

KERMIT BUTCHER

CONTRACTOR

GRADING — STONE — PAVING

P.O. BOX 213 — ELKINS, WV 26241

March 23, 1994

U.S. Nuclear Regulatory Commission
Region II
101 Marietta Street, N.W. Suite 2900
Atlanta, GA 30323-0199

RE: Response to Violations of
Docket #030-12965
License # 47-17564-01

- A. (1) The reason for this violation was an administrative oversight, our technician had worked as an assistant technician for the previous two years and we thought he was certified.
- (2) The corrective step we have taken is we have sent him to Troxler Radiation Safety School, and he has successfully completed their course on March 8, 1994. Please find a copy of his certificate enclosed.
- (3) In the future any person employed in a position of running a nuclear gauge will be required to have his certificate of safety training before they are hired.
- (4) The date of full compliance was March 8, 1994.
- B. (1) The reason for this violation was the gauge 806 is only used during our working season which is approximately 6 months, and we neglected to inventory it in our off season.
- (2) In the future we will inventory, leak test this gauge every six months, and document the results in a log book which will be maintained in our company's office.
- (3) It will be a company policy to inventory, leak test, and document all nuclear gauges every six months regardless of the amount of usage.
- (4) The date of compliance will be April 1, 1994.

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- C. (1) The cause of this violation was that we had currently posted an outdated copy of part 19 and part 20.
- (2) We have posted current copies of part 19 and 20 in our shop and laboratory.
- (3) Any time we receive an update of part 19 and 20, it will be posted.
- (4) The date of full compliance will be March 1, 1994.
- D. (1) The cause of this violation was more than one person was responsible for leak tests and through an oversight this was over-looked.
- (2) The corrective steps that will be taken are leak tests will be the responsibility of the person who is the Radiation Safety Officer listed on our nuclear license. This will alleviate the uncertainty as to who in our organization is responsible for taking the leak tests. Also, it will become a policy to leak test each gauge every six months regardless of the usage frequency.
- (3) The job of taking leak tests will be assigned to the Radiation Safety Officer designated in our nuclear license.
- (4) The date of compliance will be April 1, 1994.
- E. (1) The cause of this violation was more than one person used the referenced gauge and through an oversight, the gauge was not locked.
- (2) It will be required by the company that each gauge be locked when not in use by a trained person.
- (3) It will become a matter of company policy that while each gauge is not in use it shall be locked.
- (4) The date of full compliance was achieved February 1, 1994.

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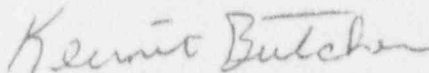
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- F. (1) The cause of this violation was the failure by the person who was responsible for transporting the gauges.
- (2) The corrective steps that have been taken are:
- a. A copy of the shipping papers have been made for each gauge and placed in a folder clearly marked Nuclear Gauge Shipping Papers.
 - b. It has been adopted as a company policy that before each gauge is removed from storage and shipped that a folder containing the shipping papers be placed in the operator's vehicle compartment within reach of the operator.
- (3) Each person with the responsibility of transporting a nuclear gauge will be instructed that they are required to carry a copy of the shipping papers in the driver's vehicle compartment within reach of the operator and in plain sight of whoever may look inside the cab.
- (4) The date of full compliance shall be April 1, 1994.

If any further actions or assistance is needed in this matter, please contact my office and thank you for your help in this matter.

Sincerely,



Kermit Butcher,
Owner

Enc.

ENCLOSURE
NOTICE OF VIOLATION

Kermit Butcher
Elkins, West Virginia

Docket No. 030-12965
License No. 47-17564-01

During an NRC inspection conducted January 25, 1994, violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR Part 2, Appendix C, the violations are listed below:

- A. Condition 12 of Amendment No. 3 to License No. 47-17564-01 dated May 28, 1993, requires, in part, that licensed material be used by, or under the supervision and in the physical presence of the Radiation Safety Officer or individuals who have been trained in the licensee's operating and emergency procedures and have satisfactorily completed an approved training course as specified in the license.

Contrary to the above, on numerous occasions between approximately May 1993 until October 1993, one individual employed by the licensee used Troxler gauge Serial No. 866 and had not attended an approved training course or had been under direct supervision and in the physical presence of the Radiation Safety Officer.

This is a Severity Level IV violation (Supplement VI).

- B. Condition 16 of Amendment No. 3 to License No. 47-17564-01 dated May 28, 1993, requires, in part, that the licensee conduct a physical inventory every 6 months to account for all sources and/or devices received and possessed under this license.

Contrary to the above, from April 22, 1993 until the date of the inspection, Troxler gauge Serial No. 866 had not been inventoried every 6 months.

This is a repeat Severity Level IV violation (Supplement IV).

- C. 10 CFR 19.11(a) and (b) require, in part, that the licensee post current copies of Part 19, Part 20, the license, license conditions, documents incorporated into the license, license amendments and operating procedures; or that the licensee post a notice describing these documents and where they may be examined. 10 CFR 19.11(c) requires that a licensee post Form NRC-3, "Notice to Employees."

Contrary to the above, on January 24, 1994, the licensee did not post copies of Part 19, Part 20, the license, license conditions, documents incorporated into the license, license amendments and operating procedures or a notice describing these documents and where they may be examined.

This is a repeat Severity Level V violation (Supplement IV).

- D. Condition 14 A(1) of Amendment No. 3 to License No. 47-17564-01 dated May 28, 1993 requires, in part, that sources specified in the license be tested for leakage and/or contamination at intervals not to exceed 6 months.

Contrary to the above, Troxler gauge Serial No. 866 was not tested for leakage and/or contamination between May 14, 1990 and June 16, 1992, and Troxler gauge Serial No. 4935 was not tested between December 17, 1990 and October 15, 1991 or between October 15, 1991 and December 23, 1992.

This is a Severity Level IV violation (Supplement VI).

- E. Condition 19 of Amendment No. 3 to License No. 47-17564-01 dated May 28, 1993, requires, in part, that each nuclear gauge or container must be locked when in transport, storage and when not under the direct surveillance of an authorized user.

Contrary to the above, on January 25, 1994, Troxler gauge Serial No. 4935 containing approximately 8 millicuries of cesium-137 and 40 millicuries of americium-241 was in storage and neither the gauge or its container were locked.

This is a Severity Level IV violation (Supplement VI).

- F. 10 CFR 71.5(a) requires that a licensee who transports licensed material outside of the confines of its plant or other place of use, or who delivers licensed material to a carrier for transport, comply with the applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation (DOT) in 49 CFR Parts 170 through 189.

49 CFR 177.817(e) requires, in part, that the driver of a motor vehicle containing hazardous material ensure that the shipping paper is readily available to, and recognizable by, authorities in the event of accident or inspection. Specifically, (i) when the driver is at the vehicle's controls, the shipping paper shall be: (A) within his immediate reach while he is restrained by the lap belt; and (B) either readily visible to a person entering the driver's compartment or in a holder which is mounted to the inside of the door on the driver's side of the vehicle; (ii) when the driver is not at the vehicle's controls, the shipping paper shall be: (A) in a holder which is mounted to the side of the door on the driver's side of the vehicle; or (B) on the driver's seat in the vehicle.

Pursuant to 49 CFR 172.101, radioactive material is classified as a hazardous material.

Contrary to the above, on numerous occasions between approximately May 1993 until October 1993, the licensee transported Troxler gauges containing approximately 8 millicuries of cesium-137 and 40 millicuries

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Elkins, West Virginia

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of americium-241 outside the confines of its plant and the driver of the vehicle did not ensure that the shipping paper was readily available in the driver's compartment, as required. Specifically, shipping papers were stored with the gauge during transportation, a location not readily available to, and recognizable by, authorities in the event of accident or inspection.

This is a Severity Level IV violation (Supplement V).

Pursuant to the provisions of 10 CFR 2.201, Kermit Butcher 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 II, 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. If an adequate reply is not received within the time specified in this Notice, an order or 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.

Dated at Atlanta, Georgia
this 24th day of February 1994

TROXLER ELECTRONIC LABORATORIES, INC.

HEREBY CERTIFIES THAT

RICHARD F. MCLAUGHLIN

of

KERMIT BUTCHER CONT.

HAS SUCCESSFULLY COMPLETED THE TROXLER ELECTRONIC LABORATORIES, INC.
TRAINING COURSE FOR THE USE OF NUCLEAR TESTING EQUIPMENT.

SUBJECTS INCLUDED IN THIS COURSE WERE AS FOLLOWS:

Radiological Safety

- | | |
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| 1. Principles and practices of radiation protection | 5. Radioactivity measurement standardization and monitoring techniques and instruments. |
| 2. Leak testing procedures | 6. Accident and incident procedures. |
| 3. Mathematics and calculations basic to the use and measurement of radioactivity. | 7. Procedures for nuclear gauge storage and transportation. |
| 4. Biological effects of radiation | General safety precautions. |

Gauge Operation

- | | |
|-------------------------|----------------------|
| 1. Instrument theory | 4. Field application |
| 2. Operating procedures | 5. Gauge calibration |
| 3. Maintenance | |


ALAN D. REYNOLDS

INSTRUCTOR

CERTIFICATE #: 062088

3/08/94

DATE

WILLIAM F. TROXLER

PRESIDENT