

ENCLOSURE 6

INSPECTION RECORD

Region III Inspection Report No. 12001

License No. 34-26746-03
Docket No. 030-35974

Licensee: Construction Consulting & Testing
700 S. River Road
Waterville, Ohio 43566

Licensee Contact: Mitch Forst, P.E., RSO Telephone No.: (419) 878-7305

Priority: 5 Program Code: 03121

Date of Last Inspection: June 7, 2007 Date of This Inspection: July 17 and 19, 2012

Type of Inspection: ☐ Initial ☐ Announced ☒ Unannounced
☒ Routine ☐ Special

Next Inspection Date: July 19, 2017 ☒ Normal ☐ Reduced

Summary of Findings and Actions:

- ☐ No violations cited, clear U.S. Nuclear Regulatory Commission (NRC) Form 591 or regional letter issued
- ☒ Non-cited violations (NCVs)
- ☐ Violation(s), Form 591 issued
- ☒ **Violations**, regional letter issued from the RIII Office
- ☐ Followup on previous violations

Inspector(s): Aaron T. McCraw

Date: 8/16/12


(Signature)

Approved: Tamara E. Bloomer

Date: 8/16/12


(Signature)

PART I-LICENSE, INSPECTION, INCIDENT/EVENT, AND ENFORCEMENT HISTORY

1. AMENDMENTS AND PROGRAM CHANGES:

<u>AMENDMENT #</u>	<u>DATE</u>	<u>SUBJECT</u>
	Pending	Renewal; No major program changes

2. INSPECTION AND ENFORCEMENT HISTORY:

During the previous inspection on June 7, 2007, the inspector identified no violations.

3. INCIDENT/EVENT HISTORY:

None.

PART II - INSPECTION DOCUMENTATION

1. ORGANIZATION AND SCOPE OF PROGRAM:

This was a routine inspection of a soil testing and engineering firm located in Waterville, Ohio. The licensee maintains an NRC license to do work at temporary jobsites primarily in the State of Michigan. At the time of the inspection, the licensee possessed a total of eight Troxler 3400 Series gauges and two Troxler 3241 Series gauges. The gauges are used on a daily basis during the construction season (mid-May through October or November). The licensee employed seven authorized gauge users at the time of the inspection.

The Radiation Safety Officer (RSO) is also the president of the company.

Performance Observations:

On July 17, 2012, the inspector visited the licensee's facility in Waterville, Ohio. While on site, the inspector reviewed selected records as they pertained to the licensee's use of gauges in NRC jurisdiction, observed a gauge that was prepared for transport, and interviewed the RSO. During the interview with the RSO, the inspector learned that the licensee maintained an office in Sterling Heights, Michigan, where up to four of the Troxler 3400 Series gauges may be stored, because of the volume of work that the licensee performed in the State of Michigan. The facility serves as a dispatch center for the licensee's Michigan operations to alleviate the gauge users from having to return the gauges to the Waterville office or store the gauges at their residences overnight. The RSO indicated that the licensee has stored gauges at the Sterling Heights facility since 2005, but could not recall or produce any records that provided a specific date. The inspector identified that the office in Sterling Heights is not an authorized location of use on the license. On July 19, 2012, the inspector toured the Sterling Heights facility and verified that adequate safety and security controls are in place for up to four Troxler 3400 Series gauges. At the time of the inspection, the licensee was storing two Troxler 3400 Series gauges at the Sterling Heights facility, but the licensee stated that they had stored as many as four Troxler 3400 Series gauges at the Sterling Heights facility in the past. The inspector cited the licensee for a violation of Title 10 of the Code of Federal Regulations (CFR) 30.34(c) for failure to confine possession, use, and storage of

byproduct materials to the locations authorized by the license. The root cause of the violation was that the RSO believed that the license authorized storage anywhere the NRC maintains jurisdiction. The inspector clarified that the license authorized use of the gauges at temporary jobsites anywhere the NRC maintains jurisdiction and explained the difference between temporary jobsites and field offices, which are required to be specifically listed on the license. The licensee committed to submitting a license amendment requesting addition of the Sterling Heights, Michigan facility as an authorized location of use within 30 days from the date of the inspection. Upon return to the office, the inspector reviewed the licensee's pending renewal application dated April 25, 2012. The licensee's renewal application did not mention the Sterling Heights facility as a location of use; therefore, the additional amendment to the license is required.

Also during the interview with the RSO, the inspector became aware of the licensee's failure to provide recurrent training at least once every three years to all employees who transport hazardous materials, which includes radioactive materials. No individual, including the RSO, has had refresher training on U.S. Department of Transportation (DOT) requirements applicable to the transport of radioactive materials since his initial training. The lack of training was evidenced by several other non-compliances with DOT regulations that the inspector noted at the Waterville, Ohio facility on July 17, 2012, including the omission of the UN identification number on the shipping paper and the incorrect location of the shipping paper when the driver was not at the vehicle's controls. These observed non-compliances were in Agreement State jurisdiction, but were indicative of a lack of understanding of DOT requirements. The inspector cited the licensee for a violation of 49 CFR 172.704(c)(2), through 10 CFR 71.5, for failure to provide recurrent training. The root cause of the violation was a general lack of knowledge of DOT requirements. As a short-term corrective action, the licensee committed to obtaining DOT refresher training for the RSO who would then train the individual gauge users. As a long-term corrective action, the licensee plans to discuss DOT requirements each year during its annual radiation safety refresher training held right before the construction season begins.

In reviewing the licensee's records for recent annual audits, the inspector noted that the licensee self-identified that it did not complete an annual audit in Calendar Year 2009. The inspector identified that missed annual audit as a violation of 10 CFR 20.1101. This violation was dispositioned as a Non-Cited Violation in accordance with the NRC Enforcement Policy in that the violation was self-identified by the licensee, was not willful, was not repetitive, and was corrected within a reasonable period of time after discovery. The licensee has performed at least one audit every calendar year since 2009.

No temporary jobsites within NRC jurisdiction were available for observation during this inspection. No other areas of non-compliance were noted in the review of the records or the facilities.

2. SCOPE OF INSPECTION:

Inspection Procedure(s) Used: IP 87124

Focus Areas Evaluated: All

3. INDEPENDENT AND CONFIRMATORY MEASUREMENTS:

The inspector performed independent radiation surveys of the areas where radioactive materials were stored at the Sterling Heights, Michigan facility. Ambient radiation surveys indicated measurements that were within regulatory limits.

NRC Instrument used:

Ludlum model 2403, serial number 161609, calibration due 10/10/2012.

4. VIOLATIONS, NCVs, AND OTHER SAFETY ISSUES:

Two SL IV Violations were identified as follows:

- 1) Title 10 CFR 30.34(c) requires, in part, that licensees shall confine the possession and use of byproduct material to the locations and purposes authorized in the license.

Contrary to the above, on July 19, 2012, the licensee was storing byproduct material at a location not authorized in the license. Specifically, the licensee was storing two Troxler 3400 Series portable moisture density gauges at a field office in Sterling Heights, Michigan, that was not authorized in the license.

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

- 2) Title 10 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.

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)(2) 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 July 17, 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).

One NCV was identified as follows:

Title 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, between 2008 and 2010, the licensee did not review its radiation protection program content and implementation.

This violation was dispositioned as an NCV because the licensee identified the violation, the licensee corrected the violation, the violation was not repetitive, and the violation was not willful. For corrective actions, the licensee conducted a review of its radiation protection program every year since 2010 and has implemented calendar reminders to ensure that audits are completed in a timely manner in the future.

5. PERSONNEL CONTACTED:

(Identify licensee personnel contacted during the inspection, including those individuals contacted by telephone.)

Use the following identification symbols:

* Individual(s) present at exit meeting

* Mitch Forst, P.E., President and RSO