



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

September 15, 2021

EA-21-102

Mr. Virgil Martinez, President  
and Radiation Safety Officer  
BRL-NDT Services, LLC  
10860 Vandale Street  
San Antonio, TX 78216

SUBJECT: NRC INSPECTION REPORT 150-00042/2021-001

Dear Mr. Martinez:

This letter refers to the announced reciprocity inspection conducted on April 22, 2021, at your facility in San Antonio, Texas, with continued in-office review through August 19, 2021. The purpose of the inspection was to examine activities conducted under a General License pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 150.20 for your activities performed in Nampa, Idaho, an area of exclusive Federal jurisdiction, as they relate to public health and safety and to confirm 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 a selected examination of procedures and representative records and interviews with personnel. The preliminary inspection findings were discussed with you during the onsite portion of the inspection on April 22, 2021. A final exit meeting was held telephonically with you on August 19, 2021. The enclosed report presents the results of the inspection.

Based on the results of this inspection, three apparent violations were identified and are being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The apparent violations involved the failures to: (1) properly train a radiographer assistant in accordance with 10 CFR 34.43(c)(3); (2) comply with the two-person rule in accordance with 10 CFR 34.41(a); and (3) conduct field audits on radiographers every 6 months in accordance with 10 CFR 34.43(e)(1).

Before the NRC makes its enforcement decision, we are providing you an opportunity to: (1) respond in writing to the apparent violations addressed in the inspection report within 30 days of the date of this letter; or (2) request a pre-decisional enforcement conference (PEC). If a PEC is held, it will be open for public observation and the NRC may issue a press release to announce the time and date of the conference. If you decide to participate in a PEC, please contact Dr. Lizette Roldan-Otero at 817-200-1455 or [Lizette.Roldan-Otero@nrc.gov](mailto:Lizette.Roldan-Otero@nrc.gov) within 10 days of the date of this letter. A PEC should be held within 30 days of the date of this letter.

If you choose to provide a written response, it should be clearly marked as a "Response to Apparent Violations in NRC Inspection Report 150-00042/2021-001; EA-21-102" and should include for each apparent violation: (1) the reason for the apparent violation or, if contested, the basis for disputing the apparent violation; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken; and (4) the date when full compliance will be achieved. Your response may reference or include previously docketed correspondence if the correspondence adequately addresses the required response. Additionally, your response should be sent to the NRC, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy mailed to Ms. Mary C. Muessle, Director, Division of Nuclear Materials Safety, Region IV, 1600 East Lamar Boulevard, Arlington, Texas, 76011, and emailed to [R4Enforcement@nrc.gov](mailto:R4Enforcement@nrc.gov) within 30 days of the date of this letter. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a PEC.

If you choose to request a PEC, the conference will afford you the opportunity to provide your perspective on these matters and any other information that you believe the NRC should take into consideration before making an enforcement decision. The decision to hold a PEC does not mean that the NRC has determined that a violation has occurred or that enforcement action will be taken. This conference would be conducted to obtain information to assist the NRC in making an enforcement decision. The topics discussed during the conference may include information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned.

In presenting your corrective actions, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violations. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful in preparing your response. You can find the Information Notice on the NRC website at: <http://pbadupws.nrc.gov/docs/ML0612/ML061240509.pdf>

Please be advised that the number and characterization of apparent violations described in the enclosed inspection report may change as a result of further NRC review. You will be advised by separate correspondence of the results on our deliberations in this matter.

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, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room and 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>. To the extent possible, your response should not include any personal privacy or proprietary information so that it can be made available to the public without redaction.

If you have any questions concerning this matter, please contact Dr. Lizette Roldan-Otero of my staff at 817-200-1455

Sincerely,



Howell, Linda signing on behalf  
of Muessele, Mary  
on 09/15/21

Mary C. Muessele, Director  
Division of Nuclear Materials Safety

Docket No. 150-00042  
License No. General License pursuant to 10 CFR 150.20

Enclosure:  
NRC Inspection Report 150-00042/2021-001

cc w/Enclosure:

Mark Dietrich, PE, State Liaison Officer  
Idaho Department of Environmental Quality  
1410 N. Hilton St.  
Boise, ID 83706

Lisa Bruedigan, Radiation Unit Manager  
Texas Department of State Health Services  
P.O. Box 149347  
Austin, Texas 78714-9347

NRC INSPECTION REPORT 150-00042/2021-001 - DATED SEPTEMBER 15, 2021

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ADAMS ACCESSION NUMBER: **ML21242A065**

SUNSI Review      ADAMS:       Non-Publicly Available       Non-Sensitive      Keyword:  
 By: JLT       Yes     No       Publicly Available       Sensitive      NRC-002

OFFICE	DNMS:MIB	DNMS:C:MIB	ACES:RIV	ACES:RIV	ACES:RIV	D:OE
NAME	JThompson	LRoldanOtero	DDodson	DCylkowski	JKramer	CDiaz Rivera
SIGNATURE	JLT	LXR3	DED	DMC	JGK	<b>/RA/</b>
DATE	08/19/21	08/30/2021	08/31/2021	08/30/2021	09/09/2021	09/09/2021
OFFICE	D:DNMS					
NAME	MCMuessle/ LHowell					
SIGNATURE	LLH for MCM					
DATE	09/15 /2021					

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**U.S. NUCLEAR REGULATORY COMMISSION  
REGION IV**

Docket No.: 150-00042

License No.: General License pursuant to 10 CFR 150.20

Inspection Report No.: 150-00042/2021-001

EA No: EA-21-102

Licensee: BRL-NDT Services, LLC

Location Inspected: 10860 Vandale Street  
San Antonio, TX

Inspection Dates: April 22, 2021 through August 19, 2021

Exit Meeting Date: August 19, 2021

Inspector: James L. Thompson, Senior Health Physicist  
Materials Inspection Branch  
Division of Nuclear Materials Safety, Region IV

Approved By: Lizette Roldan-Otero, PhD, Chief  
Materials Inspection Branch  
Division of Nuclear Materials Safety, Region IV

Attachment: Supplemental Inspection Information

Enclosure

## **EXECUTIVE SUMMARY**

### **BRL-NDT Services, LLC NRC Inspection Report 150-00042/2021-001**

On April 22, 2021, the U.S. Nuclear Regulatory Commission (NRC) performed an announced inspection of BRL-NDT Services, LLC (BRL or licensee), a State of Texas licensee, at its facility in San Antonio, Texas, with in-office reviews through August 19, 2021. The inspection included reviews of BRL activities performed in exclusive Federal jurisdiction in Nampa, Idaho under reciprocity as they relate to public health and safety and to confirm compliance with the NRC's rules and regulations.

#### **Program Overview**

BRL is authorized under State of Texas License L06860 to possess and use byproduct material, including iridium-192, for use in industrial radiographic exposure devices. This licensee was working under a reciprocal agreement authorized by a general license pursuant to 10 CFR 150.20 to perform these licensed activities at temporary job sites in areas of exclusive Federal jurisdiction. At the time of inspection, BRL was performing licensed activities in Nampa, Idaho under reciprocity, and also during calendar year 2020. (Section 1)

#### **Inspection Findings**

As a result of this inspection, three apparent violations were identified concerning the failures to: (1) complete the qualification of a radiographer's assistant by conducting a field practical examination on the use of radiographic exposure devices, sealed sources, associated equipment and radiation survey instruments that the assistant will use in accordance with 10 CFR 34.43(c)(3); (2) implement the two-person rule requiring two qualified individuals to participate in radiographic operations in accordance with 10 CFR 34.41(a); and (3) conduct an inspection program of the job performance of a radiographer during an actual industrial radiographic operation at intervals not to exceed 6 months, in accordance with 10 CFR 34.43(e)(1). (Section 3)

#### **Corrective Actions**

Upon identification by the inspector on April 22, 2021, that these violations existed, the BRL radiation safety officer (RSO) traveled from Texas to Idaho and corrected the violations on April 28, 2021. The corrective actions included completion of the training of a radiographer assistant by having him demonstrate that he could assemble a radiographic exposure device to its associated equipment, crank the source out and in, and perform radiation surveys correctly. Additionally, on the same day, during an actual radiographic operation, the RSO performed an audit of the other two radiographers. These corrective actions were performed at Western Water Works, a local welding facility in Nampa, Idaho. (Section 4)

## REPORT DETAILS

### **1 Program Overview (Inspection Procedure (IP) 87121)**

#### **1.1 Program Scope**

BRL is authorized under State of Texas License L06860 to possess and use byproduct material, including iridium-192, for use in industrial radiographic exposure devices. This licensee was working under a reciprocal agreement authorized by a general license pursuant to 10 CFR 150.20 to perform these licensed activities at temporary job sites in areas of exclusive Federal jurisdiction. At the time of inspection, BRL was performing licensed activities in Nampa, Idaho under reciprocity, and also during calendar year 2020.

#### **1.2 Inspection Scope**

The onsite portion of the inspection was performed on April 22, 2021, at the licensee's facility in San Antonio, Texas. This continued with a remote inspection and in-office review through August 19, 2021. The inspection included reviews of activities, interviews with personnel and selected records review with respect to BRL's work in exclusive Federal jurisdiction as they relate to public health and safety, and to confirm compliance with the NRC's rules and regulations.

### **2 Background (IP 87121)**

BRL is a State of Texas licensee that normally performs industrial radiography locally around the San Antonio area, which is where the main office is located under the Texas license. In September 2020, BRL began performing radiography in and around Nampa, Idaho, using radiographers local to the Nampa area. The owner and RSO of BRL traveled up to Nampa, Idaho to perform training of two radiographers and one radiographer assistant the week of September 3, 2020. The radiographers were already carded radiographers that had previously been employed by an NRC licensee in the Boise/Nampa area. They were trained in BRL's operating and emergency procedures and received background checks.

The training also included training of a radiographer's assistant, which consisted of the required training in BRL's operating and emergency procedures and completion of a written examination. This training, however, did not include the field practical examination. The RSO stated that the assistant was expected to only fill in if needed in the future and was planning to complete the training later. However, in January and March of 2021, the radiographer's assistant participated in two radiographic operations as part of the two-person crew, but still had not received the field practical examination. The RSO was not aware that he had been used for these two jobs, and the radiographer thought that the RSO had completed the assistant's training previously.

Additionally, one of the radiographers working in Idaho had received his 6-month field audit by the RSO of BRL during the week of initial training in September 2020. However, as of the date of the onsite inspection on April 22, 2021, this radiographer had not received any further field audits, a period in excess of 6 months.

It was determined by the inspector that this radiographer had in fact participated in radiographic operations on April 15, 2021, which was past the 6-month interval since the previous field audit.

### **3 Observations and Findings (IP 87121)**

During an onsite inspection conducted on April 22, 2021, which continued remotely until the date of the exit meeting on August 19, 2021, the inspector reviewed licensed activities pertinent to industrial radiographic operations in Nampa, Idaho. During this review, three apparent violations of NRC requirements were identified as follows:

#### **3.1 Apparent Violation of 10 CFR 34.43(c)(3)**

Title 10 CFR 34.43(c)(3) requires, in part, that the licensee may not permit an individual to act as a radiographer's assistant until the individual has demonstrated competence in the use of hardware described in 10 CFR 34.43(c)(2) by successful completion of a practical examination on the use of such hardware.

Contrary to the above, on January 5 and March 6, 2021, the licensee permitted an individual to act as a radiographer's assistant even though the individual had not demonstrated competence in the use of hardware described in 10 CFR 34.43(c)(2) by successful completion of a practical examination on the use of such hardware. Specifically, an individual was allowed to perform the function of a radiographer assistant during an actual radiographic operation on both of the dates above without having demonstrated competence in the use of equipment through a practical examination as required.

The failure to properly train a radiographer's assistant was identified as an apparent violation of 10 CFR 34.43(c)(3). (150-00042/2021-001-01)

#### **3.2 Apparent Violation of 10 CFR 34.41(a)**

Title 10 CFR 34.41(a) requires, in part, that whenever radiography is performed at a location other than a permanent radiographic installation, the radiographer must be accompanied by at least one other qualified radiographer or an individual who has, at a minimum, met the requirements of 10 CFR 34.43(c).

Contrary to the above, on January 5 and March 6, 2021, when radiography was performed at a location other than a permanent radiographic installation, the radiographer was not accompanied by at least one other qualified radiographer or an individual who had, at a minimum, met the requirements of 10 CFR 34.43(c). Specifically, an individual was allowed to perform the function of a radiographer's assistant during a radiographic operation in Idaho when that person had not completed the training required by 10 CFR 34.43(c); consequently, the radiographer was not accompanied by another qualified individual as required.

The failure to follow the two-person rule by allowing radiography to be performed with only one qualified individual present was identified as an apparent violation of 10 CFR 34.41(a). (150-00042/2021-001-02)



### 3.3 Apparent Violation of 10 CFR 34.43(e)(1)

Title 10 CFR 34.43(e)(1) requires, in part, that the licensee conduct an inspection program of the job performance of each radiographer during an actual industrial radiographic operation at intervals not to exceed 6 months.

Contrary to the above from March 3, 2021, to April 28, 2021, the licensee failed to conduct an inspection program of the job performance of each radiographer during an actual industrial radiographic operation at intervals not to exceed 6 months. Specifically, a radiographer working in Idaho had received his 6-month field audit by the RSO of BRL on September 3, 2020; however, as of the date of the onsite inspection on April 22, 2021, this radiographer had not received any further field audits, a period in excess of 6 months, and this radiographer had participated in radiographic operations on April 15, 2021.

The failure to conduct an inspection program of the job performance of each radiographer during an actual industrial radiographic operation was identified as an apparent violation of 10 CFR 34.43(e)(1). (150-00042/2021-001-03)

## **4 Corrective Actions**

Upon identification by the inspector on April 22, 2021, that these violations existed, the RSO of BRL traveled from Texas to Idaho and corrected the violations on April 28, 2021. The corrective actions included completion of the training of a radiographer assistant by having him demonstrate that he could assemble a radiographic exposure device to its associated equipment, crank the source out and in, and perform radiation surveys correctly. Additionally, on the same day, during an actual radiographic operation, the RSO performed an audit of the radiographers. These corrective actions were performed at Western Water Works, a local welding facility in Nampa, Idaho.

## **5 Exit Meeting Summary**

On August 19, 2021, the NRC held an exit meeting summary with Virgil Martinez, President and RSO of BRL. The licensee acknowledged the inspection findings and did not dispute any of the details presented during the call.

## **Supplemental Inspection Information**

### PARTIAL LIST OF PERSONS CONTACTED

Virgil Martinez, President and Radiation Safety Officer  
David Gillette, Radiographer

### INSPECTION PROCEDURE USED

IP 87121 - Inspection of Industrial Radiography Programs

### ITEMS OPENED, CLOSED, AND DISCUSSED

#### Opened

150-00042/2021-001-01	AV	Failure to train a radiographer assistant (10 CFR 34.43(c)(3))
150-00042/2021-001-02	AV	Failure to follow the two-person rule (10 CFR 34.41(a))
150-00042/2021-001-03	AV	Failure to perform field audits of a radiographer (10 CFR 34.43(e)(1))

#### Closed

None.

#### Discussed

None.

### LIST OF ACRONYMS USED

10 CFR	Title 10 <i>Code of Federal Regulations</i>
ADAMS	Agencywide Documents Access and Management System
AV	Apparent Violation
BRL	BRL-NDT Services, LLC
IP	Inspection Procedure
NRC	U.S. Nuclear Regulatory Commission
PEC	Pre-decisional Enforcement Conference
RSO	Radiation Safety Officer