



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION IV  
611 RYAN PLAZA DRIVE, SUITE 400  
ARLINGTON, TEXAS 76011-4005

May 11, 2005

Daniel R. Goodfellow  
Goodfellow Bros, Inc.  
dba Rimrock Paving Company  
381 Huku Li'i Place  
Kihei, Hawaii 96753

SUBJECT: NRC INSPECTION REPORT 030-33548/05-001 AND NOTICE OF VIOLATION

Dear Mr. Goodfellow:

This letter refers to the safety inspection conducted on April 22, 2005, at your facility located in Kihei, Hawaii. The inspection was an examination of activities conducted under NRC License 53-29069-01 as they relate to safety and compliance with the Commission's rules and regulations and with the conditions of the license. Within these areas, the inspection consisted of selective examination of procedures and representative records. The inspection results were discussed with Mr. John Dupuis, Radiation Safety Officer at the conclusion of the onsite inspection. A final exit interview was conducted with Mr. Ted Fritzen of your staff on May 6, 2005.

Based on the results of this inspection, the NRC has determined that three violations of NRC requirements occurred. These violations were evaluated in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy). The current Enforcement Policy is included on the NRC's website at [www.nrc.gov](http://www.nrc.gov); select **What We Do, Enforcement**, then **Enforcement Policy**. The violations cited in the enclosed Notice of Violation (Notice) involved failures to: (1) conduct the radiation safety program review in 2004 (a repeat violation); (2) provide hazmat refresher training (a repeat violation) and (3) possess or have access to, a survey meter. The violations are being cited in the enclosed Notice because they were identified by the NRC during the inspection.

We are concerned with these violations, since they indicate a lack of management oversight of your radiation safety program and a lack of understanding of regulatory requirements to ensure prompt and effective corrective actions for these repeat violations. Therefore, in your response please address the management controls to ensure continuous compliance with the requirements.

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's document 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, proprietary, or safeguards information so that it can be made available to the public without redaction.

Goodfellow Bros

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If you have any questions concerning this inspection, please contact Mr. Larry Donovan at (817) 860-8140 or the undersigned at (817) 860-8287.

Sincerely,

*/RA/*

Jeffrey Cruz, Chief  
Nuclear Materials Inspection Branch

Docket No.: 030-33548  
License No.: 53-29069-01

Enclosure: As stated

cc w/enclosure:  
Hawaii Radiation Control Program Director

bcc w/enclosure via e-mail distrib:

LDWert

JCruz

JEWhitten

LDonovan

KEGardin

NMIB

RIV Materials Docket File (5<sup>th</sup> Floor)

SISP Review Completed:

ADAMS: : Yes  No Initials: ld

Publicly Available  Non-Publicly Available  Sensitive  Non-Sensitive

DOCUMENT NAME: s:\dnms!\nmib\donovan\53354801.wpd final r:\\_dnms

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LDonovan	JWhitten	JCruz	LWert
<i>/RA/</i>	<i>/RA JCook for/</i>	<i>/RA/</i>	<i>/RA/</i>
05/09/05	05/10/05	05/10/05	05/11/05

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## ENCLOSURE

### NOTICE OF VIOLATION

Goodfellow Bros Inc  
Kihei, Hawaii 96753

Docket No. 030-33548  
License No. 53-29069-01

During an NRC inspection conducted on April 22, 2005, three violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," the violations are listed below:

- A. 10 CFR 20.1101(c) requires, in part, that the licensee periodically (at least annually) review the radiation protection program content and implementation.

Contrary to the above, the licensee failed to review its radiation protection program content and implementation during calendar year 2004

This is a repeat Severity Level IV violation (Supplement IV).

- B 10 CFR 71.5(a) requires that a licensee who transports licensed material outside of the site of usage, as specified in the NRC license, or where transport is on public highways, or who delivers licensed material to a carrier for transport, comply with the applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation (DOT) in 49 CFR Parts 170 through 189.

49 CFR 172.704(a) specifies the elements of Hazmat employee training as: (1) general awareness/familiarization training, (2) function-specific training, and (3) safety training. 49 CFR 172.204(c) requires, in part, that a Hazmat employee receive initial training, and recurrent training at least once every 3 years.

Contrary to the above, between October 2001 and April 2005, a period in excess of 3 years, the licensee did not provide recurrent training for three Hazmat employees which satisfied the requirements in Subpart H to 49 CFR Part 172.

This is a repeat Severity Level IV violation (Supplement V).

- C. 10 CFR 30.34 requires, in part, that the licensee comply with the terms and conditions of the license.

License Condition 22.A of Materials License 53-29069-01, states, in part, that the licensee shall conduct its program in accordance with the statements, representations, and procedures contained in the application dated April 13, 2004.

The application dated April 13, 2004, states, in part, that the licensee will conduct its program in accordance with Appendix B of Consolidated Guidance About Materials Licenses: Program Specific Guidance About Portable Gauge Licenses (NUREG-1556), Volume 1, Revision 1.

Appendix B Item 10, "Radiation Safety Program-Survey Instruments," of Consolidated Guidance About Materials Licenses: Program Specific Guidance About Portable Gauge

Licenses (NUREG-1556), Volume 1, Revision 1, requires, in part, the licensee to either possess or have access to a radiation survey meter.

Contrary to the above, from September 28, 2004 to April 25, 2005, the licensee did not possess, or have access to a survey meter as required by the license.

This is a Severity Level IV violation (Supplement IV).

Pursuant to the provisions of 10 CFR 2.201, Goodfellow Bros, Inc., is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, Region IV, 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 or severity level, (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 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, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>, to the extent possible, it should not include any personal privacy, proprietary, or safeguards 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 withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

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

Dated this 11<sup>th</sup> day of May 2005