



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
2443 WARRENVILLE ROAD, SUITE 210
LISLE, ILLINOIS 60532-4352

December 23, 2019

EA-19-137

Mr. Aaron Daniels, RSO
ATC Group Services, LLC
7988 Centerpoint Drive, Suite 100
Indianapolis, IN 46256

SUBJECT: NRC INSPECTION REPORT NO. 03013245/2019001(DNMS) AND EXERCISE OF
ENFORCEMENT DISCRETION – ATC GROUP SERVICES, LLC

Dear Mr. Daniels:

On October 22, 2019, an inspector from the U.S. Nuclear Regulatory Commission (NRC) conducted an inspection at a temporary jobsite on Indianapolis, Indiana, with continued in-office review through November 26, 2019. The purpose of the inspection was to review activities performed under your NRC license to ensure that activities were being performed in accordance with NRC requirements. The in-office review included a review of the facts and circumstances of a finding identified during the inspection. Mr. Edward Harvey of my staff conducted a final exit meeting by telephone with you on November 26, 2019 to discuss the inspection findings.

During this inspection, the NRC staff examined activities conducted under your license related to public health and safety. Additionally, the staff examined your compliance with the Commission's rules and regulations as well as 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.

Based on the results of this inspection, the NRC has determined that a violation occurred concerning the failure to maintain constant control and surveillance of licensed material, specifically a portable nuclear density gauge, while not in storage, as required by Title 10 of the *Code of Federal Regulations* (CFR) Section 20.1802. In accordance with the NRC's Enforcement Policy, this violation would normally be categorized at Severity Level III and considered for escalated enforcement action. However, in accordance with NRC Enforcement Guidance Memorandum (EGM) 18-002, issued August 1, 2018, the NRC is exercising enforcement discretion to categorize this violation as a Severity Level IV violation because (1) the failure to maintain control and constant surveillance of the portable gauge occurred during operational conditions; (2) the failure to maintain control and constant surveillance of the portable gauge was an isolated, non-willful occurrence and the non-compliance was of short duration and circumstance and did not cause a security access concern; and (3) no unauthorized individual contact with the portable gauge occurred and no unintended exposure to an individual occurred.

The current Enforcement Policy is included on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violation is cited in the enclosed Notice of Violation (Notice). The NRC is citing the violation in the enclosed Notice because the inspector identified the violation.

The inspector determined that the root cause of the violation was a lapse in oversight on behalf of the authorized portable gauge operator. As corrective action to restore compliance, the gauge user immediately regained control of the portable gauge following identification of the violation by the NRC inspector. As corrective actions to prevent recurrence of a similar violation, the Radiation Safety Officer (RSO) reviewed this incident and the importance of gauge control with all other gauge users employed by the license and required all gauge users to complete a portable nuclear gauge safety refresher course. These corrective actions were fully implemented as of November 25, 2019.

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 will be achieved is already adequately addressed on the docket in this letter. Therefore, you are not required to respond to this letter unless the description herein 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 you choose to provide one, will be made available electronically for public inspection in the NRC's Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC's website 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 publicly available without redaction.

Please feel free to contact Mr. Harvey if you have any questions regarding this inspection. Mr. Harvey can be reached at 630-829-9819.

Sincerely,

/RA by Michael Kunowski for/

Robert Ruiz, Acting Chief
Materials Inspection Branch
Division of Nuclear Materials Safety

Docket No. 030-13245
License No. 13-17732-01

Enclosure:
Notice of Violation

cc w/encl: State of Indiana

Letter to Aaron Daniels from Robert Ruiz dated December 23, 2019.

SUBJECT: NRC INSPECTION REPORT NO. 03013245/2019001(DNMS) AND EXERCISE OF
ENFORCEMENT DISCRETION – ATC GROUP SERVICES, LLC

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NOTICE OF VIOLATION

ATC Group Services, LLC
Indianapolis, Indiana

License No. 13-17732-01
Docket No. 030-13245
EA-19-137

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on October 22, 2019, with continued in-office review through November 26, 2019, one 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) Section 20.1802 requires that the licensee control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage.

Contrary to the above, on October 22, 2019, the licensee did not control and maintain constant surveillance of licensed material that was in a controlled area and not in storage. Specifically, the licensee failed to maintain constant surveillance of a portable nuclear density gauge (serial number 24316) containing a nominal 9-millicurie cesium-137 sealed source and a nominal 44-millicurie americium-241 sealed source at a temporary jobsite located in Indianapolis, Indiana.

This is a Severity Level IV violation (EGM 18-002).

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 this 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, IR 03013245/2019001(DNMS) " 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, within 30 days of the date of the letter transmitting this Notice.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC website 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.

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, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

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

Dated this 23rd day of December 2019.