



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

May 25, 2006

Docket No. 03030258

License No. 45-24949-01

Ron White
President
Superior Paving Corporation
P. O. Box 900
Gainesville, VA 20156

SUBJECT: INSPECTION 03030258/2006001, SUPERIOR PAVING CORPORATION, BRISTOW, VIRGINIA SITE, BEALETON, VIRGINIA SITE, AND THE VULCAN SANDERS PLANT, WARRENTON, VIRGINIA, AND NOTICE OF VIOLATION

Dear Mr. White:

On May 16 & 17, 2006, Kathy Modes of this office conducted a safety inspection at 7940 Gainesford Court, Bristow, Virginia, 121611 Luck Stone Road, Bealeton, Virginia, and the Vulcan Sanders Plant, 5480 Afton Lane, Warrenton, Virginia of activities authorized by the above listed NRC license. The inspection was 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 inspection consisted of observations by the inspector, interviews with personnel, and a selected examination of representative records. Additional information provided in Mr. Loconti's facsimile received May 24, 2006 was also examined as part of the inspection. The findings of the inspection were discussed with Mr. Loconti, your Radiation Safety Officer at the conclusion of the inspection.

Based on the results of this inspection, it appears that your activities were not conducted in full compliance with NRC requirements. A Notice of Violation is enclosed that categorizes each violation by severity level. You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. After reviewing your response to this Notice, including your proposed corrective actions and the results of future inspections, the NRC will determine whether further NRC enforcement action is necessary to ensure compliance with NRC regulatory requirements.

Mr. Loconti's facsimile dated May 24, 2006 inquired if your license could be amended to authorize annual leak tests in lieu of the current requirement for a 6 month leak test. The leak test frequency is set by Condition 13 of your license or the Sealed Source and Device Registration for the specific devices you possess. You may obtain a copy of the Registration for your devices from the manufacturer. The required leak test frequency for your devices is 6 months and cannot be changed without significant justification.

R. White
Superior Paving Corporation

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Current NRC regulations are included on the NRC's website at www.nrc.gov; select **Nuclear Materials; Medical, Industrial, and Academic Uses of Nuclear Material**; then **Toolkit Index Page**. The current Enforcement Policy is included on the NRC's website at www.nrc.gov; select **What We Do, Enforcement**, then **Enforcement Policy**. Or you may obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-888-293-6498. The GPO is open from 7:00 a.m. to 9:00 p.m. EST, Monday through Friday (except Federal holidays).

Your cooperation with us is appreciated.

Sincerely,

Original signed by John D. Kinneman

John D. Kinneman, Chief
Security and Industrial Branch
Division of Nuclear Materials Safety

Enclosure:
Notice of Violation

cc:
Tony Loconti, Radiation Safety Officer & Safety Director
Commonwealth of Virginia

R. White
Superior Paving Corporation

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NOTICE OF VIOLATION

Superior Paving Corporation
Gainesville, VA

Docket No. 03030258
License No. 45-24949-01

During an NRC inspection conducted on May 16 & 17, 2006, three violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. License Condition 13.A. requires sealed sources be tested for leakage and/or contamination at intervals not to exceed six months or at such intervals as specified by the certificate of registration.

Contrary to the above, between February 23, 2005 and January 19, 2006, sealed sources were not tested for leakage and/or contamination at intervals not to exceed six months or at such intervals as specified by the certificate of registration. The certificate of registration for the devices possessed by the licensee requires leak tests every 6 months. Specifically, Troxler Model 4640 (serial number 1980) was leak tested on February 23, 2005 and January 19, 2006; Troxler Model 4640 (serial number 2287) was leak tested on February 3, 2005 and January 19, 2006; and, Troxler Model 3450 (serial number 714) was leak tested on July 8, 2004 and January 11, 2006, intervals which exceed the six month requirement.

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

- B. 10 CFR 20.1101(c) requires this licensee to at least annually review the radiation program content and implementation.

Contrary to the above, between January 1, 2003 and May 16, 2006, the licensee did not review the radiation program content and implementation. Specifically, no annual reviews were conducted.

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

- C. 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 177.817(e) requires, in part, that the driver of a motor vehicle containing hazardous material ensure that the shipping paper is readily available to, and recognizable by, authorities in the event of accident or inspection. Specifically, (i) when the driver is at the vehicle's controls, the shipping paper shall be: (a) within his immediate reach while he is restrained by the lap belt; and (b) either readily visible to a person entering the driver's compartment or in a holder which is mounted to the inside of the door on the driver's side of the vehicle; (ii) when the driver is not at the vehicle's

controls, the shipping paper shall be: (a) in a holder which is mounted to the side of the door on the driver's side of the vehicle; or (b) on the driver's seat in the vehicle.

Pursuant to 49 CFR 172.101, radioactive material is classified as a hazardous material.

Contrary to the above, on May 16, 2006, the licensee transported a Troxler Model 3450 portable nuclear density gauge containing 9 millicuries of cesium-137 and 44 millicuries of americium-241, outside the site of usage, as specified on the NRC license, or on a public highway, and the driver of the vehicle did not ensure that the shipping paper was readily visible or recognizable in the driver's compartment, as required. Specifically, the shipping papers were inside a blue folder in between the two bucket seats of the licensee's company van, on top of other papers. The cover of the blue folder read: "Nuclear Gauge." There was no markings on this blue folder to alert a first responder that this folder contained emergency response information.

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

Pursuant to the provisions of 10 CFR 2.201, Superior Paving Corporation 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 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.

Dated This 25th day of May 2006