Date of full compliance:* The new form was instituted on 5/15/19.

Please also be aware that Louis Berger U.S., Inc. is making arrangements with the manufacturer (Seaman) to dispose of its three sealed nuclear gauges and the Ra-226 contained within the devices. In conformance with NRC regulations listed in 10 CFR 31.5, upon the completed transfer to Seaman we will submit the required reports to the NRC Region I Administrators, your office and the NRC Office of the Chief Financial Officer regarding the transfer and the termination of our license.

Please contact me if you have additional questions. Thank you for your attention in this matter.

Very truly yours,



Neal Weitman
Louis Berger U.S., Inc.
Executive Vice President / Chief, Operations and Performance

Enclosures

CC: Anne DeFrancisco, Acting Chief
USNRC Region I
2100 Renaissance Boulevard, Suite 100
King of Prussia, PA 19406-2713



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
2100 RENAISSANCE BLVD.
KING OF PRUSSIA, PA 19406-2713**

July 5, 2019

Neil Weitman, Exec. Vice President
Louis Berger, U.S., Inc.
96 Morton Street
New York, NY 10014

**SUBJECT: LOUIS BERGER U.S., INC. - NRC INSPECTION NO. 03038306/2019-001 AND
NOTICE OF VIOLATION (REVISED REMOVING MINOR VIOLATION)**

Dear Mr. Weitman:

This letter refers to the inspection conducted on May 14, 2019, at your New Haven, CT facility with continued in-office review through June 10, 2019. This inspection examined activities conducted under your license as they relate to public health and safety, and to confirm compliance with the Commission's rules and regulations and with the conditions of your license. Within these areas, the inspection consisted of selected examination of procedures and representative records, observations of activities, and interviews with personnel. On June 10, 2019, an exit meeting was conducted between Michael Solie of your staff and Steven Courtemanche of this office. Subsequent to the issuance of the cover letter and Notice of Violation on June 24, 2019, the NRC determined that the minor violation noted on the cover letter should be removed. On July 5, 2019, Dan Solie of your staff was informed of the revision by Anne DeFrancisco and Steven Courtemanche of this office.

Based on the results of this inspection, the NRC has determined that 3 Severity Level IV violations of NRC requirements occurred. These violations were evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <https://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violations are cited in the enclosed Notice of Violation (Notice) because the violations were identified by the NRC.

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 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.

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,

/RA/ 

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

Docket No. 03038306
License No. 31-31412-01

Enclosure:
Notice of Violation

cc w/Encl: Dan Solie, VP of Construction Services
Michael Solie, P.E., Radiation Safety Officer
James Perkins, P.E., Technician
State of New York
State of Connecticut

NOTICE OF VIOLATION

Louis Berger U.S., Inc.
New Haven, CT

Docket No. 03038306
License No. 31-31412-01

During an NRC inspection conducted on May 14, 2019, with continuing in-office review through June 10, 2019, 3 violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. License Condition 14.A. of NRC License No. 31-31412-01 requires that sealed sources be tested for leakage and/or contamination at intervals not to exceed the intervals specified in the certificate of registration issued by the U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or by an Agreement State. In the absence of a registration certificate, sealed sources shall be tested for leakage and/or contamination at intervals not to exceed 6 months, or at such other intervals as specified.

Contrary to the above, as of June 7, 2019, the licensee did not test the sealed sources for leakage and/or contamination at intervals not to exceed the intervals specified in the certificate of registration issued by the U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or an Agreement State. Certificate of Registration Number NR-587-D-102-S requires the test interval not exceed six months. Specifically, a gauge which contained a Cesium-137 sealed source and an Americium-241 sealed source was used on November 21 and 22, 2016; January 27, 2017; April 15, 2017; and June 1, 2017; and the licensee tested the sealed sources on October 13, 2015; May 18, 2016; and July 6, 2017.

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

- B. License Condition 15 of NRC License No. 31-31412-01 requires, in part, that the licensee shall conduct a physical inventory every six months, or at other intervals approved by the U. S. Nuclear Regulatory Commission, to account for all sealed sources and/or devices received and possessed under the license.

Contrary to the above, as of June 7, 2019, the licensee did not conduct a physical inventory every six months and another interval was not approved by the U.S. Nuclear Regulatory Commission, to account for all sealed sources and/or devices received and possessed under the license. Specifically, the licensee conducted physical inventories on October 13, 2015; May 18, 2016; and July 6, 2017; periods exceeding the required six-month interval.

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

- C. License Condition 18 of License No. 31-31412-01 requires, in part, that except as specifically provided otherwise in this license, the licensee shall conduct its program in accordance with statements, representations, and procedures contained in the letter dated June 13, 2011.

The letter dated June 13, 2011, required, in part, that gauges be stored in accordance with Appendix H of NUREG-1556, Volume 1, Revision 1.

Page H-2 of Appendix H of NUREG-1556, Volume 1, Revision 1 requires, in part, that the licensee log the gauge into the daily use log when it is returned to storage.

Contrary to the above, on various occasions prior to June 7, 2019, the licensee did not log the gauge into the daily use log when the gauge was returned to storage.

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

Pursuant to the provisions of 10 CFR 2.201, Louis Berger U.S., Inc. 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 5th day of July 2019