



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION III  
2443 WARRENVILLE ROAD, SUITE 210  
LISLE, ILLINOIS 60532-4352

June 3, 2024

EA-23-146

Travis Behnke  
Director of Operations  
Summit NDE, LLC  
8762 Louisiana Street  
Merrillville, IN 46410

SUBJECT: NOTICE OF VIOLATION; NRC INITIAL INSPECTION REPORT NO.  
03039315/2023001 (DRSS) – SUMMIT NDE, LLC

Dear Travis Behnke:

This letter refers to the U.S. Nuclear Regulatory Commission (NRC) inspection conducted on October 10, 2023, at your Merrillville, Indiana, facility with continued in-office review through January 26, 2024. The purpose of the inspection was to review activities performed under your NRC license to ensure that those activities were being performed in accordance with NRC requirements. During the inspection, apparent violations of NRC requirements were identified. The circumstances surrounding the apparent violations, the significance of the issues, and the need for lasting and effective corrective actions were discussed with you and Matt DiMonte, Jr. of your staff during a telephone exit meeting on January 26, 2024. Details regarding the apparent violations were provided in NRC Inspection Report No. 03039315/2023001 (DRSS) (non-public) dated February 16, 2024.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violations identified in the report by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In letters dated March 15, 2024 (non-public), March 20, 2024 (non-public), and April 9, 2024 (non-public), you provided responses to the apparent violations.

Based on the information developed during the inspection and the information that you provided in your responses to the inspection report dated March 15, 2024, March 20, 2024, and April 9, 2024, the NRC has determined that six violations of NRC requirements occurred. The first violation was related to the failure to have a radiation safety officer (RSO) as required by your NRC license. This violation is cited in the enclosed Notice of Violation (Notice) (Enclosure 1) (public) and the circumstances surrounding it are described in detail in the subject inspection report.

The failure to have an RSO is of significant regulatory concern because, in the absence of this individual, there was a lack of sufficient oversight of the radiation protection program, as the

Enclosures 2 and 3 contain Sensitive Unclassified Non-Safeguards Information. When separated from Enclosures 2 and 3, this transmittal letter and Enclosure 1 are decontrolled.

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remaining personnel lacked an understanding of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 37 security requirements. The failure to have an RSO appears to have been the root cause of the remaining violations. Therefore, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III.

The second through sixth violations are security-related and are cited in the Notice in Enclosure 2 (non-public) and the circumstances surrounding them are described in detail in the non-public version of our inspection report, dated February 16, 2024. These violations are of concern to the NRC for the reasons stated in the Determination of Severity Level and Description of Corrective Actions in Enclosure 3 (non-public). These violations have been categorized collectively, in accordance with the NRC Enforcement Policy, as a Severity Level III problem.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$9000 is considered for each Severity Level III violation or problem.

Because your facility has not been the subject of escalated enforcement actions since this was your initial inspection, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. Corrective actions for the first violation involving the failure to have an RSO included: (1) amending your license to name a new RSO; (2) sending additional personnel to third party RSO training courses to ensure the fulfillment of specific RSO requirements; (3) developing a policy, procedure and checklist outlining actions necessary to ensure effective oversight of the radiation protection program and timely notification to the NRC when the named RSO leaves or becomes unavailable; and (4) incorporating the policy and procedure into annual safety or security refresher training. Corrective actions for the second through sixth violations are documented in Enclosure 3 (non-public). Based on these corrective actions, the NRC determined that *Corrective Action* credit is warranted.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III violation and Severity Level III problem constitutes escalated enforcement action that may subject you to increased inspection effort. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

The NRC has concluded that information regarding: (1) the reason for the violations; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance will be achieved is already adequately addressed on the docket in Inspection Report No. 03039315/2023001(DRSS) and in your letters dated March 15, 2024, March 20, 2024, and April 9, 2024. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter and Enclosure 1 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 Web site at

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<http://www.nrc.gov/reading-rm/adams.html>. However, the material enclosed herewith contains Security-Related Information in accordance with 10 CFR 2.390(d)(1) and its disclosure to unauthorized individuals could present a security vulnerability. Therefore, the material in enclosures 2 and 3 will not be made available electronically for public inspection in the NRC Public Document Room or from ADAMS. If you choose to respond and Security-Related Information is necessary to provide an acceptable response, please mark your entire response “Security-Related Information in accordance with 10 CFR 2.390(d)(1)” and follow the instructions for withholding in 10 CFR 2.390(b)(1).

Sincerely,



Signed by Giessner, Jack  
on 06/03/24

John B. Giessner  
Regional Administrator

Docket No. 030-39315  
License No. 13-35681-01

Enclosures: 1. Notice of Violation (public)  
2. Notice of Violation (non-public)  
3. Determination of Severity Level  
and Description of Corrective  
Actions (non-public)

cc w/encl: Matthew DiMonte, Jr.  
Radiation Safety Officer  
State of Indiana

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Letter to T. Behnke from J. Giessner dated June 3, 2024.

SUBJECT: NOTICE OF VIOLATION; NRC INITIAL INSPECTION REPORT NO.  
03039315/2023001 (DRSS) – SUMMIT NDE, LLC

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NOTICE OF VIOLATION

Summit NDE, LLC  
Merrillville, Indiana

Docket No. 030-39315  
License No. 13-35681-01  
EA-23-146

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on October 10, 2023, with continued in-office review through January 26, 2024, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Condition 12 of NRC License No. 13-35681-01, dated May 4, 2023, identifies the Radiation Safety Officer (RSO) for the license.

Contrary to the above, between September 11, 2023, and January 2, 2024, Summit NDE did not have an RSO as listed on License 13-35681-01, dated May 4, 2023. Specifically, the individual identified in Condition 12 of NRC License No. 13-35681-01 was no longer the RSO and the license has not been amended to add a new individual as the RSO.

This is a Severity Level III violation (NRC Enforcement Policy Section 6.3).

The NRC has concluded that 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 achieved, is already adequately addressed on the docket in Inspection Report No. 03039315/2023001 (DRSS) and licensee letters dated March 15, 2024, March 20, 2024, and April 9, 2024. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-23-146," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, Region III, 2443 Warrenville Road, Suite 210, Lisle, IL 60532-4352 within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

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.

If you choose to respond, 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 Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or Security-Related Information so that it can be made available to the Public without redaction.

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

Dated this 3<sup>rd</sup> day of June 2024.

Enclosure

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