



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

March 3, 2008

Docket No. 03019852

License No. 45-21152-01

John D. Vergeres, P.E.
Vice President/Radiation Safety Officer
Patton Harris Rust & Associates, PC
14221A Willard Road, Suite 500
Chantilly, VA 20151

SUBJECT: INSPECTION 03019852/2008001, PATTON HARRIS RUST & ASSOCIATES, PC, CHANTILLY, VIRGINIA AND THE LEE HIGHWAY, FAIRFAX, VA, , AND NOTICE OF VIOLATION

Dear Mr. Vergeres:

On February 6, 2008, Sattar Lodhi of this office conducted a safety inspection at the above address and at your temporary job site at Lee Highway in Fairfax, 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. The findings of the inspection were discussed with you and Chris Rexrod of your organization 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.

Current NRC regulations are included on the NRC's website at www.nrc.gov ; select **Nuclear Materials; Medical, Academic, and Industrial Uses of Nuclear Material**; then **Regulations, Guidance, and Communications**. The current Enforcement Policy is included on the NRC's website at www.nrc.gov ; select **About NRC; Organization and Functions; Office of Enforcement; About Enforcement**; then **Enforcement Policy**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 7:00 a.m. to 8:00 p.m. EST, Monday through Friday (except Federal holidays).

J. Vergeres

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Please contact Sattar Lodhi at 610 337 5364 if you have any questions regarding this matter.

Sincerely,

Original signed by Marie Miller

Marie Miller, Chief
Security and Industrial Branch
Division of Nuclear Materials Safety

Enclosure:
Notice of Violation

cc:
Commonwealth of Virginia

J. Vergeres

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Please contact Sattar Lodhi at 610 337 5364 if you have any questions regarding this matter.

Sincerely,

Original signed by Marie Miller

Marie Miller, Chief
Security and Industrial Branch
Division of Nuclear Materials Safety

Enclosure:
Notice of Violation

cc:
Commonwealth of Virginia

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NAME	SLodhi/asl		MMiller/mtm				
DATE	02/29/08		03/01/08				

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NOTICE OF VIOLATION

Patton Harris Rust & Associates, PC
Chantilly, VA

Docket No. 03019852
License No. 45-21152-01

During an NRC inspection conducted on February 6, 2008, three violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

A. 10 CFR 71.5(a) requires that each licensee who transports licensed material outside 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, shall comply with the applicable requirements of DOT regulations in 49 CFR parts 170 through 189 appropriate to the mode of transport.

1. 49 CFR 173.475 requires, in part, that before each shipment of any Class 7 (radioactive) materials package, the offeror ensure by examination or appropriate tests, that the packaging is in unimpaired physical condition, except for superficial marks

Contrary to the above, on January 30, 2008, the licensee transported on a public highway, a Troxler Model 3411 (serial number 14705) that contained 44 millicuries of americium 241, and 9 millicuries of cesium 137, in a packaging which was impaired.

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

2. 49 CFR 177.817(a) requires that a carrier not transport a hazardous material unless it is accompanied by a shipping paper prepared in accordance with 49 CFR 172.200-203. Pursuant to 49 CFR 172.101, radioactive material is classified as hazardous material.

49 CFR 172.202(a) and (b) require in part, with exceptions not applicable here, that the shipping description of a hazardous material on the shipping paper include the identification number prescribed for the material as shown in Column 4 of the 172.101 Table.

Contrary to the above, on February 6, 2008, the licensee transported outside the site of usage as specified in the NRC license a portable gauge containing americium-241 and cesium-137, and the shipping description on the shipping paper that accompanied the shipment did not include correct identification number 3332.

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

- B. Condition 17 of NRC License No. 45-21152-01 requires, in part, that each portable gauge or its container be locked when in storage.

Contrary to the above, on February 6, 2008, the licensee stored two Troxler Models 3411 and 3216) portable gauges at its facility and neither the gauges nor their respective container were locked.

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

Pursuant to the provisions of 10 CFR 2.201, Patton Harris Rust & Associates, PC 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 3rd day of March 2008