



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION I
2100 RENAISSANCE BOULEVARD, SUITE 100
KING OF PRUSSIA, PA 19406-2713

October 28, 2014

Docket No. 03004530

License No. 19-00915-03

John T. Jensen
Director, Radiation Safety Division
U. S. Department of Agriculture
Office of Homeland Security and
Emergency Coordination
Mail Stop 5510
5601 Sunnyside Avenue
Beltsville, MD 20705

SUBJECT: NRC INSPECTION REPORT NOS. 03004530/2014003, 2014004, 2014005, 2014006, AND 2014007, U.S. DEPARTMENT OF AGRICULTURE, BELTSVILLE, MARYLAND AND NOTICE OF VIOLATION

Dear Mr. Jensen:

On July 24 - 29, 2014 and continuing in-office through September 29, 2014, Todd Jackson of this office conducted safety inspections of activities authorized by the above listed NRC license at U.S. Department of Agriculture (USDA) locations in Colorado, including:

Agency Inspected	Location	Inspection Number
Forest Service (FS)	Fraser, CO	2014007
Agricultural Research Service (ARS), Water Management Unit	Ft. Collins and Greeley, CO	2014006
Agricultural Research Service (ARS), Natural Resources Research Center,	Ft. Collins, CO	2014005
Animal and Plant Health Inspection Service (APHIS)	Ft. Collins, CO	2014004
Agricultural Research Service (ARS)	Akron, CO	2014003

The inspections were an examination of your licensed activities as they relate to radiation safety and to compliance with the Commission's regulations and the license conditions. The inspections consisted of observations by the inspector, interviews with personnel, and a selective examination of representative records. Additional information provided in email correspondence, dated July 29 & 30, and September 23, 2014, and telephone conversations on August 3, September 22, 23 & 29, 2014 between you, some Local Radiation Protection Officers (LRPOs) of your organization and this office were also examined as part of the inspections. The findings of the inspections were discussed with you at the conclusion of the inspections.

Based on the results of these inspections and in accordance with the NRC Enforcement Policy, the NRC has determined that two Severity Level IV violations of NRC requirements occurred. The violations involved: 1) the failure to provide refresher training every three years to personnel using licensed material; and 2) the failure to keep portable gauges either locked or in a locked outer container when in storage.

The violations are cited in the enclosed Notice of Violation (Notice), because the violations were identified by the NRC. Note that the failure to provide refresher training every three years to personnel using licensed material is similar to other recent violations described in NRC inspection reports 2013006 and 2014001.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. Your response to this Notice should address corrective actions to assure requalification training is current for licensed materials users at all USDA locations of use, not only the locations inspected in Colorado.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," 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 document system (ADAMS), accessible from the NRC website 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 website at 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 website at 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).

The NRC's Safety Culture Policy Statement became effective in June 2011. While a policy statement and not a regulation, it sets forth the agency's *expectations* for individuals and organizations to establish and maintain a positive safety culture. You can access the policy statement and supporting material that may benefit your organization on NRC's safety culture Web site at <http://www.nrc.gov/about-nrc/safety-culture.html>. We strongly encourage you to review this material and adapt it to your particular needs in order to develop and maintain a positive safety culture as you engage in NRC-regulated activities.

J. Jensen

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Please contact Todd Jackson at 610-337-5308 if you have any questions regarding this matter.

Sincerely,

/RA/

Blake D. Welling, Chief
Commercial, Industrial, R&D
and Academic Branch
Division of Nuclear Materials Safety

Enclosure:
Notice of Violation

cc: State of Colorado
USDA LRPOs at FS/Fraser, ARS/Ft. Collins,
APHIS/Ft. Collins, and ARS/Akron, Colorado

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cc: State of Colorado
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APHIS/Ft. Collins, and ARS/Akron, Colorado

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OFFICE	DNMS/RI	N	DNMS/RI				
NAME	TJackson/tjj		BWelling/bw				
DATE	10/2/14		10/28/14				

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NOTICE OF VIOLATION

U. S. Department of Agriculture (USDA)
Beltsville, MD

Docket No. 03004530
License No. 19-00915-03

During NRC inspections conducted on July 24 - 29, 2014 and continuing in-office through September 29, 2014, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. License Condition 32 of License No. 19-00915-03 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 in the license application dated August 23, 2005.

Item 8.1 of the license application dated August 23, 2005, "Radiation Use Permit Holders and Associate Users" specifies that refresher radiation safety training will be provided to all users every three years.

Contrary to the above, the licensee did not provide refresher radiation safety training to all users every three years. Specifically, as of July 30, 2014, a portable gauge user at the Forest Service (FS) in Fraser, CO and a laboratory user of radioactive materials at the Animal and Plant Health Inspection Service (APHIS) in Fort Collins, CO were not provided refresher radiation safety training every three years. The most recent training recorded for the FS user was May 20, 2010, and for the APHIS user was June 6, 2005.

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

- B. License Condition 23 of License No. 19-00915-03 requires 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 or storage, or when not under the direct surveillance of an authorized user.

Contrary to the above, each portable nuclear gauge at the Agricultural Research Service (ARS) facility in Akron, CO, was not locked or stored in their locked container while in storage and not under the direct surveillance of an authorized user. Specifically, five of the six stored gauges, although securely locked in their storage closet, were not locked or placed into a locked outer container designed to prevent unauthorized removal or accidental exposure of the sealed sources from their shielded position.

This is a Severity Level IV violation (Enforcement Policy Section 6.7).

Pursuant to the provisions of 10 CFR 2.201, U. S. 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, D.C. 20555, 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 for

each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation, (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 should address corrective action applicable to all USDA locations of use as appropriate, not just to the locations inspected. 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 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 placed in the NRC Public Document Room (PDR) and on the NRC Web site. To the extent possible, it should, therefore, not include any personal privacy, proprietary, or safeguards information so that it can be made publically available without redaction. However, if you find it necessary to include such information, you should clearly indicate the specific information that you desire not to be placed in the PDR, and provide the legal basis to support your request for withholding the information from the public.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated This 28th day of October 2014