



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

January 25, 2024

EA-23-147

Duane Surman
Western Region Terminal Manager
Lhoist North America
P. O. Box 88
Tenmile Plant
Bancroft, Idaho 83217

SUBJECT: NRC INSPECTION REPORT 030-32760/2023-001

Dear Duane Surman:

This letter refers to the announced routine inspection conducted on September 13, 2023, at your facility in Bancroft, Idaho, with continued in-office review through December 13, 2023. 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 (NRC) 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 and members of your staff at the conclusion of the onsite inspection on September 13, 2023. A final exit briefing was conducted by video conference with Travis Soffel, Terminal Manager and Brandon Nilsson, Radiation Safety Officer (RSO) on January 16, 2024.

Based on the results of this inspection, four 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 website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The apparent violations involved the failure to: (1) have a named RSO on the license; (2) conduct a physical inventory every 6 months for devices possessed under the license; (3) perform an annual review of the radiation protection program for content and implementation; and (4) notify the NRC when no principal activities had been conducted for a period of 24 months.

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 predecisional 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 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 030-32760/2023-001; EA-23-147” 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.

Your written response, should you choose to provide one, should be emailed to R4Enforcement@nrc.gov within 30 days of the date of this letter, and hard copies may be sent to: U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, and to the Director of Division of Radiological Safety & Security, Region IV, 1600 East Lamar Boulevard, Arlington, TX 76011. 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.

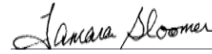
In presenting your corrective actions, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violations. The guidance in NRC Information Notice 96-28, “Suggested Guidance Relating to Development and Implementation of Corrective Action,” may be helpful in preparing your response (Agencywide Documents Access and Management System (ADAMS) Accession No. ML061240509).

In addition, please be advised that the number and characterization of the 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 of our deliberations on 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 or in the NRC’s 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,



Signed by Bloomer, Tamara
on 01/25/24

Tamara E. Bloomer, Director
Division of Radiological Safety and Security

Docket: 030-32760
License: 11-27434-01

Enclosure:
NRC Inspection Report 030-32760/2023-001

cc w/Enclosure:

Landry Austin
Idaho Department of Environmental Quality
INL Oversight Program Manager
900 North Skyline Drive, Suite B
Idaho Falls, ID 83402
Landry.Austin@deq.idaho.gov

NRC INSPECTION REPORT 030-32760/2023-001 - DATED JANUARY 25, 2024

DISTRIBUTION:

RidsOeMailCenter Resource;	RidsNmssOd Resource;	RidsOgcMailCenter Resource;
RidsSecyMailCenter Resource;	RidsOcaMailCenter Resource;	RidsOigMailCenter Resource;
RidsEdoMailCenter Resource;	EDO_Managers;	RidsOcoMailCenter Resource;
RidsOiMailCenter Resource;	RidsRgn1MailCenter Resource;	RidsRgn3MailCenter Resource;
R4-DRSS-MIB	R4-ORA-ACES	R4Enforcement.resource
JMonninger, RA	RAlexander, ORA	DPelton, OE
JLara, DRA	MMadison, DRMA	SLewman, OE
TBloomer, DRSS	JKramer, ORA	JPeralta, OE
PSnyder, OE	JCook, DRSS	MBurgess, NMSS
NO'Keefe, DRSS	RErickson, DRSS	VDricks, ORA
AMoreno, CA	KBischoff, DRSS	RStolt, DRSS
JGroom, ORA	LWilkins, CA	LRoldan-Otero, DRSS
ARoberts, ORA	JHamman, OEDO	DCylkowski, ORA

ADAMS ACCESSION NUMBER: ML24017A290

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

OFFICE	HP:MIB	C:MIB	TL:ACES	RC	OE
NAME	KBischoff	LRoldan-Otero	JGroom	DCylkowski	PSnyder
SIGNATURE	/RA/ E	/RA/ E	/RA/ E	/RA/ E	/RA/ E
DATE	01/04/2024	01/18/24	01/19/24	01/22/24	01/25/24
OFFICE	D:DRSS				
NAME	TBloomer				
SIGNATURE	/RA/ E				
DATE	01/25/24				

OFFICIAL RECORD COPY

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

Docket: 030-32760

License: 11-27434-01

Report: 2023-001

EA No.: EA-23-147

Licensee: Lhoist North America

Locations Inspected: Bancroft, Idaho

Inspection Dates: September 13, 2023

Exit Meeting Date: January 16, 2024

Inspectors: Kyle Bischoff, Health Physicist
Materials Inspection Branch
Division of Radiological Safety and Security

Ryan Stolt, Health Physicist
Materials Inspection Branch
Division of Radiological Safety and Security

Approved By: Dr. Lizette Roldan-Otero, Chief
Materials Inspection Branch
Division of Radiological Safety and Security

Attachment: Supplemental Inspection Information

Enclosure

EXECUTIVE SUMMARY

Lhoist North America NRC Inspection Report 030-32760/2023-001

On September 13, 2023, the U.S. Nuclear Regulatory Commission (NRC) performed an announced inspection of Lhoist North America (LNA) in Bancroft, Idaho, with continued in-office review through December 13, 2023. The inspection included reviews of procedures and representative records, observation of licensed activities, independent radiation measurements, and interviews with personnel. This report provides the details of that inspection.

Program Overview

Lhoist North America was authorized under NRC License 11-27434-01 to possess and use byproduct material for use in fixed gauging devices. Licensed material is authorized to be used at LNA's facility, Tenmile Plant, in Bancroft, Idaho. (Section 1)

Inspection Findings

As a result of this inspection, four apparent violations were identified concerning the failure to: (1) have a named RSO on the license; (2) conduct a physical inventory every 6 months for devices possessed under the license; (3) perform an annual review of the radiation protection program for content and implementation; and (4) notify the NRC when no principal activities had been conducted for a period of 24 months. (Section 2)

Corrective Actions

The licensee started corrective actions prior to the onsite inspection by identifying and registering an employee in RSO training courses. After the inspection the licensee amended their license naming a new RSO. Additionally, the licensee performed leak tests of their devices and communicated with a service provider for transfer and disposal of their licensed materials. (Section 3)

REPORT DETAILS

1 Program Overview (87124)

1.1 Inspection Scope

The inspectors reviewed the license application, supporting documents, and other records provided by the licensee. Collectively, these documents describe the licensee's radiation safety program.

1.2 Observations and Findings

Lhoist North America (LNA) was authorized under NRC License 11-27434-01 to use byproduct material in fixed nuclear gauging devices. Licensed material is authorized to be used at LNA's facility, Tenmile Plant, in Bancroft, Idaho. The facility is equipped to operate a limestone quarry, crushing and screening operations, and a limestone kiln to produce lime. Tenmile Plant's lime production process has not been operational since 2007; the fixed gauging devices have been in storage since the plant was placed in standby mode.

2 Inspection Findings (87124)

2.1 Inspection Scope

The inspector's review of the program included a selected examination of procedures and representative records, observation of licensed activities, independent radiation measurements, and interviews with personnel.

2.2 Observations and Findings

The NRC inspectors performed an announced routine inspection on September 13, 2023, at LNA's facility in Bancroft, Idaho. Licensee staff present at the site for the inspection included the Western Region Terminal Manager, Terminal Manager, and the on-site technician who is the only individual stationed full time at the facility.

Licensee staff informed the inspectors that the named Radiation Safety Officer (RSO) on the license had not been performing the duties associated with this position due to chronic health issues. Licensee staff could not recall the last time the RSO had been at the facility. The inspectors inquired as to the level of response the RSO could have provided regarding an emergency situation. Through discussions, the licensee agreed that if a radiological emergency had occurred the RSO was not in a condition to respond. The exact date that the RSO ceased performing duties was not able to be determined. The most recent date that a licensed activity had occurred was when leak tests were performed on sealed sources, which took place on April 16, 2018.

The inspectors verified the serial numbers of the gauges and confirmed that they matched the information documented on the previous leak tests and inventories. The gauges were properly secured, posted, and locked out with the shutter closed. Independent surveys were performed with a RadEyeG (SN: 13420, calibration due date: March 31, 2024) confirming that the gauge's shutters were in the closed position.

Apparent Violation of License Condition 12 of NRC License No. 11-27434-01

License Condition 12 of NRC License No. 11-27434-01, Amendment Nos. 7 and 8, identified a named individual as the RSO.

Contrary to the above, from April 16, 2018, to December 4, 2023, the licensee failed to have that named individual as the RSO. Specifically, the named RSO was not performing RSO duties and was not involved with licensed activities.

The failure to have the named RSO on the NRC license perform the duties of RSO was identified as an apparent violation of License Condition 12 of NRC License No. 11-27434-01. (030-32760/2023-001-01)

Apparent Violation of License Condition 15 of NRC License No. 11-27434-01

License Condition 15 of NRC License No, 11-27434-01, Amendment No. 8, states, in part, that the licensee shall conduct a physical inventory every 6 months to account for all sealed sources and/or devices possessed under the license.

Contrary to the above, from October 2, 2018, to September 13, 2023, the licensee failed to conduct a physical inventory every 6 months to account for all sealed sources and/or devices possessed under the license. Specifically, the licensee last performed and documented a physical inventory on April 2, 2018, and had not performed another physical inventory as of the date of the inspection, a period exceeding 6 months.

The failure to conduct a physical inventory every 6 months to account for all sealed sources and devices possessed under the license was identified as an apparent violation of License Condition 15 of NRC License No. 11-27434-01. (030-32760/2023-001-02)

Apparent Violation of 10 CFR 20.1101(c)

Title 10 CFR 20.1101(c) requires, in part, that the licensee shall periodically (at least annually) review the radiation protection program content and implementation.

Contrary to the above, from January 1, 2020, to September 13, 2023, the licensee failed to periodically (at least annually) review the radiation protection program content and implementation. Specifically, the radiation protection program was last reviewed for content and implementation on April 16, 2018, a period exceeding the annual requirement.

The failure to periodically (at least annually) review the radiation protection program content and implementation was identified as an apparent violation of 10 CFR 20.1101(c). (030-32760/2023-001-03)

Apparent Violation of 10 CFR 30.36(d)

Title 10 CFR 30.36(d) requires, in part, that each licensee shall provide, within 60 days, written notification to the NRC and begin decommissioning its site if no principal activities under the license have been conducted for a period of 24 months.

Contrary to the above, from June 15, 2020, to September 13, 2023, the licensee did not provide, within 60 days, written notification to the NRC and begin decommissioning its site when no principal activities under the license had been conducted for a period of 24 months. Specifically, no principal activities had been performed under the license from April 16, 2018, to September 13, 2023, a period greater than 24 months. The licensee did not notify the NRC, within 60 days, by June 15, 2020, that no principal activities had occurred from April 16, 2018, to April 16, 2020.

The failure to provide, within 60 days, written notification to the NRC and begin decommissioning its site when no principal activities under the license had been conducted for a period of 24 months was identified as an apparent violation of 10 CFR 30.36(d). (030-32760/2023-001-04)

2.3 Conclusions

The inspection identified four apparent violations of NRC requirements involving the failures to: (1) have a named RSO on the license; (2) conduct a physical inventory every 6 months for devices possessed under the license; (3) perform an annual review of the radiation protection program for content and implementation; and, (4) notify the NRC when no principal activities had been conducted for a period of 24 months.

3 **Corrective Actions**

Prior to the inspection, the on-site technician registered for an RSO training course. The technician attended RSO training on November 8 and 9, 2023. On December 4, 2023, the NRC issued NRC License No. 11-27434-01, Amendment 9 naming the on-site technician as the RSO. Additionally, following the inspection, the licensee provided the inspectors with leak tests of their devices and communication with a service provider for the transfer and disposal of the devices.

4 **Exit Meeting Summary**

On January 16, 2024, the NRC held an exit meeting summary with the RSO and licensee management. 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

Duane Surman, Western Terminal Manager
Travis Soffel, Terminal manager
Brandon Nilsson, RSO

INSPECTION PROCEDURES USED

87124 Fixed Nuclear Gauge Programs

ITEMS OPENED, CLOSED, AND DISCUSSED

Opened

030-32760/2023-001-01	AV	Failure to have an active named RSO on the license.
030-32760/2023-001-02	AV	Failure to perform and maintain records of physical inventories of all sealed sources possessed under the license.
030-32760/2023-001-03	AV	Failure to perform an annual review of the radiation protection program content and implementation.
030-32760/2023-001-04	AV	Failure to notify the NRC that principal activities under the license had not been conducted for a period of 24 months and begin decommissioning the site.

Closed

None.

Discussed

None.

LIST OF ACRONYMS USED

ADAMS	Agencywide Documents Access and Management System
AV	Apparent Violation
LNA	Lhoist North America
NRC	U.S. Nuclear Regulatory Commission
PEC	Predecisional Enforcement Conference
RSO	Radiation Safety Officer