



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

February 08, 2024

EA-23-125

Jeremy Axbom, Radiation Safety Officer  
Construction Materials Technologies, LLC  
2796 South Redwood Road  
West Valley City, UT 84119

SUBJECT: CONSTRUCTION MATERIALS TECHNOLOGIES, LLC - NOTICE OF  
VIOLATION, NRC INSPECTION REPORT 030-38599/2023-001

Dear Jeremy Axbom:

This letter refers to the unannounced routine inspection conducted on June 15, 2023, at your facility in Meridian, Idaho, with continued in-office review through October 31, 2023. The inspection examined activities conducted under your license as they relate to public health and safety, to confirm compliance with the U.S. Nuclear Regulatory Commission (NRC) rules, regulations, and with the conditions of your license. A final exit meeting was conducted with you on October 31, 2023. The results of the inspection and apparent violation were provided to you in the subject inspection report, dated November 28, 2023, Agencywide Documents Access and Management System (ADAMS) Accession No. ML23318A215.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violation by either attending a predecisional enforcement conference or providing a written response before we made our final enforcement decision. In a letter dated December 21, 2023 (ML23355A260), you provided a written response to the apparent violation.

Based on the information developed during the inspection and the information you provided in your December 21, 2023, written response to the inspection report, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice), and the circumstances surrounding the violation are described in detail in the subject inspection report. The violation involved the failure to secure a portable gauge from unauthorized removal or access.

The NRC considers the violation to be significant because the failure to secure licensed material from unauthorized removal or access created the potential for an overexposure to members of the public from its misuse. Therefore, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III. The Enforcement Policy can be found on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$9,000 is considered for a Severity Level III violation.

Because your facility has not been the subject of an escalated enforcement action within the last two routine inspections, 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 has determined that *Corrective Action* credit is warranted based on the prompt and comprehensive corrective actions you implemented. Your corrective actions to address the violation are documented in NRC Inspection Report 030-38599/2023-001 and in your letter dated December 21, 2023.

Therefore, in recognition of the absence of previous escalated enforcement action, and your prompt and comprehensive corrective actions, 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 violation constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding: (1) the reason for the violation; (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 030-38599/2023-001 and in your letter dated December 21, 2023. 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 "Agency Rules of Practice and Procedure," a copy of this letter, the enclosure, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room and from 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 Monninger, John  
on 02/08/24

John D. Monninger  
Regional Administrator

Docket No. 030-38599  
License No. 43-35027-01

Enclosure:  
Notice of Violation

cc w/Enclosure:

Doug Hanson, Director  
Division of Waste Management and Radiation Control  
Utah Department of Environmental Quality  
[djhansen@utah.gov](mailto:djhansen@utah.gov)

Landry Austin  
INL Oversight Program Manager  
Idaho Department of Environmental Quality  
[Landry.Austin@deq.idaho.gov](mailto:Landry.Austin@deq.idaho.gov)

CONSTRUCTION MATERIALS TECHNOLOGIES, LLC - NOTICE OF VIOLATION, NRC  
INSPECTION REPORT 030-38599/2023-001 - DATED FEBRUARY 08, 2024

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**OFFICIAL RECORD COPY**

## NOTICE OF VIOLATION

Construction Materials Technologies, LLC  
West Valley City, Utah

Docket No. 030-38599  
License No. 43-35027-01  
EA-23-125

During an NRC inspection conducted on June 15, 2023, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 30.34(i) requires that each portable gauge licensee shall use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

10 CFR 20.1801 requires that the licensee shall secure from unauthorized removal or access licensed materials that are stored in controlled or unrestricted areas.

Contrary to the above, on June 15, 2023, the licensee failed to use a minimum of two independent physical controls that form tangible barriers to secure a portable gauge from unauthorized removal when the portable gauge was not under the control and constant surveillance of the licensee, and failed to secure from unauthorized removal or access licensed materials that were stored in an unrestricted area. Specifically, an unlocked portable nuclear gauge was discovered in the bed of a pickup truck and unattended at the licensee's facility, which was an unrestricted area.

This is a Severity Level III Violation (Enforcement Policy Section 6.3.c.3).

The NRC has concluded that information regarding: (1) the reason for the violation; (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 030-38599/2023-001 and in your letter dated December 21, 2023. 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-23-125," 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.

Enclosure

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 8th day of February 2024