

SAFETY INSPECTION REPORT AND COMPLIANCE INSPECTION

| | | | | | |
|---|--|---|--|---|--|
| 1. LICENSEE/LOCATION INSPECTED: Midwest Engineering Associates, Inc. 140 East Washington Street East Peoria, Illinois 61611 REPORT NUMBER(S) 2020-002 | | 2. NRC/REGIONAL OFFICE Region III U. S. Nuclear Regulatory Commission 2443 Warrenville Road, Suite 210 Lisle, IL 60532-4352 | | | |
| 3. DOCKET NUMBER(S) 150-00012 | | 4. LICENSE NUMBER(S) IL-02425-01 | | 5. DATE(S) OF INSPECTION 09/16/2019, with in-office review through 04/23/2020 | |

LICENSEE:

The inspection was an examination of the activities conducted under your license as they relate to radiation safety and to compliance with the Nuclear Regulatory Commission (NRC) rules and regulations and the conditions of your license. The inspection consisted of selective examinations of procedures and representative records, interviews with personnel, and observations by the inspector. The inspection findings are as follows:

- ☐ 1. Based on the inspection findings, no violations were identified.
- ☐ 2. Previous violation(s) closed.
- ☐ 3. The violation(s), specifically described to you by the inspector as non-cited violations, are not being cited because they were self-identified, non-repetitive, and corrective action was or is being taken, and the remaining criteria in the NRC Enforcement Policy, to exercise discretion, were satisfied.

Non-cited violation(s) were discussed involving the following requirement(s):

- ☒ 4. During this inspection, certain of your activities, as described below and/or attached, were in violation of NRC requirements and are being cited in accordance with NRC Enforcement Policy. This form is a NOTICE OF VIOLATION, which may be subject to posting in accordance with 10 CFR 19.11.

(Violations and Corrective Actions)

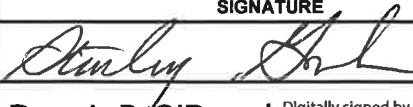
Title 10 of the Code of Federal Regulations (10 CFR) 150.20(a) provides, in part, that any person who holds a specific license from an Agreement State is granted an NRC general license to conduct the same activity in areas of exclusive Federal jurisdiction within an Agreement State, provided that the provisions of 10 CFR 150.20(b) have been met.

Title 10 CFR 150.20(b)(1) requires, in part, that any person engaging in activities in an area of exclusive Federal jurisdiction within an Agreement State shall, at least three days before engaging in each activity for the first time in a calendar year, file a submittal containing an NRC Form 241, "Report of Proposed Activities in Non-Agreement States," with the Regional Administrator of the appropriate NRC regional office.

(cont'd. on Part 2)

Statement of Corrective Actions

I hereby state that, within 30 days, the actions described by me to the Inspector will be taken to correct the violations identified. This statement of corrective actions is made in accordance with the requirements of 10 CFR 2.201 (corrective steps already taken, corrective steps which will be taken, date when full compliance will be achieved). I understand that no further written response to NRC will be required, unless specifically requested.

| TITLE | PRINTED NAME | SIGNATURE | DATE |
|---------------------------|------------------------------------|---|-----------|
| LICENSEE'S REPRESENTATIVE | STANLEY GRUBER |  | 5/11/2020 |
| NRC INSPECTOR | Dennis P. O'Dowd, Health Physicist | Dennis P. O'Dowd <small>Digitally signed by Dennis P. O'Dowd Date: 2020.04.27 11:09:03 -05'00'</small> | |
| BRANCH CHIEF | Michael Kunowski, Branch Chief | | |

SAFETY INSPECTION REPORT AND COMPLIANCE INSPECTION

1. LICENSEE/LOCATION INSPECTED:

Midwest Engineering Associates, Inc.
140 East Washington Street
East Peoria, Illinois 61611

REPORT NUMBER(S) 2020-002

2. NRC/REGIONAL OFFICE

Region III
U. S. Nuclear Regulatory Commission
2443 Warrenville Road, Suite 210
Lisle, IL 60532-4352

3. DOCKET NUMBER(S)

150-00012

4. LICENSE NUMBER(S)

IL-02425-01

5. DATE(S) OF INSPECTION

09/16/2019, with in-office
review through 04/23/2020

(Continued)

Contrary to the above, on August 23, 2019, August 28, 2019, and August 29, 2019, Midwest Engineering Associates, Inc., a licensee of the State of Illinois, possessed and used a portable gauge containing licensed materials at a temporary job site in an area of exclusive Federal jurisdiction in the State of Illinois, specifically, at the Illinois Air National Guard (IL ANG)/182 Airlift Wing base in Peoria, Illinois, without first filing a Form 241 with the NRC. Specifically, the company used these materials in NRC jurisdiction for 3 days in 2019, without providing the required documentation to the NRC prior to engaging in this activity for the first time in this calendar year.

This is a Severity Level IV violation (Section 6.9.d.14).

The root cause of the violation was that the licensee was not aware that this location was exclusive Federal jurisdiction until informed of this by an official at the site on August 29, 2019. The licensee assumed it was under the authority of the State of Illinois, and there was no clear indication that the site was under Federal control. As corrective action, the licensee immediately ceased activities at the IL ANG Peoria site. Once the licensee understood the reciprocity process, it filed an NRC Form 241 with Region III, dated August 30, 2019, requesting reciprocity with the NRC for the three days of activities in August, through the end of Calendar Year 2019. Reciprocity was subsequently granted. In addition, the licensee, which only conducts its activities in and around the area around Peoria, Illinois, committed to ensuring that it will be aware of the need to seek clarification regarding the jurisdictional status of any potential work locations in which there may be a question as to its status, and its awareness of the need to seek reciprocity prior to conducting licensed activities in areas of exclusive Federal jurisdiction or a non-Agreement State.

Docket File Information

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| 6. INSPECTION PROCEDURES USED 87124 | 7. INSPECTION FOCUS AREAS 03.01, 03.06, and 03.07 | |

SUPPLEMENTAL INSPECTION INFORMATION

| | | | |
|---------------------------------|----------------------|---|---|
| 1. PROGRAM CODE(S) 03121 | 2. PRIORITY 5 | 3. LICENSEE CONTACT Stan Gruber, RSO & Manager | 4. TELEPHONE NUMBER (309) 229-6561 |
|---------------------------------|----------------------|---|---|

☐ Main Office Inspection Next Inspection Date: No change

☐ Field Office Inspection Remote telephonic in-office review only

☐ Temporary Job Site Inspection

PROGRAM SCOPE

This was an in-office review of an engineering company authorized to possess Cs-137 and Am-241:Be in Troxler Model 3400 Series portable moisture-density gauging devices at its facility in East Peoria, Illinois, and at temporary job sites of the licensee in areas not under exclusive Federal jurisdiction throughout the State of Illinois.

On September 13, 2019, the inspector was notified by the NRC Headquarters Point-of-Contact (POC) for reciprocity that the Illinois Emergency Management Agency (IEMA) had contacted that office to seek on behalf of one of its licensees information regarding the process for requesting reciprocity with the NRC. The inspector was requested by the POC to contact the IEMA materials licensee directly. On September 16, 2019, the inspector spoke with the licensee's Radiation Safety Officer (RSO) and provided the information on filing for reciprocity with the NRC. During this discussion, the RSO stated that the company had already conducted activities using a portable nuclear gauge at the Illinois Air National Guard (IL ANG)/182 Airlift Wing base in Peoria, Illinois, on three dates in August 2019. The RSO further stated that on August 29, 2019, the gauge user was asked by a general contractor's construction manager at the IL ANG site to provide a copy of its properly filed and NRC-approved NRC Form 241, as was required per IL ANG protocols. The RSO was subsequently informed of the request. Activities involving the possession and use of the portable gauge at the site were immediately halted and the gauge returned back to the licensee's facility in East Peoria, Illinois.

During telephonic conversations with this inspector, the RSO explained that their company had only very recently been hired as a sub-contractor for this job, and that during IL ANG pre-construction meetings with its contractors, the point was brought up to contractors of the need to meet all federal requirements required by the IL ANG. According to the RSO and the IL ANG Environmental Health and Safety Officer, this meeting took place prior to Midwest Engineering's involvement in the project, and the company was never informed about the requirement nor the jurisdictional status of the location until August 29, 2019. The company had assumed that the site was under the jurisdiction of the State of Illinois, and therefore, had not sought reciprocity with the NRC.

(cont'd on next page)

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87124

7. INSPECTION FOCUS AREAS

03.01, 03.06, and 03.07

SUPPLEMENTAL INSPECTION INFORMATION

1. PROGRAM CODE(S)

03121

2. PRIORITY

5

3. LICENSEE CONTACT

Stan Gruber, RSO & Manager

4. TELEPHONE NUMBER

(309) 229-6561

☐ Main Office Inspection Next Inspection Date: No change

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PROGRAM SCOPE

In addition to the initial telephone conference on September 16, 2019, and several subsequent telephone conversations, the inspector performed additional in-office review, including telephonic discussions with the IL ANG Environmental Health and Safety Officer, IEMA officials, and review of documentation researched and provided in order to determine with certainty the actual jurisdictional status of the site and location of use, as well as documentation provided by Midwest Engineering.

An exit meeting was conducted by telephone on April 23, 2020.

This violation is considered a Severity Level IV violation because (1) the licensed activity is designated as NRC Priority 5 as identified in NRC Manual Chapter 2800; (2) the licensee has not previously violated the requirement; (3) the facts of the specific case would not have resulted in the NRC conducting an onsite inspection; and (4) the circumstances of the case generally include the failure to provide an initial Form 241 for work of very limited scope and single occurrence of a few days within NRC jurisdiction.

From: [Stan Gruber](#)
To: [O'Dowd, Dennis](#)
Subject: [External_Sender] Re: Transmittal of Inspection Report Form 591M and Request for Signature/Date and Return
Date: Tuesday, May 12, 2020 4:02:33 PM
Attachments: [NRC Form 591M.pdf](#)
[USAGE CALENDAR - 2020.xlsx](#)

Attached is the signed NRC Form 591M.

Also attached is the usage form that we have been using to record when the gauge was taken on to site at Illinois National Guard. Please let me know if you have any questions or concerns.

Sincerely,

Stanley Gruber
Construction Manager
O 309.222.8598 C 309.229.6561 F 309.689.8092
sgruber@mweainc.com

Midwest Engineering Associates, Inc.
140 East Washington Street
East Peoria, IL 61611
www.mweainc.com

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Please consider the environment before printing this e-mail.

From: O'Dowd, Dennis <Dennis.O'Dowd@nrc.gov>
Sent: Friday, May 8, 2020 1:20 PM
To: Stan Gruber
Subject: Transmittal of Inspection Report Form 591M and Request for Signature/Date and Return

Mr. Stanley Gruber
Radiation Safety Officer
Midwest Engineering Associates, Inc.
140 East Washington Street
East Peoria, Illinois 60611

Dear Mr. Gruber:

Please find attached a Form 591M (Parts 1 and 2), "Safety Inspection Report and Compliance

Inspection,” signed by me and Mr. Michael Kunowski, Chief, Materials Inspection Branch, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission (NRC), Region III, issued in response to our in-office review of the circumstances regarding certain activities that were conducted in NRC jurisdiction for three days in August 2019, prior to Midwest Engineering’s filing for reciprocity under Title 10, Code of Federal Regulations (CFR), Section 150.20.

An exit meeting was conducted by telephone with you on April 23, 2020, to discuss the findings. The enclosed Form 591M (Parts 1 and 2) inspection report presents the results of the in-office review.

Based on the results of this in-office review, the NRC has determined that a Severity Level IV violation of NRC requirements occurred. The violation was evaluated in accordance with the NRC Enforcement Policy. The NRC is citing the violation in the enclosed Form 591M because the violation was not identified by you, the licensee, but brought to your attention by officials at the site. The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance will be achieved is already adequately addressed in the narrative on the form, and therefore, no response is requested.

At this time, I ask that that the row entitled, “Licensee’s Representative” be completed, either by you or by your senior management, to include the printed name, signature, and date, and return to me via email the scanned pages 1 & 2 of the completed Form 591M with name, signature and date added. This documents your commitments that corrective actions have been or will be performed as described in the citation.

Should you have any questions regarding this or any other related matter, please feel free to contact me at the telephone number below. Thank you very much for your cooperation during this in-office review.

Dennis P. O’Dowd

Health Physicist

Materials Inspection Branch

Division of Nuclear Materials Safety

U.S. Nuclear Regulatory Commission

2443 Warrenville Road

Lisle, IL 60532

dennis.o'dowd@nrc.gov

630.829.9573 (office)

630.515.1259 (fax)