



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

July 6, 2021

Mr. Chad Bare, Radiation Safety Officer
Eagle Rock Engineering & Land Surveying, PC
1331 Fremont Avenue
Idaho Falls, ID 83402

SUBJECT: NRC INSPECTION REPORT 030-38268/2021-001 AND NOTICE OF VIOLATION

Dear Mr. Bare:

This letter refers to the announced, routine inspection conducted on May 13, 2021, at your facilities in Idaho Falls, Idaho. The inspection examined activities conducted under your license as they relate to safety and security, to compliance with the U.S. Nuclear Regulatory Commission's (NRC's) rules and regulations, and with the conditions of your license. Within these areas, the inspection consisted of an examination of selected procedures and representative records, observation of licensed activities and facilities, independent radiation measurements, and interviews with personnel. A final exit briefing was conducted telephonically with you on June 14, 2021.

Based on the results of this inspection, the NRC has determined that three Severity Level IV violations of NRC requirements occurred. The violations were evaluated in accordance with the NRC Enforcement Policy, which can be found at 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 they were identified by the NRC during the inspection. The violations involved the failure to: (1) transport a portable nuclear gauge in an approved transportation container; (2) test sealed sources for leakage and/or contamination before use or transfer; and (3) lock a portable nuclear gauge or its container when in storage.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful. You can find the Information Notice on the NRC website at: <https://www.nrc.gov/reading-rm/doc-collections/gen-comm/info-notices/1996/in96028.html>. The NRC review of your response to the Notice will also determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

During the inspection, the NRC also reviewed corrective actions regarding two violations identified during the previous NRC inspection conducted on October 14, 2015, at your facility in Idaho Falls, Idaho. The corrective actions adequately addressed the previous violations, which are now considered closed.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter, its enclosure, and your response, should you choose to provide one, 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 Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Should you have any questions regarding this letter or the enclosed Notice, please contact Allyce Bolger at (817) 200-1197, or the undersigned at (817) 200-1455.

Sincerely,

Lizette Roldán-Otero, PhD, Chief
Materials Inspection Branch
Division of Nuclear Materials Safety

License No. 11-29386-01
Docket No. 030-38268

Enclosure:
Notice of Violation (Notice)

cc:
Mark Dietrich
Radiation Control Program Director
Idaho Department of Environmental Quality
1410 North Hilton Drive
Boise, ID 83706

SUBJECT: NRC INSPECTION REPORT 030-38268/2021-001 AND NOTICE OF VIOLATION
DATED JULY 6, 2021

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ADAMS ACCESSION NUMBER: **ML21187A249**

SUNSI Review: ADAMS:
By: ABB Yes No Publicly Available and non-sensitive NRC-002

OFFICE	HP:MIB	SHP: MIB	C:MIB			
NAME	ABBolger	JFKatanic	LRoldanOtero			
SIGNATURE	/RA/	/RA/	/RA/			
DATE	6/11/2021	6/11/2021	7/2/2021			

OFFICAL RECORD COPY

NOTICE OF VIOLATION

Eagle Rock Engineering & Land Surveying, PC
Idaho Falls, Idaho

Docket No. 030-38268
License No. 11-29385-01

During an NRC inspection conducted on May 13, 2021, three violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 71.5(a) requires, in part, that each licensee who transports licensed material on public highways shall comply with the applicable requirements of the U.S. Department of Transportation (DOT) regulations in 49 CFR Parts 171 through 180 appropriate to the mode of transport.

49 CFR 173.415(a)(2) requires, in part, that after January 1, 2017, each offeror of a Specification 7A package, if the offeror has obtained the packaging from a packaging manufacturer, must maintain on file for at least two years after the offeror's latest shipment a certification from the packaging manufacturer that the packaging meets all the requirements of 49 CFR 178.350 for the radioactive contents presented for transport and a copy of documents maintained by the packaging manufacturers that meet the requirements of 49 CFR 173.415(a)(1).

Contrary, to the above, on October 1, 2020, and December 10, 2020, the licensee transported licensed material on public highways, in a package obtained from a packaging manufacturer, and failed to maintain on file for at least two years after the offeror's latest shipment, a certification from the packaging manufacturer that the package meets all the requirements of 49 CFR 178.350 for the radioactive contents presented for transport and a copy of documents maintained by the packaging manufacturer that meet the requirements of 49 CF 173.415(a)(1). Specifically, on October 1, 2020, and December 10, 2020, the licensee transported, on public highways, a Troxler Model 3411-B portable nuclear gauge (S/N 7540) containing licensed material in a package obtained from a packaging manufacturer, and failed to maintain on file a certification from the packaging manufacturer that the package meets all the requirements of 49 CFR 178.350. The package was a molded metal container with a foam insert that the package manufacturer did not re-certify as DOT Specification 7A Type A general packaging after January 1, 2017, and therefore no longer authorized for transportation of licensed material after that date.

This is a Severity Level IV violation (NRC Enforcement Policy Section 6.8.d.5)

- B. License Condition 13 of NRC Materials License 11-29385-01, Amendment 4, dated April 10, 2020, requires, in part, that sealed sources shall be tested for leakage and/or contamination at intervals not to exceed the intervals specified in the certificate of registration issued by the NRC under 10 CFR 32.210 or by an Agreement State. Sealed sources need not be tested if they are in storage and not being used; however, when sealed sources are removed from storage for use or transferred to another person, and have not been leak tested within the required leak test interval, they shall be tested before use or transfer.

The certificate of registration for Troxler Electronic Laboratories Model 3411-B portable nuclear gauge (NC-646-D-830-S) specifies a leak test interval of 12 months.

Contrary to the above, on October 1, 2020, the licensee removed sealed sources from storage for use or transfer to another person and failed to test the sealed sources for leakage and/or contamination before use or transfer. Specifically, on October 1, 2020, a Troxler Model 3411-B portable nuclear gauge (S/N 7540) containing sealed sources was removed from storage by the licensee and was not tested for leakage and/or contamination prior to use, which involved transportation of the portable nuclear gauge and transfer to another licensed entity. The portable nuclear gauge was last tested for leakage and/or contamination on January 8, 2018.

This is a Severity Level IV violation (Section 6.7.d.4)

- C. License Condition 17 of NRC Materials License 11-29385-01, Amendment 4, dated April 10, 2020, requires that each portable gauge shall have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The gauge or its container must be locked when in transport or storage, or when not under the direct surveillance of an authorized user.

Contrary to the above, between December 10, 2020, and May 13, 2021, the licensee failed to lock each portable gauge or its container when in transport or storage, or when not under the direct surveillance of an authorized user. Specifically, a Troxler Model 3411-B portable nuclear gauge (S/N 7540) was in storage between December 10, 2020, and May 13, 2021, and did not have a lock on it or its container.

This is a Severity Level IV violation (Section 6.3.d)

Pursuant to the provisions of 10 CFR 2.201, Eagle Rock Engineering & Land Surveying, PC, is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator, Region IV, 1600 E. Lamar Blvd., Arlington, Texas 76011, 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 or severity level, (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, 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 2 working days of receipt.

Dated this 6th of July 2021