



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION IV
1600 E. LAMAR BLVD.
ARLINGTON, TX 76011-4511

May 23, 2016

Mr. Stephen Ayers
Radiation Safety Officer
CMG Engineering, Inc.
P. O. Box 5159
Kalispell, MT 59903

SUBJECT: NRC INSPECTION REPORT 030-36909/2016-001 AND NOTICE OF VIOLATION

Dear Mr. Ayers:

This refers to the routine, unannounced inspection conducted on February 25, 2016, at your facility in Kalispell, Montana. The inspection continued with in-office reviews until May 15, 2016. The inspection was an examination of activities conducted under byproduct material license 25-27807-01 as they relate to safety, security, and compliance with the U.S. Nuclear Regulatory Commission's (NRC) rules and regulations and with the conditions of the license. Within these areas, the inspection consisted of observations of facilities, independent radiation measurements, selected examination of procedures and representative records, and interviews with personnel. The preliminary inspection findings were discussed with Mr. John Ayers and you at the conclusion of the onsite portion of the inspection. A final telephonic exit briefing was conducted with you on May 17, 2016.

Based on the results of this inspection, the NRC has determined that four violations of NRC requirements occurred. The violations were evaluated in accordance with the NRC Enforcement Policy, which can be found at the NRC's Web site at www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html. The violations are cited and described in the enclosed Notice of Violation (Notice). The violations are being cited in the Notice because they were identified by the NRC during the inspection. The violations involved the failure to: (1) periodically (at least annually) review the radiation protection program content and implementation; (2) ensure that each portable nuclear gauge have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position; (3) ensure that the packaging used to transport Class 7 (radioactive) materials is examined to be in unimpaired physical condition before each shipment; and (4) ensure that authorized users have successfully completed one of the training courses described in NUREG-1556, Vol. 1., Rev. 1, dated November 2001.

You are required to respond to this letter and must follow the instructions specified in the Notice 96-28 when preparing your response. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful. You can find the Information Notice on the NRC Web site at <http://www.nrc.gov/reading-rm/doc-collections/gen-comm/info-notices/1996/in96028.html>. Information regarding the reason for each violation, the corrective actions taken and planned to

correct each violation and prevent recurrence, and the date when full compliance will be (was) achieved should be addressed. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," 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 document system (ADAMS), accessible from the NRC's Web site 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.

Should you have any questions concerning this inspection, please contact Dr. Janine F. Katanic, CHP, at (817) 200-1151 or the undersigned at (817) 200-1191.

Sincerely,

/RA/

Ray L. Kellar, P.E., Chief
Nuclear Materials Safety Branch A
Division of Nuclear Materials Safety

Docket No. 030-36909
License No. 25-27807-01

Enclosure:
Notice of Violation (Notice)

cc: Montana Radiation Control Program Director

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Ray L. Kellar, P.E., Chief
Nuclear Materials Safety Branch-A

Docket No. 030-36909
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Enclosure:
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cc: Montana Radiation Control Program Director

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NOTICE OF VIOLATION

CMG Engineering, Inc.
Kalispell, Montana

Docket No. 030-36909
License No. 25-27807-01

During the U.S. Nuclear Regulatory Commission (NRC) inspection conducted on February 25, 2016, with continued in-office review through May 15, 2016, four violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 20.1101(c) requires that the licensee shall periodically (at least annually) review the radiation protection program content and implementation.

Contrary to the above, on February 25, 2016, the licensee failed to periodically (at least annually) review the radiation protection program content and implementation. Specifically, the licensee last performed a review of the radiation protection program content and implementation on March 20, 2013 and failed to perform a review of the radiation protection program content and implementation during calendar years 2014 and 2015.

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

- B. License Condition 17 of NRC byproduct materials license 25-27807-01, Amendment No. 3, requires, in part, that each portable nuclear gauge shall have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The gauge or its container must be locked when in transport, storage, or when not under the direct surveillance of an authorized user.

Contrary to the above, on February 25, 2016, the licensee failed to have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. Specifically, two portable nuclear gauges (Troxler 3241-C serial 1895 and Troxler 3440 serial 9685) were observed in the licensee's storage area without a lock on the gauge or the gauge container and the gauges were not under the direct surveillance of an authorized user.

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

- C. License Condition 19 of NRC byproduct materials license 25-27807-01, Amendment No. 3, requires that the licensee is authorized to transport licensed material only in accordance with the provisions of 10 CFR Part 71, "Packaging and Transportation of Radioactive Material." 10 CFR 71.5(a) requires, in part, that each licensee who transports licensed material outside 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, shall comply with the applicable requirements of the US Department of Transportation (DOT) regulations in 49 CFR Parts 107, 171 through 180, and 390 through 397, appropriate to the mode of transport.

49 CFR 173.475 requires, in part, that before each shipment of any Class 7 (radioactive) materials package, the offeror must ensure, by examination or appropriate tests, that the packaging is in unimpaired physical condition, except for superficial marks.

Enclosure

Contrary to the above, between September 24, 2015 and February 25, 2016, the licensee offered shipments of Class 7 (radioactive) materials packages where transport was on public highways and did not ensure, by examination or appropriate tests that the packaging was in unimpaired physical condition, except for superficial marks. Specifically the licensee offered multiple shipments of a portable nuclear gauge containing Class 7 (radioactive) materials (Troxler 3440, serial 9685) and did not ensure, by examination or appropriate tests that the packaging was in unimpaired physical condition, except for superficial marks. The Class 7 (radioactive) material was in shipped in packaging (a gauge transport container) that was melted completely through from the outside to the inside of the container, an impaired physical condition beyond superficial marks.

This is a Severity Level IV violation (Section 6.8.d.).

- D. License Condition 21 of NRC License 25-27807-01, Amendment No. 3, requires, in part, that the licensee shall conduct its program in accordance with the statements, representations, and procedures contained in the documents, including any enclosures, listed in the license.

License application dated March 12, 2015, Item 8, commits that before using licensed materials, authorized users will have successfully completed one of the training courses described in Criteria in the section entitled "Training for Individuals Working in or Frequenting Restricted Areas" in NUREG-1556, Vol. 1., Rev. 1, dated November 2001. The Criteria states that authorized users must have adequate training and experience and that the NRC has found successful completion of one of the following as evidence of adequate training: (1) a portable gauge manufacturer's course for users, or (2) an equivalent courser that meets the criteria in Appendix D in NUREG-1556, Vol. 1. Rev. 1, dated November 2001. Appendix D, "Criteria for Acceptable Training Courses for Portable Gauge Users" specifies the course content as 1.5 to 2 hours of radiation safety and regulatory requirements, 1.5 to 2 hours of practical explanation of portable gauge theory and operation, and that the course examination result in at least a 70 percent score on a 25 to 50 question closed book written test.

Contrary to the above, on February 25, 2016, the licensee failed to conduct its program in accordance with the statements, representations, and procedures contained in the documents listed in the license. Specifically, the licensee allowed at least one individual to use licensed materials and the individual had not successfully completed one of the training courses described in criteria in the section entitled "Training for Individuals Working in or Frequenting Restricted Areas" in NUREG-1556, Vol. 1., Rev. 1, dated November 2001. Specifically, at least one authorized user did not successfully complete a portable gauge manufacturer's course for users or an equivalent course that meets the criteria in Appendix D in NUREG-1556, Vol. 1. Rev. 1, dated November 2001. The individual was authorized to use licensed materials and did not receive 1.5 to 2 hours of training on radiation safety and regulatory requirements, 1.5 to 2 hours of practical explanation of portable gauge theory and operation, and was given a written examination that only consisted of 19 questions.

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

Pursuant to the provisions of 10 CFR 2.201, CMG Engineering, 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 IV, 1600 E. Lamar Blvd., Arlington, Texas, 76011, 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 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, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you request withholding of such material, 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).

In accordance with 10 CFR 19.11(a)(4), you may be required to post this Notice within two working days.

Dated this 23rd day of May 2016