



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001**

October 23, 2019

EA-19-090

Scott Landers
Manager of Inspection Services
APINDE Inc.
3244 Piedmont Rd.
Huntington, WV 25705

**SUBJECT: ACKNOWLEDGEMENT OF RESPONSE TO ORDER SUSPENDING LICENSE
– APINDE INC.**

Dear Mr. Landers:

The purpose of this letter is to acknowledge receipt of correspondence dated September 10, 2019 (ML19263C669)¹, responding to the Order Suspending License (Order) issued by the U.S. Nuclear Regulatory Commission (NRC) on August 22, 2019 (ML19234A068). The Order related to the submittal of inaccurate information by APINDE Inc. (APINDE) in the initial license application regarding the qualifications of the individual proposed to be the Radiation Safety Officer (RSO). This resulted in the NRC issuing a license to APINDE that was based on inaccurate information, and in APINDE maintaining an industrial radiography license without a qualified RSO. Further, in a subsequent license amendment request to name a new RSO, APINDE again submitted inaccurate information. Moreover, the NRC has information indicating that APINDE used its NRC license to procure a sealed radiography source and may have allowed unauthorized access to the source.

The NRC staff reviewed APINDE's response to the Order and determined that the matter requires additional review in order to make a determination that conduct by APINDE related to the activities authorized under its license would comply with the Commission's requirements and, further, that the health and safety of the public, including the APINDE employees would be protected. The NRC considers the submission of the above-referenced inaccurate information as materially significant and requiring measures to prevent future recurrence since the information directly related to the individual meeting the NRC's requirements for fulfilling the RSO position, which is a required position for a radiography license. In addition, the NRC must have assurance that individuals with access to radiography sources are authorized in accordance with requirements.

Therefore, the Order Suspending License remains in effect and License No. 47-35507-01 remains suspended while the NRC continues to evaluate this matter. The NRC will inform APINDE of the results of our evaluation and of any resulting impact on APINDE's ability to resume licensed activities. Until then, APINDE must continue to comply with the terms and conditions of the Order, including the continued cessation of all radiographic operations and the

¹ Designation in parentheses refers to an Agency-wide Documents Access and Management System (ADAMS) accession number. Unless otherwise noted, documents referenced in this letter are publicly-available using the accession number in ADAMS.

continued locked storage of any byproduct material possessed under the license. APINDE remains prohibited from receiving any NRC-licensed material while the Order is in effect. APINDE must also continue to comply with all other requirements of the License and applicable Commission requirements, including those in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 20, and all records related to licensed activities must continue to be maintained in their current form and must not be altered in any way. Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of the Order shall be subject to criminal prosecution as set forth in that section. Violation of the Order may also subject the person to civil monetary penalty.

You are not required to respond to this letter. However, if you choose to respond, mark your response as a "Reply to Order (EA-19-090)," 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. To the extent possible, your response, should you choose to provide one, should not include any personal privacy, proprietary, security-related, 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). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

In accordance with 10 CFR 2.390, of the NRC's "Rules of Practice," a copy of this letter and your response, should you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's Agencywide Document Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

If you have any questions related to this matter, please contact Anne DeFrancisco at 610-337-5078.

Sincerely,

/RA/

George A. Wilson, Director
Office of Enforcement

Docket No. 03039133
License No. 47-35507-01

cc: M. Kazee, APINDE

ACKNOWLEDGEMENT OF RESPONSE TO ORDER SUSPENDING LICENSE – APINDE INC.
DATED: October 23, 2019

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