



30-28612

9715 KENNEDY AVENUE • HIGHLAND, INDIANA 46322
(219) 924-5231 • (773) 734-5900 • FAX (219) 924-5271

www.kandsengineers.com • ksengineers@sbcglobal.net

August 13, 2012

United States Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555-0001

Re: Reply to a Notice of Violation
NRC ROUTINE INSPECTION REPORT
03028612/12-001 (DNMS) – K & S
ENGINEERS, INC. AND NOTICE OF
VIOLATION, License No. 13-24480-01

Gentlemen:

In response to a letter from Tamara E. Bloomer, Chief Materials Inspection Branch, Division of Nuclear Materials Safety, dated July 17, 2012 containing notice of two Severity Level IV violations of NRC requirements found on June 28, 2012 during a routine inspection at our facility in Highland, IN, we wish to reply as follows:

With regard to Severity Level IV violation (Section 6.3.d.4) indicated in Subparagraph A of the above referenced letter, which requires that each hazmat employer ensure that each hazmat employee is trained and tested, and that no hazmat employee performs any function subject to the requirements of 49 CFR Parts 171-177 unless trained in accordance with Subpart H of 49 CFR Part 172, we wish to state:

- 1.) The current hazmat employees of K & S Engineers are long-time employees with over 10 years of service, and all required certifications had previously been kept up to date. In this instance, the expiration of three employee's hazmat certifications was an oversight due to human error and a high workload in the midst of the construction season. The certifications found not to be in compliance had just recently expired within the last month.
- 2.) The Radiation Officer held a mandatory meeting with all the Hazmat employees to address the NRC's findings and the corrective actions and procedures. All employees in question immediately obtained the required training and certification. Copies of the current certifications are attached to this letter.
- 3.) New administrative procedures will be implemented immediately to avoid non-compliance in the future, including, but not limited to, a checklist of all employees' certifications, which will be reviewed on a monthly basis.
- 4.) The date full compliance was achieved was June 30, 2012.

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B. With regard to Security Level IV violation (Section 6.3.d.4) indicated in Subparagraph B of the above referenced letter, which requires, in part, that the driver of a motor vehicle containing hazardous material ensure that the shipping paper required by 49 CFR 177.817(a) is readily available to, and recognizable by, authorities in the event of accident or inspection, we wish to state:

1.) The reason for the violation was human error and confusion, as the hazmat employee subject to the inspection had that day driven a different vehicle than the one he usually uses for work, which does not have a pocket on the door where he always keeps the Bill of Lading in his other vehicle. The subject hazmat employee became confused and put the Bill of Lading on the front passenger seat instead of the driver's seat, as is required.

2.), 3.), 4.) A mandatory meeting was held by the Radiation Safety Officer for all hazmat employees, wherein the correct procedures for transporting nuclear gauges and placement of the Bill of Lading was reviewed. All questions were answered and the importance of following NRC regulations was understood. Compliance was achieved the afternoon of the day of the inspection, June 28, 2012.

We assure you that the Notice of Violations was taken very seriously, and hope that you will find that we have taken prompt and adequate corrective action to address these violations and ensure that future violations do not occur. Should you have any questions, or need any additional information, please do not hesitate to contact us. Thank you.

Very truly yours,

K & S Engineers, Inc.



Dibakar Sundi, P.E.
President and RSO

DS/dp
Encls.

cc: Regional Administrator, Region III
United States Nuclear Regulatory Commission
2443 Warrenville Road, Suite 210
Lisle, IL 60532-4352



HAZMAT CERTIFICATION

as required by U.S. DOT and IATA

This certifies that

Nayeemuddin Khaja

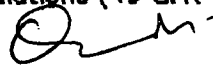
has been trained and tested in accordance with the U.S. Department of Transportation and International Air Transport Association (IATA) hazardous material requirements for general awareness/familiarization, function-specific, safety, and security awareness training as related to the transportation of nuclear gauges. A description of the training course materials is available from Troxler Electronic Laboratories, Inc. This certificate expires three years from the training date shown below.

June 29, 2012

EMPLOYER CERTIFICATION

I certify that the hazmat employee identified on this certificate has been trained and tested as required by U.S. DOT Hazardous Material Regulations (49 CFR 172 Subpart H).

Signature



Title

President



The Leader in Construction Testing Equipment

Troxler Electronic Laboratories, Inc.

PO Box 12057-3008 Cornwallis Road - Research Triangle Park, NC 27709

Phone: (919) 549-8661 - Fax (919) 549-0761 - www.troxlerlabs.com

Course:

Hazmat Refresher

Tracking Code: 6E57M8HL5885756_31508

HAZMAT CERTIFICATION

as required by U.S. DOT and IATA

This certifies that

venkat k reddy

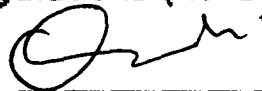
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June 30, 2012

EMPLOYER CERTIFICATION

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Signature



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Phone: (919) 549-8661 - Fax (919) 549-0761 - www.troxlerlabs.com

Course:

Hazmat Refresher

Tracking Code: 8EA9L5LFKFH775L_31533

HAZMAT CERTIFICATION

as required by U.S. DOT and IATA

This certifies that

Douglas C Shelbourne

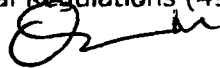
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July 31, 2012

EMPLOYER CERTIFICATION

I certify that the hazmat employee identified on this certificate has been trained and tested as required by U.S. DOT Hazardous Material Regulations (49 CFR 172 Subpart H).

Signature



Title

President

Dibakar Sundi



The Leader in Construction Testing Equipment

Troxler Electronic Laboratories, Inc.

PO Box 12057-3008 Cornwallis Road - Research Triangle Park, NC 27709

Phone: (919) 549-8661 - Fax (919) 549-0761 - www.troxlerlabs.com

Course: Hazmat

Tracking Code: 8769H869MICJ7H_32297

HAZMAT CERTIFICATION

as required by U.S. DOT and IATA

This certifies that

JAWED R ANSARI

has been trained and tested in accordance with the U.S. Department of Transportation and International Air Transport Association (IATA) hazardous material requirements for general awareness/familiarization, function-specific, safety, and security awareness training as related to the transportation of nuclear gauges. A description of the training course materials is available from Troxler Electronic Laboratories, Inc. This certificate expires three years from the training date shown below.

June 30, 2012

EMPLOYER CERTIFICATION

I certify that the hazmat employee identified on this certificate has been trained and tested as required by U.S. DOT Hazardous Material Regulations (49 CFR 172 Subpart H).

Signature



Title

President



The Leader in Construction Testing Equipment

Troxler Electronic Laboratories, Inc.

PO Box 12057-3008 Cornwallis Road - Research Triangle Park, NC 27709

Phone: (919) 549-8661 - Fax (919) 549-0761 - www.troxlerlabs.com

Course:

Hazmat Refresher

Tracking Code: 5JH59FE595K5C8A_31536

Nuclear Gauge Operator Recertification

This certifies that

Reginald H Campbell

has successfully completed the *Nuclear Safety for Gauge Operators
Refresher Course* online course on the date shown below.

July 09, 2012



Troxler Electronic Laboratories, Inc.
P.O. Box 12057 - 3008 E. Cornwallis Road - Research Triangle Park, NC 27709
Phone: (919) 549-8661 - Fax: (919) 549-0761 - www.troxlerlabs.com

HAZMAT CERTIFICATION

as required by U.S. DOT and IATA

This certifies that

Bimalkumar D Patel

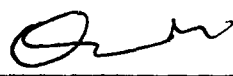
has been trained and tested in accordance with the U.S. Department of Transportation and International Air Transport Association (IATA) hazardous material requirements for general awareness/familiarization, function-specific, safety, and security awareness training as related to the transportation of nuclear gauges. A description of the training course materials is available from Troxler Electronic Laboratories, Inc. This certificate expires three years from the training date shown below.

June 29, 2012

EMPLOYER CERTIFICATION

I certify that the hazmat employee identified on this certificate has been trained and tested as required by U.S. DOT Hazardous Material Regulations (49 CFR 172 Subpart H).

Signature



Title President



The Leader in Construction Testing Equipment

Troxler Electronic Laboratories, Inc.

PO Box 12057-3008 Cornwallis Road - Research Triangle Park, NC 27709

Phone: (919) 549-8661 - Fax (919) 549-0761 - www.troxlerlabs.com

Course: Hazmat Refresher

Tracking Code: 7175KCE8H759899_31509

HAZMAT CERTIFICATION

as required by U.S. DOT and IATA

This certifies that

Zeljko Novakovich

has been trained and tested in accordance with the U.S. Department of Transportation and International Air Transport Association (IATA) hazardous material requirements for general awareness/familiarization, function-specific, safety, and security awareness training as related to the transportation of nuclear gauges. A description of the training course materials is available from Troxler Electronic Laboratories, Inc. This certificate expires three years from the training date shown below.

July 01, 2012

EMPLOYER CERTIFICATION

I certify that the hazmat employee identified on this certificate has been trained and tested as required by U.S. DOT Hazardous Material Regulations (49 CFR 172 Subpart H).

Signature  Title President



Troxler Electronic Laboratories, Inc.

PO Box 12057-3008 Cornwallis Road - Research Triangle Park, NC 27709

Phone: (919) 549-8661 - Fax (919) 549-0761 - www.troxlerlabs.com

Course: Hazmat Refresher

Tracking Code: K8A8K7G9D995IMF_31557



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION III
2443 WARRENVILLE ROAD, SUITE 210
LISLE, ILLINOIS 60532-4352

July 17, 2012

Mr. Dibakar Sundi, P.E.
Radiation Safety Officer
K&S Engineers, Inc.
9715 Kennedy Ave.
Highland, IN 46322

**SUBJECT: NRC ROUTINE INSPECTION REPORT 03028612/12-001(DNMS) – K&S
ENGINEERS, INC. AND NOTICE OF VIOLATION**

Dear Mr. Sundi:

On June 28, 2012, a U.S. Nuclear Regulatory Commission (NRC) inspector conducted a routine inspection at your facility in Highland, Indiana. The purpose of the inspection was to review activities conducted under your license to ensure that those activities were being performed in accordance with NRC requirements. The NRC inspector held an exit meeting with you on June 28, 2012.

During this inspection, the inspector examined activities conducted under your license related to public health and safety. Additionally, the inspector examined your compliance with the Commission's rules and regulations as well as the conditions of your license. Within these areas, the inspection consisted of selected examination of procedures and representative records, observations of activities, and interviews with personnel.

Based on the results of this inspection, the NRC has determined that two Severity Level IV violations of NRC requirements occurred. The violations were evaluated 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 first violation concerned the licensee's failure to ensure that each of its employees transporting radioactive materials have received recurrent hazmat training at least once every three years, as required by Title 49 of the Code of Federal Regulations (CFR) 172.704(c)(2). The second violation concerned the licensee's failure to ensure that, when a driver is not at the vehicle's controls, the shipper papers are in one of the required locations, as required by 49 CFR 177.817(e)(2)(ii). The second violation is similar to a violation cited during your previous inspection. The violations are cited in the enclosed Notice of Violation (Notice). The NRC is citing the violations in the Notice because the inspector identified the violations.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

D. Sundi

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In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," 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 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.

The NRC instituted its Safety Culture Policy Statement in June 2011. While a policy statement and not a regulation, it sets forth the agency's *expectations* for individuals and organizations to establish and maintain a positive safety culture. You can access the policy statement and supporting material that may benefit your organization on NRC's safety culture Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/safety-culture.html>. We strongly encourage you to review this material and adapt it to your particular needs in order to develop and maintain a positive safety culture as you engage in NRC-regulated activities.

If you have any questions regarding this inspection please feel free to contact Mr. Aaron McCraw of my staff. Mr. McCraw can be reached at (630) 829-9650.

Sincerely,

A handwritten signature in black ink, appearing to read "Tamara E. Bloomer". The signature is fluid and cursive, with the first name being the most prominent.

Tamara E. Bloomer, Chief
Materials Inspection Branch
Division of Nuclear Materials Safety

Docket No. 030-28612
License No. 13-24480-01

Enclosure:
Notice of Violation

cc w/encl: State of Indiana

NOTICE OF VIOLATION

K&S Engineers, Inc.
Highland, Indiana

Docket No. 030-28612
License No. 13-24480-01

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted June 28, 2012, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

Title 10 Code of Federal Regulations (CFR) 71.5(a) requires that a licensee who transports licensed material outside of 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, comply with the applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation (DOT) in 49 CFR Parts 170 through 189.

- A. Title 49 CFR 172.702 requires that each hazmat employer ensure that each hazmat employee is trained and tested, and that no hazmat employee performs any function subject to the requirements of 49 CFR Parts 171-177 unless trained, in accordance with Subpart H of 49 CFR Part 172. The terms Hazmat Employer and Hazmat Employee are defined in 49 CFR 171.8.

Title 49 CFR 172.704(a) specifies the elements of hazmat employee training as: (1) general awareness/familiarization training; (2) function-specific training; and (3) safety training. Title 49 CFR 172.704(c) requires, in part, that a hazmat employee receive initial training, and recurrent training at least once every three years.

Contrary to the above, as of June 28, 2012, the licensee did not provide training for its hazmat employees that satisfied the requirements in Subpart H to 49 CFR Part 172, in that recurrent training had not been completed at least once every three years for all of its employees who transport hazardous materials, and the licensee otherwise meets the definition of a hazmat employer in 49 CFR 171.8.

This is a Severity Level IV violation (Section 6.3.d.4).

- B. Title 49 177.817(e)(2)(i) requires, in part, that the driver of a motor vehicle containing hazardous material ensure that the shipping paper required by 49 CFR 177.817(a) is readily available to, and recognizable by, authorities in the event of accident or inspection. Specifically, (i) when the driver is at the vehicle's controls, the shipping paper shall be: (A) within his immediate reach while he is restrained by the lap belt; and (B) either readily visible to a person entering the driver's compartment or in a holder which is mounted to the inside of the door on the driver's side of the vehicle; (ii) when the driver is not at the vehicle's controls, the shipping paper shall be: (A) in a holder which is mounted to the side of the door on the driver's side of the vehicle; or (B) on the driver's seat in the vehicle. Pursuant to 49 CFR 172.101, radioactive material is classified as a hazardous material.

Enclosure

Contrary to the above, on June 28, 2012, the licensee transported radioactive material outside the site of usage as specified on the NRC license and on a public highway, and the driver of the vehicle did not ensure that the shipping paper was readily available in the driver's compartment, as required. Specifically, the shipping paper was stored on the passenger's seat when the driver was not at the vehicle's controls.

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

Pursuant to the provisions of 10 CFR 2.201, K&S Engineers, Inc., 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 III, 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, 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, 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 two working days of receipt.

Dated this 17th day of July 2012.