



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

February 4, 2021

EA-20-151

David G. Winter
President/CEO
Hart Crowser, Inc.
3131 Elliott Ave, Ste 600
Seattle, WA 98121

SUBJECT: HART CROWSER, INC. - NRC INSPECTION REPORT 150-00046/2020-001

Dear Mr. Winter:

This letter refers to our in-office document review of information submitted by Hart Crowser, Inc. to the U.S. Nuclear Regulatory Commission (NRC) on November 19, 2020, regarding performance of licensed activities in areas of exclusive Federal jurisdiction. The document review, conducted between November 19, 2020, and January 5, 2021, was performed to ensure compliance with NRC requirements related to activities performed under Title 10 of the *Code of Federal Regulations* (10 CFR) 150.20, "Recognition of Agreement State licenses."

The enclosed report presents the results of the review. A final exit briefing was conducted telephonically with you and Paul H. Kastens, Laboratory Manager/Radiation Safety Officer (RSO), on February 2, 2021.

Based on our review of the submitted information, one apparent violation was identified and is being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The apparent violation involved the failure to file a submittal containing an NRC Form 241, a copy of the Agreement State specific license, and the appropriate fee with the appropriate regional office at least 3 days prior to engaging in licensed activities in areas of exclusive federal jurisdiction for calendar year 2020.

Before the NRC makes its enforcement decision, we are providing you an opportunity to (1) respond to the apparent violation addressed in this inspection report within 30 days of the date of this letter, (2) request a pre-decisional enforcement conference (PEC), or (3) request alternative dispute resolution (ADR). If a PEC is held, it will be open for public observation and the NRC will issue a press release to announce the time and date of the conference. If you decide to participate in a PEC or pursue ADR, please contact Dr. Heather Gepford at (817) 200-1156 within 10 days of the date of this letter. A PEC should be held within 30 days and an ADR session within 45 days of the date of this letter.

If you choose to provide a written response, it should be clearly marked as a "Response to Apparent Violation in NRC Inspection Report 150-00046/2020-001; EA-20-151," and should include for the apparent violation: (1) the reason for the apparent violation or, if contested, the basis for disputing the apparent violation; (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 previously docketed correspondence, if the correspondence adequately addresses the required response.

Additionally, your response should be sent to the NRC's Document Control Center with identical copies mailed to Ms. Mary Muessle, Director, Division of Nuclear Materials Safety, Region IV, 1600 East Lamar Boulevard, Arlington, TX 76011, and emailed to R4Enforcement@nrc.gov, within 30 days of the date of this letter. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a PEC.

If you choose to request a PEC, the conference will afford you the opportunity to provide your perspective on these matters and any other information that you believe the NRC should take into consideration before making an enforcement decision. The decision to hold a PEC does not mean that the NRC has determined that a violation has occurred or that enforcement action will be taken. This conference would be conducted to obtain information to assist the NRC in making an enforcement decision.

The topics discussed during the conference may include information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned. In presenting your corrective action, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violations. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful in preparing your response. You can find the Information Notice on the NRC website at: <http://www.nrc.gov/docs/ML0612/ML061240509.pdf>.

In lieu of a PEC, you may request ADR with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflicts using a third party neutral. The technique that the NRC has decided to employ is mediation. Mediation is a voluntary, informal process in which a trained neutral (the "mediator") works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions.

Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC's program can be obtained at <https://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as a neutral third party. Please contact ICR at 877-733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR.

In addition, please be advised that the number and characterization of apparent violations described in the enclosed inspection report may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

In accordance with 10 CFR 2.390 of the NRC's "Agency 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'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 you have any questions concerning this matter, please contact Dr. Heather Gepford of my staff at (817) 200-1156 or by email at Heather.Gepford@nrc.gov.

Sincerely,

Mary C. Muessle, Director
Division of Nuclear Materials Safety

Docket No.: 150-00046
License No.: General License
under 10 CFR 150.20

Enclosure:
NRC Inspection Report 150-00046/2020-001

cc:
Earl Fordham, CHP, Deputy Director
Office of Radiation Protection

HART CROWSER, INC. - NRC INSPECTION REPORT 150-00046/2020-001
DATED – FEBRUARY 4, 2021

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David.Winter@hartcrowser.com

cc:

Earl Fordham, CHP, Deputy Director
Office of Radiation Protection
Washington Department of Health
P.O. Box 47827
Olympia, WA 98504-7827
Earl.Fordham@doh.wa.gov

ADAMS ACCESSION NUMBER: ML21021A176

<input checked="" type="checkbox"/> SUNSI Review by: LMH		ADAMS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		<input checked="" type="checkbox"/> Non-Sensitive <input type="checkbox"/> Sensitive		<input checked="" type="checkbox"/> Publicly Available <input type="checkbox"/> Non-Publicly Available		Keyword: NRC-002			
OFFICE		MLDB		C:MLDB		TL:ACES		ORA		D:DNMS	
NAME		LMHanson		HJGepford		JRGroom		DMCylkowski		MCMuessle	
SIGNATURE		/RA/		/RA/		/RA/		/RA/			
DATE		2/1/2021		02/03/2021		2/1/2021		1/27/2021			

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**NUCLEAR REGULATORY COMMISSION
REGION IV**

Docket No.:	150-00046
License No.:	General License under 10 CFR 150.20
Report No.:	150-00046/2020-001
EA No.:	EA-20-151
Licensee:	Hart Crowser, Inc. Tacoma, Washington
Location Inspected:	In-office review
Inspection Dates:	In-office review November 19, 2020 through January 5, 2021
Exit Meeting Date:	February 2, 2021
Inspector:	Latischa M. Hanson, Health Physicist Materials Licensing and Decommissioning Branch Division of Nuclear Materials Safety
Approved by:	Heather J. Gepford, Ph.D., CHP, Chief Materials Licensing and Decommissioning Branch Division of Nuclear Materials Safety
Attachment:	Supplemental Inspection Information

Enclosure

EXECUTIVE SUMMARY

Hart Crowser, Inc. NRC Inspection Report 150-00046/2020-001

Program Overview

Hart Crowser, Inc. (licensee) is authorized under the State of Washington Radioactive Materials License WN-I0149-1 to possess and use byproduct material, including cesium-137 and americium-241/beryllium, for portable gauge operations. As of November 20, 2020, Hart Crowser, Inc. was authorized to perform these same licensed activities at temporary job sites in NRC jurisdiction under a general license pursuant to 10 CFR 150.20. (Section 1)

NRC In-Office Review Summary

One apparent violation was identified involving the licensee's failure to file an initial NRC Form 241, and pay the required reciprocity fee, prior to performing licensed activities in areas of exclusive federal jurisdiction for calendar year 2020. This apparent violation was identified when the licensee submitted an initial notification of planned work activities to be performed in NRC jurisdiction. The NRC staff determined that Hart Crowser, Inc. had not submitted an initial NRC Form 241, nor had the licensee paid the fee, prior to conducting work in Federal jurisdiction on August 14, 2020. (Section 2)

Corrective Actions

The licensee's immediate corrective action was to submit the appropriate information and required reciprocity fee to the NRC on November 19, 2020. The NRC subsequently granted the reciprocity request in a letter dated November 23, 2020. At the conclusion of the in-office review, the licensee's long-term corrective actions were still under development and will be reviewed by the NRC at a later date. (Section 3)

REPORT DETAILS

1 Program Overview

1.1. Program Scope

Hart Crowser, Inc. (licensee) is authorized under the State of Washington Radioactive Materials License WN-I0149-1 to possess and use byproduct material, including cesium-137 and americium-241/beryllium, for portable gauge operations at temporary job sites in the State of California.

Following receipt of the licensee's initial NRC Form 241 and reciprocity fee in the NRC Region IV office on November 19, 2020, the licensee was authorized to perform portable gauge operations at temporary job sites under a general license pursuant to 10 CFR 150.20, "Recognition of Agreement State Licenses."

1.2. Observations and Findings

Following review of the reciprocity information submitted by the licensee and researching the local database of initial NRC Form 241 requests/approvals, the NRC license reviewer determined that the licensee had not submitted an initial NRC Form 241, nor had the licensee paid the fee, for the work to be performed in calendar year (CY) 2020.

2 Findings

2.1 In-Office Review Scope

On November 19, 2020, Hart Crowser, Inc. a State of Washington licensee, filed an NRC Form 241 describing an initial notification of planned work activities. Specifically, portable gauge operations were performed in areas of exclusive Federal jurisdiction at McChord Field, located at Joint Base Lewis-McChord, Washington, from August 14, 2020, through November 18, 2020. A Region IV license reviewer conducted document reviews and conducted interviews with licensee personnel to establish whether reciprocity could be granted.

Upon reviewing the information submitted by the licensee and researching the local database of initial NRC Form 241 requests/approvals, the license reviewer determined that the licensee had not submitted an initial NRC Form 241, nor had the licensee paid the fee, for the work to be performed in CY 2020. Since work was performed in areas of exclusive Federal jurisdiction beginning on August 14, 2020, the licensee was required to provide this information to the NRC by August 11, 2020.

2.2 Observation and Findings

Title 10 CFR 150.20(a)(1) requires, in part, that any person who holds a specific license from an Agreement State is granted a general license to conduct the same activity in areas of exclusive Federal jurisdiction is subject to the provisions of 10 CFR 150.20(b).

Title 10 CFR 150.20(b)(1) requires, in part, that any person engaging in activities in areas of exclusive Federal jurisdiction shall, at least 3 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,” a copy of its Agreement State specific license, and the appropriate fee with the Regional Administrator of the appropriate NRC regional office.

Contrary to the above, from August 14, 2020, through November 18, 2020, Hart Crowser, a licensee of the State of Washington, engaged in activities in exclusive Federal jurisdiction without filing a submittal containing an NRC Form 241, “Report of Proposed Activities in Non-Agreement States,” a copy of its Agreement State specific license, and the appropriate fee with the Regional Administrator of the NRC Regional Office at least 3 days before engaging in each activity for the first time in a calendar year. Specifically, Hart Crowser, Inc. performed licensed activities on 73 days at Joint Base Lewis-McChord, Washington, beginning on August 14, 2020, but did not submit an NRC Form 241, a copy of its Agreement State specific license, and the appropriate fee until November 19, 2020. Since work was performed in areas of exclusive Federal jurisdiction beginning on August 14, 2020, the licensee was required to provide this information to the NRC by August 11, 2020.

2.3 Conclusions

The NRC identified an apparent violation involving the licensee’s failure to file an initial NRC Form 241, to provide a copy of the Agreement State specific license, and pay the reciprocity fee, prior to engaging in licensed activities in Federal jurisdiction beginning on August 14, 2020, as required by 10 CFR 150.20(b)(1). (AV 150-00046/2020-001-01)

3 **Corrective Actions**

The radiation safety officer for the licensee stated that the majority of their construction inspection work in the past 20 years had been on non-Federal lands. The use of the nuclear gauge on Federal land without filing for reciprocity was done in error because they failed to recognize the need to file for reciprocity.

The licensee’s immediate corrective action was to submit the appropriate information and required reciprocity fee to the NRC on November 19, 2020. The NRC subsequently granted the reciprocity request in a letter dated November 23, 2020. At the conclusion of the in-office review, the licensee’s long-term corrective actions were still under development and will be reviewed by the NRC at a later date.

4 **Exit Meeting Summary**

The license reviewer presented the preliminary findings at the commencement of the in-office review on November 20, 2020, with Paul H. Kastens, Laboratory Manager/Radiation Safety Officer. On February 2, 2021, a final telephonic exit meeting was conducted with David G. Winter, President/CEO and Paul H. Kastens, Laboratory Manager/Radiation Safety Officer. The licensee acknowledged the findings and did not dispute any of the details presented during the exit call.

SUPPLEMENTAL INSPECTION INFORMATION

PARTIAL LIST OF PERSONS CONTACTED

Paul H. Kastens, Laboratory Manager/Radiation Safety Officer
David G. Winter, President/CEO

INSPECTION PROCEDURES USED

87124 Fixed and Portable Gauge Programs

ITEMS OPENED, CLOSED, AND DISCUSSED

Opened

150-00046/2020-001-01	AV	Failure to file an initial NRC Form 241 prior to engaging in licensed activities in exclusive Federal jurisdiction
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Closed

None

Discussed

None