



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

July 15, 2022

Mr. Michael Conner, Radiation Safety Officer
Cherokee Nation
Road Program
P.O. Box 948
Tahlequah, OK 74465

SUBJECT: NRC INSPECTION REPORT 030-33920/2022-001; AND NOTICE OF VIOLATION

Dear Mr. Conner:

This letter refers to the unannounced routine inspection that began on April 18, 2022, at your facility in Tahlequah, Oklahoma. The inspection was an examination of activities conducted under your license as they relate to public health and safety, to confirm compliance with the U.S. Nuclear Regulatory Commission's (NRC's) rules, regulations, and with the conditions of your license. Within these areas, the inspection consisted of a selected examination of procedures and representative records, observation of licensed activities, independent radiation measurements, and interviews with personnel. The inspectors discussed the preliminary inspection findings with you at the conclusion of the inspection on April 18, 2022. A final exit briefing was conducted by video conference with you on June 29, 2022.

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 failures to: 1) provide recurrent hazmat transportation training every 3 years; 2) perform annual reviews of the radiation protection program content and implementation; 3) lock each portable nuclear gauge 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 in preparing your response. 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>. 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 (was) achieved should be addressed. The NRC review of your response to the Notice will also determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

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 personal privacy or proprietary information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such information, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information).

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, will be made available electronically for public inspection in the NRC Public Document Room or from ADAMS, accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html>.

Should you have any questions regarding this letter or the enclosed Notice, please contact Leo Wardrobe, at (817) 200-1429, or the undersigned at (817) 200-1455.

Sincerely,



Signed by Roldan-Otero, Lizette
on 07/15/22

Lizette Roldán-Otero, PhD, Chief
Materials Inspection Branch
Division of Radiological Safety and Security

License No. 35-27525-01

Docket No. 030-33920

Enclosure:
Notice of Violation

cc w/Enclosure:
Mike Broderick, Environmental Program Mgr. II
Radiation Management Section
OK Dept of Environmental Quality
Mike.broderick@deq.ok.gov

SUBJECT: NRC INSPECTION 030-33920/2022-001; AND NOTICE OF VIOLATION – DATED
JULY 15,2022

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SUNSI Review: ADAMS: Non-Publicly Available and Sensitive
By: MHK Yes No Publicly Available and non-sensitive

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OFFICAL RECORD COPY

NOTICE OF VIOLATION

Cherokee Nation
Tahlequah, Oklahoma

Docket No. 030-33920
License No. 35-27525-01

During an NRC inspection that began on April 18, 2022, 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 each licensee who transports licensed material outside the site of usage, as specified in the NRC license, or where transport is on public highways, or who delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the DOT regulations in 49 CFR parts 107, 171 through 180, and 390 through 397, appropriate to the mode of transport.

49 CFR Part 172. 49 CFR 172.704(c)(2) requires, in part, that a hazmat employee must receive the training required by this subpart at least once every three years.

Contrary to the above, from July 22, 2014 to April 18, 2022, the licensee failed to provide hazmat training to hazmat employees at least once every three years. Specifically, the hazmat employees received hazmat training on July 21, 2011, and had not received any further hazmat training, a period exceeding three years. Hazmat employees transported portable gauges containing licensed material on several occasions from at least February 1, 2022, through March 18, 2022, a period which exceeded three years from the last hazmat training received.

This is a Severity Level IV violation (NRC Enforcement Policy, Section 6.3.d.4).

- B. 10 CFR 20.1101(c) states, that the licensee shall periodically (at least annually) review the radiation protection program content and implementation.

Contrary to the above, from March 23, 2017 to April 18, 2022, the licensee failed to periodically (at least annually) review the radiation protection program content and implementation.

This is a Severity Level IV violation (NRC Enforcement Policy, Section 6.3.d).

- C. License Condition 17 of NRC License 35-27525-01 requires that each portable nuclear 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, on April 18, 2022, the licensee failed to have on each portable nuclear gauge, a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position when in storage. Specifically, the licensee had six portable gauges, two Troxler Model 3400 and four CPN International, Inc Model MC Series in storage and all six portable gauges failed to have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position.

This is a Severity Level IV violation (NRC Enforcement Policy, Section 6.3.d).

Enclosure

Pursuant to 10 CFR 2.201, Cherokee Nation 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 Director, Division of Radiological Safety and Security, U.S. Nuclear Regulatory Commission Region IV, 1600 E. Lamar Blvd., Arlington, Texas 76011, and emailed to Lizette.Roldan-Otero@nrc.gov 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; 030-33920/2022-001 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; and (4) the date when full compliance was or 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, the NRC may issue an order or a demand for information requiring you to explain why your license should not be modified, suspended, or revoked, or why the NRC should not take other action as may be proper. Consideration may be given to extending the response time for good cause shown.

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, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Your response will be made available electronically for public inspection in the NRC Public Document Room or in 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 or proprietary information so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information).

In accordance with 10 CFR 19.11, you may be required to post this Notice within 2 working days of receipt.

Dated this 15th day of July 2022