



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

October 5, 2006

Docket No. 03015128  
EA No. 06-219

License No. 37-18463-01

Dennis M. Dolan  
President & COO  
Hanson Aggregates Pennsylvania, Inc.  
1900 Sullivan Trail  
Easton, PA 18040

**SUBJECT:** INSPECTION 03015128/2006001, HANSON AGGREGATES PENNSYLVANIA, INC., EASTON, PENNSYLVANIA, THE STROUDSBURG DIVISION, BOSSARDSVILLE, PENNSYLVANIA, AND THE KEYSTONE PAVEMENT DIVISION, LAKE ARIEL, PENNSYLVANIA, NOTICE OF VIOLATION, AND EXERCISE OF ENFORCEMENT DISCRETION

Dear Mr. Dolan:

On August 14, 16, & 17, 2006, Ronald G. Rolph of this office conducted a safety inspection at the above address, the Stroudsburg Division, Cherry Valley Road, Bossardsville, Pennsylvania, and the Keystone Pavement Division, Gravel Branch Road, Lake Ariel, Pennsylvania 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. The findings of the inspection were discussed with you and Mr. Richard Hermany of your organization in a telephone conversation on August 30, 2006.

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.

A violation of 10 CFR 30.34(i) was identified during this inspection and is described in the attached Notice of Violation. Although such violations are normally categorized at Severity Level III and considered for escalated enforcement action, because (1) one physical control existed to prevent loss or theft of the portable gauge, (2) you retained possession of the gauge, (3) you took appropriate action to correct the violation and prevent recurrence of similar violations in the future, and (4) the violation was not willful, we are exercising enforcement discretion to categorize this violation at Severity Level IV. However, any future violations of 10 CFR 30.34(i) will be categorized at Severity Level III and evaluated for a civil penalty in accordance with Section VI.C. of the Enforcement Policy.

D. Dolan  
Hanson Aggregates Pennsylvania, Inc.

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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.

Current NRC regulations are included on the NRC's website at [www.nrc.gov](http://www.nrc.gov); select **Nuclear Materials; Medical, Academic, and Industrial Uses of Nuclear Material**; then **Toolkit Index Page**. 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**. 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 8:00 p.m. EST, Monday through Friday (except Federal holidays).

Your cooperation with us is appreciated.

Sincerely,

***Original signed by Sattar Lodhi, Ph.D.***

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

Enclosure:

1. Notice of Violation

cc:

Richard W. Hermany, Radiation Safety Officer  
Commonwealth of Pennsylvania

D. Dolan  
Hanson Aggregates Pennsylvania, Inc.

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**SUNSI Review Complete: RRolph**

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DATE	10/05/06		10/05/06		09/28/06			

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## NOTICE OF VIOLATION

Hanson Aggregates Pennsylvania, Inc.  
Easton, PA

Docket No. 03015128  
License No. 37-18463-01

During an NRC inspection conducted on August 14, 16, & 17, 2006, three violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR Part 30.34(i) requires that the licensee establish 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 direct control and constant surveillance of the licensee.

Contrary to the above, the licensee maintained only a single physical control to secure a portable gauge from unauthorized removal during a period when the portable gauge was not under direct control or surveillance. Specifically, since May, 2006, the licensee used a single padlock on the door of a sea van to secure Troxler Electronic Laboratories Model No. 4640B, Serial No. 1403 while in storage and unattended.

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

- B. Condition No. 16 of NRC License No. 37-18463-01 requires that each portable nuclear gauge 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 when not under the direct surveillance of an authorized user.

Contrary to the above, on August 14, 2006, the licensee transported a nuclear gauge with no locks to prevent unauthorized or accidental removal of the sealed source from its shielded position. Specifically, Troxler Electronic Laboratories Model No. 4640B, Serial No. 1403 was transported from a temporary job site to the licensee's storage facility with no lock on the source handle and the lock on the gauge case lid was not engaged.

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

- C. 49 CFR Part 172.602 requires, in part, that as a minimum, the emergency response information required by Subpart G of 49 CFR Part 172 must contain: (1) the basic description and technical name of the hazardous material, (2) immediate hazards to health, (3) risks of fire or explosion, (4) immediate precautions to be taken in the event of an accident or incident, (5) immediate methods for handling fires, (6) initial methods for handling spills or leaks in the absence of fire, and (7) preliminary first aid measures. Pursuant to 49 CFR 172.101, radioactive material is classified as a hazardous material.

Contrary to the above, August 14, 2006, the licensee transported a Troxler Electronic Laboratories Model No. 4640B, Serial No. 1403 containing approximately four milliCuries of Cesium 137 and 40 milliCuries of Americum 241, and the emergency response information that accompanied the shipment did not include the proper shipping name. Specifically, the identification number used was UN2974 instead of the correct number UN3332. This could result in delaying first responders from promptly taking the steps necessary to respond to an emergency.

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

Pursuant to the provisions of 10 CFR 2.201, Hanson Aggregates Pennsylvania, Inc. 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, EA-06-216" 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 5th day of October 2006