



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

November 26, 2021

EA-21-102

Mr. Virgil Martinez, President  
and Radiation Safety Officer  
BRL-NDT Services, LLC  
10860 Vandale Street  
San Antonio, TX 78216

SUBJECT: NOTICE OF VIOLATION AND NRC INSPECTION REPORT 150-00042/2021-001

Dear Mr. Martinez:

This letter refers to the announced inspection conducted on April 22, 2021, at your facility in San Antonio, Texas, with continued in-office review through August 19, 2021. The purpose of the inspection was to examine activities performed in Nampa, Idaho, an area of exclusive Federal jurisdiction, as they relate to public health and safety and to confirm compliance with the U.S. Nuclear Regulatory Commission (NRC) rules and regulations. A final exit briefing was conducted telephonically with you on August 19, 2021. Details of the inspection and three associated apparent violations identified during the inspection were provided to you in the subject inspection report, dated September 15, 2021, Agencywide Documents Access and Management System (ADAMS) Accession No. ML21242A065.

In the NRC letter transmitting the inspection report, we provided you with the opportunity to address the apparent violations identified in the report by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In a letter dated October 12, 2021 (ADAMS Accession No. ML21286A575) you provided your response to the apparent violations.

Based on the information developed during the inspection and the information that you provided in response to the inspection report dated September 15, 2021, the NRC has determined that three violations of NRC requirements occurred. These violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in detail in the subject inspection report. The violations include: (A) permitting an individual who had not completed qualification requirements to act as a radiographer's assistant, (B) performing radiographic operations without two qualified individuals present, and (C) failing to conduct an inspection program of the job performance of a radiographer during an actual industrial radiographic operation every 6 months.

The NRC considers Violations A and B to be significant violations because the failure to have a fully qualified radiographer's assistant and the failure to have two qualified individuals present during industrial radiographic operations could have resulted in an overexposure to the radiographers or a member of the public. Therefore, these violations are categorized collectively in accordance with the NRC Enforcement Policy as a Severity Level III problem.

The NRC Enforcement Policy can be found on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. In addition, the NRC considers Violation C to be of low safety significance and thus it has been categorized in accordance with the NRC Enforcement Policy as Severity Level IV.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$15,000 is considered for a Severity Level III problem.

Because your facility has not been the subject of escalated enforcement actions within the last 2 years, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the NRC Enforcement Policy. The NRC determined that *Corrective Action* credit is warranted based on your prompt corrective actions documented in our September 15, 2021, inspection report and the comprehensive corrective actions documented in your October 12, 2021, response.

Therefore, to encourage prompt and comprehensive correction actions to address violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III problem constitutes an escalated enforcement action that may subject you to increased inspection activities.

The NRC has concluded that information regarding: (1) the reason for the violations; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in NRC Inspection Report 150-00042/2021-001 and in your letter received on October 12, 2021. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice and Procedure," a copy of this letter, its enclosure, and your response, should you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or in the NRC's 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 or proprietary information so that it can be made available to the public without redaction. The NRC also includes significant enforcement actions on its website at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

If you have any questions concerning this matter, please contact Dr. Lizette Roldán-Otero of my staff at 817-200-1455.

Sincerely,



Signed by Morris, Scott  
on 11/26/21

Scott A. Morris  
Regional Administrator

Docket No. 150-00042  
License No. General License

Enclosure:  
Notice of Violation

cc w/Enclosure:  
Mark Dietrich, PE, State Liaison Officer  
Idaho Department of Environmental Quality  
1410 N. Hilton St.  
Boise, ID 83706

Lisa Bruedigan, Radiation Unit Manager  
Texas Department of State Health Services  
P.O. Box 149347  
Austin, Texas 78714-9347

NOTICE OF VIOLATION AND NRC INSPECTION REPORT 150-00042/2021-001  
 DATED - NOVEMBER 26, 2021

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## NOTICE OF VIOLATION

BRL-NDT Services, LLC  
San Antonio, Texas

Docket No. 150-00042  
License No. General License  
EA-21-102

During an NRC inspection conducted on April 22, 2021, at your facility in San Antonio, Texas, with continued in-office review through August 19, 2021, three violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 34.43(c) requires, in part, that a licensee may not permit an individual to act as a radiographer's assistant until the individual has demonstrated competence in the use of hardware described in 10 CFR 34.43(c)(2) by successful completion of a practical examination on the use of such hardware.

Contrary to the above, on January 5 and March 6, 2021, the licensee permitted an individual to act as a radiographer's assistant even though the individual had not demonstrated competence in the use of hardware described in 10 CFR 34.43(c)(2) by successful completion of a practical examination on the use of such hardware. Specifically, an individual was allowed to perform the function of a radiographer's assistant during radiographic operations on the dates above without having demonstrated competence in the use of equipment through a required practical examination.

- B. 10 CFR 34.41(a) requires, in part, that whenever radiography is performed at a location other than a permanent radiographic installation, the radiographer must be accompanied by at least one other qualified radiographer or an individual who has, at a minimum, met the requirements of 10 CFR 34.43(c).

Contrary to the above, on January 5 and March 6, 2021, when radiography was performed at a location other than a permanent radiographic installation, the radiographer was not accompanied by at least one other qualified radiographer or an individual who had, at a minimum, met the requirements of 10 CFR 34.43(c). Specifically, an individual was allowed to perform the function of a radiographer's assistant during a radiographic operation in Idaho when that person had not completed the training required by 10 CFR 34.43(c). Therefore, the radiographer was not accompanied by another qualified individual as required.

This is a Severity Level III problem (NRC Enforcement Policy Section 6.3.c).

- C. 10 CFR 34.43(e)(1) requires, in part, that the licensee conduct an inspection program of the job performance of each radiographer during an actual industrial radiographic operation at intervals not to exceed 6 months.

Contrary to the above, on April 15, 2021, the licensee failed to conduct an inspection program of the job performance of each radiographer during an actual industrial radiographic operation at intervals not to exceed 6 months. Specifically, a radiographer working in Idaho had received his 6-month field audit by the radiation safety officer on September 3, 2020 and did not receive any further field audits until April 28, 2021, a

Enclosure

period in excess of 6 months, and the radiographer participated in radiographic operations on April 15, 2021.

This is a Severity Level IV violation (NRC Enforcement Policy Section 6.3.d.3).

The NRC has concluded that information regarding: (1) the reason for the violations; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in NRC Inspection Report 150-00042/2021-001 and in your letter received on October 12, 2021. However, if the description therein does not accurately reflect your position or your corrective actions, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 within 30 days of the date of the letter transmitting this Notice of Violation. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-21-102," 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, U.S. Nuclear Regulatory Commission, Region IV, 1600 East Lamar Blvd., Arlington, Texas 76011-4511, and email it to [R4Enforcement@nrc.gov](mailto:R4Enforcement@nrc.gov).

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, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, 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 website at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the 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 that such material is withheld from public disclosure, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim (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).

Dated this 26th day of November 2021