



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
2100 RENAISSANCE BOULEVARD, SUITE 100
KING OF PRUSSIA, PA 19406-2713

April 3, 2015

Docket No. 03034079
EA-15-011

License No. 47-25354-01

Kanti Patel
President
American Geotech, Inc.
601 Ohio Avenue
Charleston, WV 25302

SUBJECT: NRC INSPECTION REPORT NO. 03034079/2014001, AMERICAN GEOTECH, INC., CHARLESTON, WEST VIRGINIA SITE, NOTICE OF VIOLATION, AND EXERCISE OF ENFORCEMENT DISCRETION

Dear Mr. Patel:

On December 17, 2014, Steven Courtemanche of this office conducted a safety inspection at your facility in Charleston, West Virginia with continuing in-office review through March 19, 2015. The inspection was an examination of your licensed activities as they relate to radiation safety and to compliance with the Commission's regulations and the license conditions. The inspection consisted of observations by the inspector, interviews with personnel, and a selective examination of representative records. The findings of the inspection were discussed with you at the conclusion of the inspection via telephone on March 19, 2015.

Based on the results of this inspection and in accordance with the NRC Enforcement Policy, the NRC has determined that one Severity Level IV violation of NRC requirements occurred. The violation involved the failure to use two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal whenever the gauges were not under the control and constant surveillance of the licensee as required by 10 CFR 30.34(i).

Regarding the violation of 10 CFR 30.34(i), such violations are normally categorized at Severity Level III and considered for escalated enforcement action. However, because: (1) one physical control existed to prevent loss or theft of the portable gauges (i.e., the outer door to the enclosure containing the gauges was always secured with one lock except when access to the room was needed); (2) you retained possession of the gauges; (3) the violation was isolated in nature; and (4) no indication of programmatic weakness was identified, in accordance with NRC Enforcement Guidance Memorandum (EGM) 11-004, "Interim Guidance for Dispositioning Violations of Security Requirements for Portable Gauges," the NRC is exercising enforcement discretion to categorize this violation as Severity Level IV.

The violation is cited in the enclosed Notice of Violation (Notice), because the violation was identified by the NRC. You are required to respond to this letter within 30 days and should follow the instructions specified in the enclosed Notice when preparing your response.

During our inspection exit meeting on March 19, 2015, you indicated that American Geotech, Inc. is committed to radiation safety and to compliance with NRC regulations and license conditions. Further, you stated that you took the following corrective and preventive actions:

A second, independent lock was affixed to the enclosure containing the portable nuclear gauges, forming the second tangible barrier required by 10 CFR 30.34(i), on March 18, 2015.

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 and from the NRC document 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, proprietary, or safeguards information so that it can be made available to the Public without redaction.

Current NRC regulations and guidance are included on the NRC's website at www.nrc.gov; select **Nuclear Materials; Med, Ind, & Academic Uses**; then **Regulations, Guidance and Communications**. The current Enforcement Policy is included on the NRC's website at www.nrc.gov; select **About NRC, Organizations & Functions; Office of Enforcement; Enforcement documents**; then **Enforcement Policy (Under 'Related Information')**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 8:00 a.m. to 5:30 p.m. EST, Monday through Friday (except Federal holidays).

The NRC's Safety Culture Policy Statement became effective 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/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.

Please contact Steven Courtemanche at 610-337-5075 if you have any questions regarding this matter.

Sincerely,

/RA/

Daniel S. Collins, Director
Division of Nuclear Materials Safety

Enclosure:
Notice of Violation

cc w/encl: Joseph Francis, Radiation Safety Officer
State of West Virginia

A second, independent lock was affixed to the enclosure containing the portable nuclear gauges, forming the second tangible barrier required by 10 CFR 30.34(i), on March 18, 2015.

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 and from the NRC document 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, proprietary, or safeguards information so that it can be made available to the Public without redaction.

Current NRC regulations and guidance are included on the NRC's website at www.nrc.gov; select **Nuclear Materials; Med, Ind, & Academic Uses**; then **Regulations, Guidance and Communications**. The current Enforcement Policy is included on the NRC's website at www.nrc.gov; select **About NRC, Organizations & Functions; Office of Enforcement; Enforcement documents**; then **Enforcement Policy (Under 'Related Information')**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 8:00 a.m. to 5:30 p.m. EST, Monday through Friday (except Federal holidays).

The NRC's Safety Culture Policy Statement became effective 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/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.

Please contact Steven Courtemanche at 610-337-5075 if you have any questions regarding this matter.

Sincerely,

/RA/

Daniel S. Collins, Director
Division of Nuclear Materials Safety

Enclosure:
Notice of Violation

cc w/encl: Joseph Francis, Radiation Safety Officer
State of West Virginia

DISTRIBUTION:

OEMAIL

N. Hasan, OE

L. Sreenivas, OE

J. Wray, OE

M. Burgess, FSME

B Bickett, RI

C. Crisden, RI

M. McLaughlin, RI

DOCUMENT NAME: G:\WordDocs\Current\Insp Letter\L47-25354-01.2014001.docx

SUNSI Review Complete: SCourtemanche

ML15097A425

After declaring this document "An Official Agency Record" it **will** be released to the Public.

To receive a copy of this document, indicate in the box: "C" = Copy w/o attach/encl "E" = Copy w/ attach/encl "N" = No copy

OFFICE	DNMS/RI	N	DNMS/RI	E	ORA/RI	E	DNMS/RI	E
NAME	SCourtemanche/src		BWelling/bdw*		CCrisden/cjc		DCollins/dsc	
DATE	03/19/15		03/27/15		03/31/15		04/03/15	

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

American Geotech, Inc.
Charleston, WV

Docket No. 03034079
License No. 47-25354-01
EA-15-011

During an NRC inspection conducted on December 17, 2014, with continuing in-office review through March 19, 2015, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 30.34(i) requires that each portable gauge licensee 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 December 17, 2014, the licensee did not use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal whenever gauges were not under the control and constant surveillance of the licensee. Specifically, the licensee's portable gauge storage area provided for two independent physical controls forming tangible barriers; an outer locked door to the enclosure and secured chains preventing removal of the gauges in their transport cases from the enclosure. However, one of the barriers was compromised in that the keys to the gauges, transport cases, and locks securing the gauges were stored in an insecure manner within the storage area and within sight of the gauges.

This is a Severity Level IV violation (EGM-11-004).

Pursuant to the provisions of 10 CFR 2.201, American Geotech, Inc. is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555, with a copy to the Regional Administrator, Region I, 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, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance 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 to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, any response which contests an enforcement action shall be submitted under oath or affirmation.

Your response will be placed in the NRC Public Document Room (PDR) and on the NRC Web site. To the extent possible, it should, therefore, not include any personal privacy, proprietary, or safeguards information so that it can be made publically available without redaction.

However, if you find it necessary to include such information, you should clearly indicate the specific information that you desire not to be placed in the PDR, and provide the legal basis to support your request for withholding the information from the public.

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

Dated This 3rd day of April 2015