



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**

REGION I  
2100 RENAISSANCE BLVD., SUITE 100  
KING OF PRUSSIA, PA 19406-2713

April 23, 2014

EA-14-029

Kris Stamm  
Branch Manager/Vice President  
ECS Carolinas, LLP  
6714 Netherlands Drive  
Wilmington, North Carolina 28405

**SUBJECT: ECS CAROLINAS, LLP NOTICE OF VIOLATION - NRC INSPECTION REPORT  
NO. 03037596/2013001**

Dear Mr. Stamm:

This letter provides you the NRC enforcement decision for the apparent violations identified during the onsite NRC inspection conducted on November 20, 2013, at the ECS Carolinas, LLP (ECS) facility in Wilmington, North Carolina and a field site inspection located at the Marine Corps Base, Camp Lejeune. The inspection consisted of observations of licensed activities, interviews with ECS personnel, and examination of selective records to evaluate ECS's licensed activities as they relate to radiation safety and to compliance with NRC regulations. In addition to the onsite review, the inspection also involved an in-office review of additional information provided by ECS in a letter received by the NRC on February 18, 2014 (ML14064A050<sup>1</sup>). The additional information included a report of a May 24, 2011, event involving the temporary loss of control of a portable nuclear gauge. Mr. Randolph Ragland, of this office, discussed the apparent violations during a telephonic exit meeting on March 10, 2014, with you and Harry Slater of your organization. The apparent violations were also described in the NRC inspection report sent to you with a letter dated March 14, 2014 (ML14077A022 and ML14077A033).

In the March 14, 2014, letter transmitting the inspection report, we provided you an opportunity to address the apparent violations by either attending a pre-decisional enforcement conference (PEC) or by providing a written response before we made our final enforcement decision. In the letter, we also informed you that we had sufficient information regarding the apparent violations and ECS's corrective actions to make an enforcement decision without the need for a PEC or a written response from you. In a telephone call on April 8, 2014, with Mr. Blake Welling, Chief, NRC Region I Commercial, Industrial, R&D, and Academic Branch, you indicated that ECS did not require a PEC nor intended to send a written response. Therefore, based on the information

---

<sup>1</sup> Designation in parentheses refers to an Agency-wide Documents Access and Management System (ADAMS) accession number. Documents referenced in this letter are publicly-available using the accession number in ADAMS.

developed during the inspection, the NRC has determined that two violations of NRC requirements occurred. The violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in detail in the subject inspection report.

The violations involved the temporary loss of control of a portable nuclear gauge on May 24, 2011, at the Marine Corps Base, Camp Lejeune. Specifically, an ECS authorized gauge user (AU) working with the gauge at Camp Lejeune inadvertently left it at the site after completing his work activities. The NRC learned that the AU had placed the gauge under the tailgate of his truck to keep it shaded and, upon leaving for the day, forgot it was there and mistakenly assumed he had already properly stored it in the truck bed. Upon identifying that he did not have the gauge, the AU immediately returned to the jobsite, but could not locate the gauge. ECS staff notified Camp Lejeune and the NRC of the issue and dispatched several employees to the base to search for the gauge. A different contractor, who had been working in the same area at Camp Lejeune as the AU, informed the ECS Radiation Safety Officer (RSO) that he had retrieved the gauge and secured it in his own truck. The contractor returned the gauge to ECS within 2.5-3 hours of the AU leaving it at the jobsite.


The NRC determined that, during the time the gauge containing the radioactive sources was left at Camp Lejeune, ECS did not: (1) control and maintain constant surveillance of the gauge; and (2) use two independent physical controls that form tangible barriers to secure the gauge from unauthorized removal. ECS verified that no physical damage had occurred and no external radioactive contamination was present on the gauge. The contractor who found the gauge had limited interaction with it, and the ECS RSO estimated that the contractor received minimal radiation exposure (e.g., less than 0.1 millirem); however, the potential existed for significant exposure to occur if the source holder had been breached. Therefore, these violations have been categorized in accordance with the NRC Enforcement Policy at Severity Level (SL) III. In consideration that both violations were caused by the AU inadvertently leaving the gauge unattended at the work site, the NRC has categorized the violations collectively as a single, SL III problem.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$3,500 is considered for a SL III problem. Because your facility has not been the subject of escalated enforcement action within either the last two years or the two most recent inspections, 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. The NRC has concluded that credit is warranted for ECS's corrective actions taken to address the violations. Specifically: (1) because ECS took quick action to search for the gauge, the licensee recovered it within about 3 hours of inadvertently leaving it behind; and (2) ECS counseled and disciplined the AU and conducted training on this event with all ECS authorized gauge users. Therefore, in recognition of the absence of previous escalated enforcement action, and to encourage prompt and comprehensive correction of violations, 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 SL III problem constitutes an escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding: (1) the reasons for the violations; (2) the actions planned or already taken to correct the violations and prevent recurrence; and, (3) the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 03037586/2013001 and in this letter. 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 specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response, if you choose to provide one, should not include any personal privacy, proprietary, or safeguards 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). The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

Sincerely,

A handwritten signature in black ink, appearing to read "W. M. Dean", followed by the word "for" in a smaller, cursive script.

William M. Dean  
Regional Administrator

Docket No. 03037596  
License No. 32-31294-01

Enclosure: Notice of Violation

cc w/enclosure:  
Harry Slater, Radiation Safety Officer  
Timothy H. Akers, Safety Dept., Camp Lejeune  
State of North Carolina

## NOTICE OF VIOLATION

ECS Carolinas, LLP  
Wilmington, North Carolina

Docket No. 03037596  
License No. 32-31294-01  
EA-14-029

During an NRC inspection conducted between November 20, 2013, and March 10, 2014 (which included an on-site inspection as well as an in-office review of information provided by ECS Carolinas, LLP), for which an exit meeting was conducted on March 10, 2014, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 20.1802, states that the licensee shall control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage.

Contrary to the above, on May 24, 2011, ECS Carolinas, LLP, did not control and maintain constant surveillance of licensed material that was in a controlled or unrestricted area and that was not in storage. Specifically, a portable Troxler 3440 gauge, which contained approximately 8 millicuries of cesium-137 and 40 millicuries of americium-241, was inadvertently left unattended and uncontrolled at a jobsite at the Marine Corps Base, Camp Lejeune. The unattended gauge was recognized and recovered by a Camp Lejeune contractor (i.e., member of the public) who secured the gauge by locking it inside of a pickup truck. The gauge was returned to the ECS Radiation Safety Officer, approximately three hours later.

- B. 10 CFR 30.34(i) requires that each portable gauge licensee shall use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

Contrary to the above, on May 24, 2011, ECS Carolinas, LLP, did not use two independent physical controls that form tangible barriers to secure a portable gauge from unauthorized removal, whenever the portable gauge was not under the control and constant surveillance of the licensee. Specifically, a portable Troxler 3440 gauge, which contained approximately 8 millicuries of cesium-137 and 40 millicuries of americium-241, was inadvertently left unattended and uncontrolled at a jobsite at the Marine Corps Base, Camp Lejeune. The unattended gauge was recognized and recovered by a Camp Lejeune contractor (i.e., member of the public) who secured the gauge by locking it inside of a pickup truck. The gauge was returned to the ECS Radiation Safety Officer, approximately three hours later.

These violations are categorized collectively as a SL III problem (Enforcement Policy Example Section 6.7).

The NRC has concluded that information regarding: (1) the reason for the violations; (2) the actions planned or already taken to correct the violations and prevent recurrence; and (3) the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 03037596/2013001 and in the letter transmitting this Notice. Therefore, you are not required to respond to this Notice. 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-14-029," 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 I, 2100 Renaissance Boulevard, Suite 100, King of Prussia, PA 19406, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document 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 safeguards 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 23th day of April, 2014

The NRC has concluded that information regarding: (1) the reasons for the violations; (2) the actions planned or already taken to correct the violations and prevent recurrence; and, (3) the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 03037586/2013001 and in this letter. 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 specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response, if you choose to provide one, should not include any personal privacy, proprietary, or safeguards 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). The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

Sincerely,  
**/RA David C. Lew for:/**  
 William M. Dean  
 Regional Administrator

Docket No. 03037596  
 License No. 32-31294-01

Enclosure: Notice of Violation

cc w/enclosure:  
 Harry Slater, Radiation Safety Officer  
 Timothy H. Akers, Safety Dept., Camp Lejeune  
 State of North Carolina

Distribution: see next page

ML14113A009

DOCUMENT NAME: S:\Enf-allg\Enforcement\Proposed-Actions\Region1\ECS Carolinas NOV-III EA-14-029.docx

X SUNSI Review/		X Non-Sensitive □ Sensitive		X Publicly Available □ Non-Publicly Available	
OFFICE	RI/ORR	RI/DNMS	RI/DNMS	RI/ORR	RI/ORR
NAME	M McLaughlin/MMM*	B Welling/BW*	J Clifford/JWC with change*	B Klukan/BK*	B Bickett/ BAB*
DATE	4/8/14	4/14/14	4/16/14	4/17/14	4/21/14
OFFICE	OE**	RA			
NAME	L Sreenivas via email	WDean/DCLew for			
DATE	4/21/14	04/22/14			

\* See previous concurrence page \*\* OE to perform a quick review OFFICIAL RECORD COPY