

APPENDIX

U. S. NUCLEAR REGULATORY COMMISSION  
REGION IV

NRC Inspection Report: 030-30266/93-01

License: 30-23697-01E

Licensee: Innovative Weaponry, Inc.  
337 Eubank N.E., Suite 103  
Albuquerque, New Mexico 87123

Facility Name: Innovative Weaponry, Inc.

Inspection At: Albuquerque, New Mexico

Inspection Conducted: February 3, 1993

Inspector: M. Linda McLean, Radiation Specialist  
Nuclear Materials Inspection Section

Accompanied by: Susan L. Greene, Health Physicist  
Medical, Academic, and Commercial  
Use Safety Branch, NMSS

Approved: Linda L. Kasner  
Linda L. Kasner, Acting Chief, Nuclear  
Materials Inspection Section

1/6/94  
Date

Inspection Summary

Areas Inspected: Special, unannounced radiation safety inspection of licensed activities involving the distribution of luminous gunsights containing hydrogen-3 sealed light sources.

The inspection included a review of organization and management; the types of gunsights distributed by the licensee; and the licensee's process for labeling gunsights.

Results:

- Within the scope of the inspection, two apparent violations were identified as described below.

Summary of Inspection Findings:

- An apparent violation involving distribution of luminous gunsights in configurations not authorized under NRC License 30-23697-01E (Section 3).
- An apparent violation involving failure to permanently label luminous gunsights with the manufacturer's logo and the name of the byproduct material used in the product (Section 4).

Attachment

- Attachment - Persons Contacted and Exit Meeting

## DETAILS

### 1 PROGRAM OVERVIEW

Innovative Weaponry, Inc. (IWI) is authorized to distribute luminous gunsights, or weapons equipped with luminous gunsights, to persons exempt from the requirements for an NRC or Agreement State license. The possession and use of licensed material by IWI is authorized under a byproduct materials license issued by the State of New Mexico. IWI has manufactured and distributed luminous gunsights (inserts) containing hydrogen-3 (tritium) either as kits, which contain the insert and hardware required to mount the insert in a gunsight, or as pre-mounted sights whereby the insert is mounted in a gunsight which is fixed to a weapon at IWI's facility. In accordance with NRC License 30-23691-01E, each insert/gunsight may contain 30 millicuries of tritium per source with a maximum activity per weapon of 90 millicuries. The devices identified in the license have been reviewed by NRC and have been registered in the Registry of Radioactive Sealed Sources and Devices.

During the inspection the organizational structure was found to be as stated in the license application. IWI had employed 12 workers for manufacturing the luminous gunsights.

### 2 BACKGROUND

NRC License 30-23697-01E was issued to IWI on June 9, 1988. At that time, the license authorized distribution of Trijicon Sights (manufacturer's trade name for a specific insert model) which were to be mounted on weapons prior to distribution. An initial radiation safety inspection was conducted on June 23, 1989, and no violations were identified.

By letter dated April 17, 1991, IWI requested an amendment to License 30-23697-01E to authorize installation of inserts into iron gunsights manufactured by IWI and other major firearms manufacturers. The license amendment had not yet been issued when NRC conducted the next radiation safety inspection at the IWI facility on August 5, 1991. This inspection is described below.

NRC conducted a special, unannounced radiation safety inspection on August 5, 1991, which identified a violation involving the distribution of a product which had not been approved by NRC for exempt distribution. Specifically, at that time, Condition 10 of NRC License 30-23697-01E only authorized the distribution of Trijicon sights (inserts) in gunsights which were permanently fixed to a weapon. However, NRC determined that contrary to the license, IWI had started to distribute inserts other than the Trijicon model on or about April 1991. The inserts that IWI was distributing at the time of the August 1991 inspection were not authorized under the license.

In response to the inspection findings, IWI requested an amendment to the license to allow distribution of additional inserts and sight configurations. License Amendment No. 03 was issued on November 20, 1991. Amendment No. 03

authorized distribution of insert Model Numbers RDI111, RBI010, and SIC123 mounted in permanently fixed gunsights and the distribution of six specific removable gunsights manufactured by the licensee and three removable gunsights manufactured by original equipment manufacturers. The removable gunsights were to be distributed with the above noted inserts authorized in the license.

### 3 DISTRIBUTION ACTIVITIES (87100)

A Region IV inspector, accompanied by an NMSS licensing staff member, inspected IWI's distribution activities on February 3, 1993. This inspection occurred after NRC Region V staff (Walnut Creek, California) conducted an inspection at Millett Sights (Millett), a gunsight manufacturing facility in California, and determined that Millett had purchased inserts/gunsights from IWI in configurations not authorized under IWI's NRC license. Specifically, Model RBI010 and SIC123 inserts had been installed by IWI in removable rear and front gunsights, respectively, and distributed to Millett. However, the specific insert/gunsight configurations distributed to Millett were not authorized under IWI's license.

During the inspection at IWI's facility, the inspectors verified that IWI had distributed inserts mounted in gunsights which were not permanently fixed to a weapon during an interview with the President of IWI. The President confirmed that the subject inserts had been distributed to Millett; however, he stated that he thought that IWI was authorized to do so. License Condition 10.A.2 and 3 of NRC License 30-23697-01E specify in part, that Model RBI010 and SIC123 inserts (as bar night sights and dot night sights) may be distributed when mounted in permanently fixed rear or front gunsights, respectively, and where the licensee has mounted the sights onto certain weapons. The distribution of the specified inserts in configurations not authorized under Condition 10 was identified as an apparent violation of License 30-23697-01E.

The president of IWI was further queried as to why he had distributed the Model RBI010 and SIC123 inserts in removable gunsights, particularly after he had abandoned a previous amendment application which requested authorization to distribute the sights in the aforementioned configuration. (see Section 5). The president stated that he had not considered his letter of February 6, 1992, to constitute a request for amendment of his license; therefore, he did not pay the amendment fee and continued to distribute to Millett the Model RBI010 and SIC123 inserts in removable gunsights throughout 1992, believing that he was authorized to do so.

Based on the president's response to their questions, the inspectors discussed the requirements and conditions of NRC License 30-23697-01E with the president of IWI with particular focus on the types of gunsights and configurations that IWI is authorized to distribute under its license.

#### 4 LABELING OF GUNSIGHTS (87100)

The inspector observed the gunsight labeling process during a walkthrough of the IWI facility. Each gunsight was engraved with the manufacturer's logo and the isotope name by a manual process. Gunsights were inserted into a holder and stamped, using a die, with both the logo and the isotope name. IWI used a two-step process which required that each sight be stamped twice, once with a die bearing the manufacturer's logo and once with a die bearing the isotope name in order to engrave both pieces of information on the gunsight.

In addition to the process described above, IWI is also authorized to label weapons using an alternative method in instances where inserts are mounted in a gunsight that is permanently fixed to a weapon.

The inspection at Millett (see Section 4) identified gunsights which had been distributed by IWI without the required engraved labels. IWI had instead labeled the bottom of gunsights with the isotope name and logo using an oil-based paint. Based upon observations by Region V inspectors, Millett was apparently able to remove the labels using a combination of cleaning and rust proofing agents. The president of IWI explained that Millett had specified in a verbal purchase request that oil-based paint be used to label gunsights purchased by Millett and that IWI had merely complied with Millett's request.

By letter dated October 24, 1991, IWI committed to permanently stamping its logo and tritium symbol (H-3) on all gunsights and or weapons. The practice noted above, using an oil-based paint to label gunsights, was identified as an apparent violation of License Condition 16 which specifies, in part, that the licensee shall conduct its program in accordance with statements, representations, and procedures contained in the letter dated October 24, 1991, including any enclosures.

#### 5 ABANDONED APPLICATION

By letter dated February 6, 1992, IWI requested an amendment to its license to authorize distribution of additional models of steel gunsights mounted with tritium inserts. In a letter dated March 25, 1992, NRC notified IWI that the request was subject to fees totalling \$1,450 as specified in fee Categories 3H (\$250) and 9A (\$1,200) of 10 CFR 170.31. The letter also informed IWI that an additional fee of \$2,600 would be assessed for a device registration of steel gunsights that was previously issued on November 13, 1991 (Registration No. NR-365-D-101-E). The device registration was for 12 models of steel gunsights.

While processing IWI's February 1992 amendment request, NRC staff noted that a device evaluation had been performed without collection of the required fee. The licensee was notified that fees totalling \$4,050 were required to be paid by IWI to NRC in order to cover a delinquent fee for a previous device evaluation as well as evaluations associated with the February 1992 amendment request.

When IWI failed to respond to NRC's letter of March 25, 1992, a second letter, dated August 4, 1992, was sent to IWI requesting payment of fees totalling \$4,050 for (1) issuance of Registration No. NR-365-D-101-E, issued on November 13, 1991, and (2) processing the February 1992 amendment request and corresponding device registration requested for certain steel gunsights. The letter also notified IWI that the amendment request would be considered abandoned if NRC did not receive a response from IWI within 20 days of the date of the letter. A subsequent letter dated September 28, 1992, notified IWI that since fees associated with the amendment request and corresponding device registration had not been submitted, NRC considered the amendment request abandoned. IWI was also notified that the delinquent registration fee from 1991 was still due and payable and that failure to remit the fee within 15 days of the September 28, 1992, letter could result in revocation of the registration. At the time of the current inspection, this issue was still pending resolution by the License Fee and Debt Collection Branch of the Office of the Controller.



## ATTACHMENT

### 1 PERSONS CONTACTED

#### 1.1 Licensee Representatives

- \*\*Gerald R. Bloomfield, Attorney
- \*Barry Mowry, President

#### 1.2 NRC Personnel

- \*\*Bernard M. Bordenick  
Office of the General Counsel
- \*\*Charles L. Cain, Acting Deputy Director  
Division of Radiation Safety and Safeguards  
Nuclear Materials Safety and Safeguards
- \*\*Geoffrey D. Cant, Enforcement Specialist  
Office of Enforcement
- \*\*Dwight D. Chamberlain, Acting Division Director  
Division of Radiation Safety and Safeguards
- \*\*Michael H. Finkelstein  
Office of the General Counsel
- \*\*John E. Glenn, Ph.D., Chief  
Medical, Academic, and Commercial Use Branch
- \*Susan L. Greene, Health Physicist  
Office of Nuclear Materials Safety and Safeguards
- \*\*Linda L. Kasner, Acting Section Chief  
Nuclear Material Inspection Section
- \*M. Linda McLean, Radiation Specialist  
Nuclear Materials Inspection Section
- \*\*Josephine M. Piccone, Section Chief  
Medical, Academic, and Commercial Use Branch  
Nuclear Materials Safety and Safeguards
- \*\*Gary F. Sanborn, Enforcement Officer
- \*\*Robert M. Weisman  
Office of the General Counsel

\*Denotes individuals present during site exit briefing on February 3, 1993, and the teleconference on December 15, 1993.

\*\*Denotes individuals present during the teleconference on December 15, 1993.

### 2 EXIT BRIEFING

A site exit briefing was conducted with the President of IWI on February 3, 1993. The inspectors reviewed the specific findings as noted in the report. In addition, a teleconference was held on December 15, 1993, to discuss the findings of the February 3, 1993 inspection, the provisions of IWI's license, and the status of the license renewal. The exit briefing and teleconference participants are identified in Section 1.