



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

July 9, 2015

Docket No. 03038066
EA-15-126

License No. 44-31375-01

Robert A. Lovgren, P.E.
Radiation Safety Officer
Alpha Testing & Engineering, LLC
30 Streeter Brook Road
Milton, VT 05468

SUBJECT: NRC INSPECTION REPORT NO. 03038066/2015001, ALPHA TESTING & ENGINEERING, LLC, MILTON, VERMONT SITE, NOTICE OF VIOLATION, AND EXERCISE OF ENFORCEMENT DISCRETION

Dear Mr. Lovgren:

On June 11, 2015, Dennis Lawyer of this office conducted a safety inspection at your facility in Milton, Vermont, with continued in-office review through June 25, 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. Additional information provided in the telephone conversation on June 25, 2015, between you and Dennis Lawyer of this office was also examined as part of the inspection. The findings of the inspection were discussed with you at the conclusion of the inspection.

Based on the results of this inspection and in accordance with the NRC Enforcement Policy, the NRC has determined that two Severity Level IV violations of NRC requirements occurred. The violations involved: (1) the failure to use two independent physical controls that form tangible barriers to secure a portable gauge whenever the portable gauge was not under your control and constant surveillance as required by 10 CFR 30.34(i); and (2) the failure to limit the amount of material possessed to less than the maximum amount allowed by the license from February 12 through April 1, 2014, because a replacement gauge was received earlier than expected and prior to return of the older gauge.

Regarding the failure to properly secure a portable gauge as required by 10 CFR 30.34(i), the inspector observed a demonstration of how you secured a portable gauge if stored on a truck. Only one physical control was used to secure the portable gauge from unauthorized removal, in the demonstration, and you stated that you used the same method when on a job site on June 8, 2015. Specifically, although you used two cables to secure the portable gauge on the truck, a single lock connected both cables to prevent unauthorized removal of the portable gauge from the truck, therefore, only one tangible barrier was present. You explained that you believed this configuration met the requirements for two physical controls. However, after discussion with the inspector, you used additional locks to create a second independent control to secure the portable gauge, and stated you would continue using the additional locks whenever the portable gauge was stored on the truck and unattended. The gauges at your permanent storage location

were properly secured in accordance with 10 CFR 30.34(i). Such violations are normally categorized at Severity Level III and considered for escalated enforcement action. However because: (1) one level of physical control existed to prevent loss or theft of the portable gauge; (2) you retained possession of the gauge; (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 violations are cited in the enclosed Notice of Violation (Notice), because the violations were identified by the NRC. These violations were evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at http://www.nrc.gov/about_nrc/regulatory/enforcement/enforce_pol.html.

During our inspection exit meeting on June 25, 2015, you indicated that you believed you were securing the gauge in the truck properly and that the gauge distributor did not inform you when they shipped the replacement gauge to you. You stated that you have taken corrective and preventative actions to address each violation and that Alpha Testing & Engineering, LLC is committed to radiation safety and to compliance with NRC regulations and licensed conditions. Further, you stated verbally that you have taken or will take the following corrective and preventative actions: 1) the gauges will be secured on the truck in compliance with 10 CFR 30.34(i) using two independent tangible barriers; and 2) you returned the old gauge as soon as possible after the replacement gauge was received earlier than expected, and plan to submit a license amendment request by August 1, 2015, to increase in the possession limits to allow for the possession of a replacement gauge if needed.

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 during the inspection as described above. 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, its enclosure, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or 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

R. Lovgren

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(except Federal holidays).

Please contact Dennis Lawyer at 610-337-5366 if you have any questions regarding this matter.

Sincerely,

/RA/

Daniel S. Collins, Director
Division of Nuclear Materials Safety

Enclosure:
Notice of Violation

cc: State of Vermont

R. Lovgren

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Please contact Dennis Lawyer at 610-337-5366 if you have any questions regarding this matter.

Sincerely,

/RA/

Daniel S. Collins, Director
Division of Nuclear Materials Safety

Enclosure:
Notice of Violation

cc: State of Vermont

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NOTICE OF VIOLATION

Alpha Testing & Engineering, LLC
Milton, VT

Docket No. 03038066
License No. 44-31375-01
EA-15-126

During an NRC inspection conducted on June 11, 2015, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 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 June 8, 2015, the licensee did not use a minimum of two independent physical controls to 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 was stored in the back of his truck with only one tangible barrier to secure the portable gauge from unauthorized removal and the gauge was not under the control and constant surveillance of the licensee.

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

- B. Item 8 of License No. 44-31375-01, specifies that the maximum sealed source activity the licensee was authorized to possess under the license was 18 millicuries of cesium-137 and 88 millicuries of americium-241.

Contrary to the above, from February 12, 2014, through April 1, 2014, the licensee did not limit its possession of licensed materials as authorized to the quantities specified in item 8 of the License. Specifically, the licensee possessed gauges containing a total of 24 millicuries of cesium-137 and 120 millicuries of americium-241, a quantity greater than the license authorization.

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

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in the letter transmitting the Notice of Violation. 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-15-126, 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, and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice, 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 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 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 9th day of July 2015