



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION IV  
1600 EAST LAMAR BOULEVARD  
ARLINGTON, TEXAS 76011-4511

September 20, 2019

EA-18-124

Mr. David P. Tebo  
Corporate Radiation Safety Officer  
Team Industrial Services, Inc.  
200 Hermann Drive  
Alvin, TX 77511

**SUBJECT: ORDER IMPOSING CIVIL MONETARY PENALTY - \$14,500**

Dear Mr. Tebo:

This letter refers to your letter dated May 23, 2019 (NRC's Agencywide Documents Access and Management System (ADAMS) Accession ML19199A073), in response to the U.S. Nuclear Regulatory Commission's (NRC's) Notice of Violation and Proposed Imposition of Civil Penalty (Notice) sent as Enclosure 1 to our letter dated March 8, 2019 (ADAMS Accession ML19066A206). Our letter and Notice described a Severity Level III violation involving moving a radiographic exposure device prior to ensuring that the device was in the fully locked position.

To emphasize the importance of procedural compliance and self-identification of violations, a civil penalty of \$14,500 was proposed.

In your May 23, 2019, response, you indicated that you agreed that a violation of your procedure occurred when a radiographic device was carried aboard a Navy vessel without being in the fully locked position. However, you indicated that the violation was a result of a human error made in completing the daily inspection process. You disputed the characterization of the violation as willful and also contended that the violation was not significant as additional safety barriers were in place to prevent any inadvertent exposure. You also requested withdrawal of the entire amount of the \$14,500 civil penalty.

After consideration of your response, we have concluded that the Severity Level III determination remains appropriate and that you have not provided an adequate basis to mitigate the proposed civil penalty amount. The NRC's evaluation and the conclusions are documented in the attachment to the enclosed Order Imposing Civil Monetary Penalty (Order). Accordingly, we hereby serve the enclosed Order on Team Industrial Services, Inc., imposing a civil monetary penalty in the amount of \$14,500. Within 30 days of the date of the enclosed Order you should either: (1) pay the civil penalty in accordance with Section IV of the Order, (2) request alternative dispute resolution (ADR) as described below; or (3) request a hearing in accordance with Section V of the Order.

You may request an ADR with the NRC in an attempt to resolve this issue. Alternative dispute resolution is a general term encompassing various techniques for resolving conflicts using a neutral third party. The technique that the NRC has decided to employ is mediation. Mediation is a voluntary, informal process in which a trained neutral mediator works with parties to help

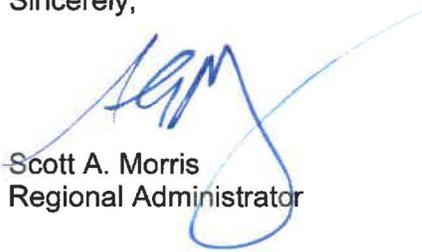
them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC's ADR program can be found on the NRC Website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/dr.html>.

The Institute on Conflict Resolution at Cornell University has agreed to facilitate the NRC's program as a neutral third party. If you are interested in pursuing this issue through the ADR program, please contact: (1) the Institute on Conflict Resolution at 877-733-9415; and (2) Mr. John Kramer at 817-200-1121 within 10 days of the date of this letter. You may also contact the Institute on Conflict Resolution for additional information about ADR. Your submitted signed agreement to mediate using the NRC ADR program will stay the 30-day time period for payment of the civil penalties as identified in the enclosed Order until the ADR process is completed.

In accordance with Title 10 of the Code of Federal Regulations (CFR) 2.390 of the NRC's "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 and from the NRC's ADAMS, accessible from the NRC Website 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. The NRC also includes significant enforcement actions on its Website (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

If you have any questions concerning this matter, please contact Mr. John Kramer of my staff at 817-200-1121.

Sincerely,



Scott A. Morris  
Regional Administrator

Docket No. 030-35252  
License No. 42-32219-01

Enclosure:  
Order Imposing Civil Monetary Penalty  
w/ Attachment:  
Evaluation and Conclusion

Team Industrial Services, Inc.

ORDER IMPOSING CIVIL MONETARY PENALTY

Enclosure

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
Team Industrial Services, Inc.	)	Docket No. 030-35252
Alvin, Texas	)	License No. 42-32219-01
	)	EA-18-124
	)	

ORDER IMPOSING CIVIL MONETARY PENALTY

I

Team Industrial Services, Inc. (Licensee) is the holder of Materials License No. 42-32219-01 issued on January 10, 2000, by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 30 of Title 10 of the *Code of Federal Regulations* (10 CFR). The license authorizes the use and possession of nuclear materials in accordance with conditions specified therein. The facility is based in Alvin, Texas.

II

The NRC conducted an investigation of the Licensee's activities from October 12, 2017, to August 27, 2018. The results of this investigation indicated that the Licensee had not conducted its activities in full compliance with NRC requirements associated with transporting a radiographic device in a locked configuration. Specifically, two Team Industrial employees appeared to have deliberately failed to follow procedural requirements when unlocking and relocating a gamma exposure device, which caused Team Industrial to be in violation of Condition 25 of its license. A letter conveying the results of the NRC Investigation was issued to the Licensee on January 4, 2019 (ADAMS Accession ML19007A235), including a factual

summary of the report. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued to the Licensee by letter dated March 8, 2019 (ADAMS Accession ML19066A206). The Notice stated the nature of the violation, the provision of the NRC's requirements that the Licensee violated, and the amount of the civil penalty proposed for the violation.

The Licensee responded to the Notice in a letter dated May 23, 2019. In its response, the Licensee did not dispute the violation, but stated that it conducted an internal investigation regarding the issues and did not consider the violation to be willful on the part of the radiographers. The Licensee also stated that the violation was not significant because there was no risk of exposure of the source due to the unlocked plunger because of redundant safety features of the device.

### III

After considering the Licensee's explanation and argument for mitigation, the NRC staff has determined that, as set forth in the Appendix to this Order, the violation of License Condition 25 occurred as stated, and that an adequate basis does not exist for the reduction of the severity of the violation or mitigation of the civil penalty amount. Therefore, a civil penalty in the amount of \$14,500 should be imposed.

### IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, IT IS HEREBY ORDERED THAT:

The Licensee pay a civil penalty in the amount of \$14,500 within 30 days of the issuance date of this Order, in accordance with NUREG/BR-0254 "Payment Methods" (<http://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures/br0254/>). In addition, at the time payment is made, the Licensee shall submit a statement indicating when and by what method payment was made, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington DC 20555.

V

In accordance with 10 CFR 2.202 and 10 CFR 2.309, the Licensee must, and any other person adversely affected by this Order may, submit a response within 30 days of the issuance date of this Order. In addition, the Licensee or any other person adversely affected by this Order may request a hearing within 30 days of the issuance date of this Order. Where good cause is shown, consideration will be given to extending the time to respond or request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene (hereinafter "petition"), and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic

storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at <http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to

participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's Public Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail to [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to

use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an Order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click "Cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

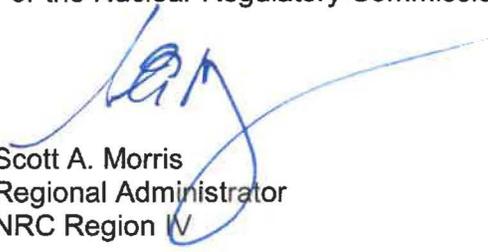
The Commission will issue a notice or Order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the *Federal Register* and served on the parties to the hearing.

If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which their interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the grounds that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 30 days from the issuance date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing or alternative dispute resolution (ADR) request has not been received. If ADR is requested, the provisions specified in Section IV shall be final upon termination of an ADR process that did not result in issuance of an Order.

For the Nuclear Regulatory Commission



Scott A. Morris  
Regional Administrator  
NRC Region IV

Dated this 20th day of September 2019

## EVALUATION AND CONCLUSION

On March 8, 2019, the U.S. Nuclear Regulatory Commission (NRC) issued a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) for a violation identified as the result of an investigation conducted by the NRC Office of Investigations (OI). Team Industrial Services, Inc., (Licensee) responded to the Notice on May 23, 2019. The Licensee did not dispute the violation but did dispute both the deliberateness associated with the violation and the significance of the violation. The NRC's evaluation and conclusion regarding the Licensee's request is documented below.

### Summary of the Licensee's Request of Reevaluation of Deliberate Determination

The Licensee stated an internal investigation determined that the violation was due to a human error made in completing the daily inspection process. The Licensee concluded that there was no intent to leave the device in an unlocked state prior to boarding the Navy vessel and there was no advantage to relocating the device in the partially unlocked condition.

### NRC Evaluation of the Licensee's Request of Reevaluation of Deliberate Determination

The Licensee stated that an internal investigation was conducted which did not conclude that there was any deliberateness associated with the violation. Title 10 of the *Code of Federal Regulations* (10 CFR) 30.10(c) states, in part, that deliberate misconduct by a person means an intentional act or omission that the person knows would cause a licensee to be in violation of a condition of a license issued by the Commission. Both the NRC OI investigation and the Licensee's internal investigation indicated that the radiographers were trained on the operating

and emergency procedures and were knowledgeable in the requirements, including the requirement to fully lock the exposure device prior to relocating to another physical location.

The Licensee's investigation determined that the violation was the result of a human error made in the completion of the daily inspection process. However, the Licensee's description of the internal investigation did not include any additional information to support its conclusion that was not previously evaluated in the investigation conducted by OI. The NRC's position continues to be that the circumstances in this case support a willful violation. Based on the facts of this case and the testimony of the radiographers, the radiographers were: (1) familiar with the Licensee's operating and emergency procedures, (2) aware that the device was required to be locked when relocated to a new location, and (3) aware that the device was unlocked at the time they relocated the device. Further, OI interviewed the Team Industrial Radiation Safety Officer, who testified that immediately after the incident, the radiographers explained that they had unlocked the device in order to save time. Therefore, the NRC found sufficient evidence to conclude that the radiographers deliberately transported an exposure device in an unlocked configuration.

#### Summary of the Licensee's Request of Reevaluation of Significance

The Licensee stated that the radiographic device has three independent locking mechanisms to prevent accidental movement or exposure of the source. The device has a tungsten shield which provides a shielding factor to reduce exposure from the source and provides an additional level of security because it prevents the source from projecting out of the device unless a guide tube is connected. The Licensee also indicated that its operating and emergency procedure is more restrictive than the regulation in 10 CFR 34.23(a), since it

requires the device to be fully locked prior to movement to another location. Based on this, the Licensee concluded that the significance level of the violation should be reduced.

The Licensee also stated that the violation was not significant because additional barriers were in place to prevent inadvertent exposure. The Licensee included additional information about the design of the radiographic device, including a description of the three locking mechanisms that prevent accidental movement or exposure of the source. The Licensee stated that even in the unlocked configuration which occurred during the violation, the source was secured and met the intent of 10 CFR 34.23(a).

#### NRC Evaluation of the Licensee's Request of Reevaluation of Significance

The Licensee's investigation did not provide any information that the NRC had not already considered as part of the enforcement process. The NRC Enforcement Policy Example 6.3.d.3 states, in part, that a failure to implement procedures including, but not limited to, recordkeeping, surveys, and inventories is a Severity Level IV violation. The NRC concluded that, absent deliberateness, based on the relatively short duration that the device was carried unlocked, the fact that the device was always under the direct surveillance and control of a radiographer, and the presence of the additional locking mechanisms, the significance of the Licensee failing to adequately implement the applicable section of its procedures should be characterized as a Severity Level IV violation.

However, the NRC Enforcement Policy Section 2.2.1.d states that a violation may be considered more significant than the underlying noncompliance if it includes indications of willfulness. The NRC considers factors such as the position, training, experience level, and responsibilities of the individuals involved in the violation. In this instance, the NRC determined

that the violation should be increased to a Severity Level III violation, due to the conclusion that it involved deliberate misconduct by the radiographers.

### Conclusion

Based on its evaluation, the NRC has concluded that the violation occurred as stated and the Licensee did not provide an adequate basis to reduce the severity of the violation or modify the willful determination.