



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

September 6, 2019

Scott Copen  
Vice-President/Radiation Safety Officer  
Cheat Road Engineering, Inc.  
170 Old Cheat Road  
Morgantown, West Virginia 26508

**SUBJECT: CHEAT ROAD ENGINEERING, LLC. - NRC INSPECTION NO.  
03038648/2019001, AND NOTICE OF VIOLATION**

Dear Mr. Copen,

This letter refers to the inspection conducted on July 22, 2019 at your Morgantown, West Virginia facility and on July 25, 2019 at the temporary job site located at 1205 Dorsey Avenue, Morgantown, West Virginia. 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. A final exit briefing was conducted with you on August 13, 2019.

Based on the results of this inspection, the NRC has determined that three 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, 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.

S. Copen

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If you have any questions regarding this matter, please contact Leonardo Wardrobe of my staff at (610) 337-5171 or via electronic mail at [leonardo.wardrobe@nrc.gov](mailto:leonardo.wardrobe@nrc.gov).

Thank you for your cooperation.

Sincerely,

9/6/2019

X 

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Anne DeFrancisco

Signed by: Anne E. DeFrancisco

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

Docket No. 03038648  
License No. 47-35070-01

Enclosure:  
Notice of Violation

cc w/ enclosure  
State of West Virginia

CHEAT ROAD ENGINEERING, LLC. - NRC INSPECTION NO. 03038648/2019001, AND  
NOTICE OF VIOLATION DATED August 29, 2019

## DISTRIBUTION:

R1 Enforcement

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JNick

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## **NOTICE OF VIOLATION**

Cheat Road Engineering, Inc.  
Morgantown, West Virginia

Docket No. 03038648  
License No. 47-35070-01

During an NRC inspection conducted on July 22 & 25, 2019, for which an exit was conducted on August 13, 2019, three violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 20.1101(c) states that the licensee shall periodically (at least annually) review the radiation protection program content and implementation.

Contrary to the above the licensee failed to periodically (at least annually) review the radiation protection program content and implementation. Specifically, between April 16, 2014 and July 22, 2019, the licensee failed to review their radiation protection program content and implementation, a period greater than annual (i.e., once per year).

This is a Severity Level IV Violation (Enforcement Policy 6.3)

- B. License Condition 13A of NRC License 47-35070-01 states in part that sealed sources shall be tested for leakage and/or contamination at intervals specified in the certificate of registration issued by the U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or under equivalent regulations of an Agreement State.

Contrary to the above, between: February 23, 2015 and January 13, 2017; January 13, 2017 and May 7, 2018; and May 7, 2018 and July 23, 2019, the licensee failed to test their sealed sources for leakage and/or contamination at intervals specified in the certificate of registration issued by the U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or under equivalent regulations of an Agreement State. Specifically, the intervals specified in the certificate of registration issued by the U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or under equivalent regulations of an Agreement State are twelve month periods.

This is a Severity Level IV Violation (Enforcement Policy 6.3)

- C. License Condition 14 of NRC License 47-35070-01 states in part that the licensee shall conduct a physical inventory every six months, or at other intervals approved by the NRC, to account for all sources and/or devices received or possessed under the license.

Contrary to the above, the licensee failed to conduct a physical inventory every six months, or at other intervals approved by the NRC, to account for all sources and/or devices received or possessed under the license. Specifically, between May 5, 2018 and July 23, 2019, the licensee failed to conduct a physical inventory to account for all sources and/or devices received or possessed under the license, a period greater than six-months.

This is a Severity Level IV Violation (Enforcement Policy 6.3)

Pursuant to the provisions of 10 CFR 2.201, Cheat Road Engineering, 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 6th day of September 2019