



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**

REGION I  
2100 Renaissance Blvd., Suite 100  
King of Prussia, PA 19406

February 22, 2018

John T. Jensen, Chief  
Radiation Safety Division  
Office of Homeland Security and Emergency Coordination  
United States Department of Agriculture  
5601 Sunnyside Avenue, MS 5510  
Beltsville, MD 20705

SUBJECT: U. S. DEPARTMENT OF AGRICULTURE: NRC INSPECTION REPORT  
03004530/2018001 AND NOTICE OF VIOLATION

Dear Mr. Jensen:

This letter refers to the unannounced inspection conducted on January 17, 2018, at your facility in Hays, Kansas. The inspection was an examination of activities conducted under your license as they relate to public health and safety, to confirm compliance with the U.S. Nuclear Regulatory Commission's (NRC) rules, regulations, and with the conditions of your license. Within these areas, the inspection consisted of a selected examination of procedures and representative records, observation of activities, and interviews with personnel. The preliminary inspection findings were discussed with Mr. Kelly Klausmeyer, field office Radiation Safety Officer (RSO) at the conclusion of the onsite portion of the inspection. A final telephonic exit briefing was conducted with you on January 30, 2018.

Based on the results of this inspection, the NRC has determined that one Severity Level IV violation of NRC requirements occurred. The violation was evaluated in accordance with the NRC Enforcement Policy, which can be found at the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violation is cited and described in the enclosed Notice of Violation (Notice) because the violation was identified by the NRC. The violation involved the failure to implement and maintain the model procedures in Appendix G of NUREG-1556, Volume 1, Revision 2, and to ensure appropriate radiation detection instrumentation is available to all USDA users.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. If you have additional information that you believe the NRC should consider, you may provide it in your response to the Notice. The NRC review of your response to the Notice will also determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and your response 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 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.

Current NRC regulations and guidance are included on the NRC's Web Site at [www.nrc.gov](http://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 Web Site at [www.nrc.gov](http://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).

Should you have any questions regarding this letter or the enclosed Notice, please contact Todd Jackson at (610)337-5308, or via electronic mail at [Todd.Jackson@nrc.gov](mailto:Todd.Jackson@nrc.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Arthur L. Burritt', with a stylized flourish extending from the end.

Arthur L. Burritt, Chief  
Commercial, Industrial, and R&D Branch  
Division of Nuclear Materials Safety

Docket: 030-04530  
License: 19-00915-03

Enclosure:  
Notice of Violation (Notice)

cc: K. Steves, Director  
Kansas Department of Health and  
Environment

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Sincerely,

*RA*

Arthur L. Burritt, Chief  
Commercial, Industrial, and R&D Branch  
Division of Nuclear Materials Safety

Docket: 030-04530  
License: 19-00915-03

Enclosure:  
Notice of Violation (Notice)

cc: State of Kansas Radiation Program Director

**DISTRIBUTION:**

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NAME	JEvonEhr/via email	TJackson <i>TJ</i>	ABurritt <i>AB</i>		
DATE	2/16/18	<i>2/16/18</i>	<i>2/22/18</i>		

OFFICIAL RECORD COPY

## NOTICE OF VIOLATION

United States Department of Agriculture  
Beltsville, MD

Docket No. 030-04530  
License No. 19-00915-03

During an NRC inspection conducted in Hays, Kansas on January 17, 2018, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

License Condition 27.A of NRC License 19-00915-03, Amendment No. 136, dated November 13, 2017, requires, in part, that the licensee shall conduct its program in accordance with the statements, representations, and procedures contained in the application dated April 8, 2016, including any enclosures.

In the application dated April 8, 2016, under Item Number 10.6, "Safe Use of Radionuclides and Emergency Procedures," the licensee states, in part, that it will implement and maintain the operating and emergency procedures in Appendix G to NUREG-1556, Volume 1, Revision 2, and provide copies of these procedures to all gauge users and at each job site. The licensee also states in Item Number 10.2, "Instruments," that it will ensure all users use instruments that meet the radiation monitoring instrument specifications published in NUREG-1556, Volume 7, Revision 1, Appendix J.

Contrary to the above, from August 12, 2016 through January 17, 2018, the licensee failed to implement and maintain the operating and emergency procedures in Appendix G to NUREG-1556, Volume 1, Revision 2, and provide copies of these procedures to all gauge users and at each job site. In addition, the licensee failed to provide users at the Hays, Kansas facility with instruments or access to instruments that meet the radiation monitoring instrument specifications published in NUREG-1556, Volume 7, Revision 1, Appendix J.

Specifically, from the date of the license renewal on August 12, 2016, through the date of the inspection, the Hays, Kansas office of the USDA failed to use the model procedures committed to during the license renewal and failed to have any radiation detection instrument on-site or available through prior arrangement with a local entity for routine or emergency use.

This is a Severity Level IV violation (Section 6.3)

Pursuant to the provisions of 10 CFR 2.201, the United States Department of Agriculture 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 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: (1) the reason for the violations, or, if contested, the basis for disputing the violations or severity level; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken; 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 requiring information 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.

Enclosure

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. 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 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>. To the extent possible, your response should not include any personal privacy or proprietary 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, then 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 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, you may be required to post this Notice within two working days of receipt.

Dated This 22 day of February 2018