

OK C Construction Co. Inc.

805 WISTERIA DRIVE
SOUTH CHARLESTON, WV 25309

Contractors License No. - WV-002085

November 20, 2008

US Nuclear Regulatory Agency
ATTN: Document Control Desk
Washington, D.C. 20555

Re: "Reply to Notice of Violation"
Docket Number 03032899, :License Number 47-25217-01

Dear Marie Miller:

This is the required response to our "Notice of Violation", Docket number 03032899. Our response is organized by stating the NRC violation and then responding with a statement &/or reason for violation, corrective steps taken and corrective steps taken to avoid further violations.

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

Contrary to the above, as of October 9, 2008, the licensee had not reviewed the radiation protection program content and implementation.

We have reviewed our radiation protection program:

- Updated inventory of nuclear gauges
- Updated list of compaction technicians
- Reviewed accuracy of radiation signs
- Provided copy of safety plan to all technicians
- All Technicians attended a Refresher hazardous material class
- Reinforced procedure for tracking gauges with log and inventory sheets
- Updated leak test data

- 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.

1. 49 CFR 172.202(a) requires, 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

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shown in Column 4 of the 172.101 Table. Pursuant to 49 CFR 172.101, radioactive material is classified as hazardous material.

Contrary to the above, on October 9, 2008, the licensee transported a portable gauge containing radioactive material (a Troxler Model 3411, serial number 14005) to a job site and did not include on the accompanying shipping papers the correct identification number UN 3332 as shown in Column 4 of the 172.101 Table. Specifically, the shipping papers contained an incorrect identification number (UN 2974).

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

Statement: OK Construction Co., Inc. has updated all Gauge carrying case labels, revised the incorrect "Shipping Paper" to list the correct identification number as UN 3332. Before transporting a gauge all technicians are directed to verify Shipping Paper is with the case and has accurate information.

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2. 49 CFR 172.204(c) requires, in part, that a hazmat employee receive initial training, and recurrent training at least once every three years.

Contrary to the above, the licensee did not provide recurrent training for its hazmat employees at least once every three years. Specifically, an authorized user received hazmat training on January 5, 2004, and as of October 9, 2008, a period of more than three years had elapsed and the licensee had not provided the required hazmat refresher training to an authorized user who routinely transported hazardous material to temporary job sites of the licensee.

OK has offered a refresher hazmat refresher course to all technicians and Arch Miller. (copy of certificate is attached for review)

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3. 49 CFR 173.448(a) requires that each shipment of radioactive materials be secured in order to prevent shifting during normal transportation conditions.

Contrary to the above, on October 9, 2008, the licensee transported on a public highway a package containing a Troxler Model 3411 (serial number 14005) that contained radioactive material and the container was not properly secured to prevent shifting during transport. Specifically, the transport container of the gauge was not blocked and braced to prevent shifting during normal transport.

OK has reinforced to the Technicians the importance of securing the Troxler 3411 compaction gauges to comply with OK's safety plan and the NRC requirement that the

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gauge be preventing from shifting during transportation and have a double lock for security when gauge is not in direct control of the technician.

- C. Condition 15 of License No. 47-25217-01 requires, in part, that the licensee conduct physical inventory every six months to account for all devices received and possessed under the license.

Contrary to the above, as of October 9, 2008, the licensee did not conduct physical inventory every six months to account for all devices received and possessed under the license.

OK has instituted a formal inventory and tracking procedure to account for the devices. We have inventoried the devices and will inventory every 6 months or less with the RSO signing off on the inventory sheet.

0. Condition 20 of License No. 47-25217-01 requires, in part, that the licensee conduct its program in accordance with the statements and procedures contained in its application dated March 3, 2005.
1. Item 10 of the application dated March 3, 2005, requires, in part, that the licensee implement and maintain the operating and emergency procedures in Appendix H of NUREG 1556, Volume 1, Rev. 1, dated November 2001, and provide copies of these procedures to all gauge users and at each job site.

Contrary to the above, as of October 9, 2008, the licensee did not implement and maintain the operating and emergency procedures in Appendix H of NUREG 1556, Volume 1, Rev. 1, dated November 2001, and did not provide copies of these procedures to all gauge users and at each job site. Specifically, on October 9, 2008, an authorized user working at a job site was not familiar with the Appendix H procedures and did not have copy of these procedures with him.

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

OK Construction Co., Inc. has made Appendix H of NUREG 1556, Volume 1 Rev 1 available to all three of our technicians. Each technician was required to read Appendix H and a dialogue with the RSO confirmed they understood its provisions. Whenever feasible the gauges will be kept at our Laboratory in Weston, WV. When gauges are transported to jobsites they will be properly secured in the vehicles to prevent shifting and when not under direct care of the technician they will be properly secured with double locks and restraining devices per Appendix H.

2. Paragraph 3 of Operating Procedures in Appendix H of NUREG 1556, Vol

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1, Rev. 1, requires, in part, that a gauge be signed out in a log book, including the date of use, name of authorized user who will be responsible for the gauge, and the temporary job site where the gauge will be used.

Notice of Violation

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OK Construction Company, Inc.

Contrary to the above, the licensee did not maintain a log book that included the date of use, names of authorized user who will be responsible for the gauge, and the temporary job site where the gauge will be used

We are maintaining a usage log book with each gauge as well as a log book at our laboratory site to track when the gauges are checked out/in, which job the gauge is going to/from, dates, who is checking the device out/in and a check off by the technician that the required paperwork is enclosed in the case; Operating Manual, Shipping Paper, Copy of License, Copy of Radiation Safety Plan, Current Leak Test Certificate.

Trusting this response addresses the deficiencies noted in your NRC Inspection Report we are

Sincerely Yours



Elliot James
Radiation Safety Officer

Cc Region 1 Administrator

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No 200701219

Certificate of Completion

This is to certify that Arch Miller has completed an equivalent CPN International manufactures training course on Radiation Safety and Use of Nuclear Gauges, with training per 49 CFR 172, sub H, & Security during transit, held this 12th day of November, 2008 in the city of Amanda, State of OH by

Cline's Technical Services, Inc.

10883 Cincinnati Zanesville Road - Amanda, Ohio - 43102

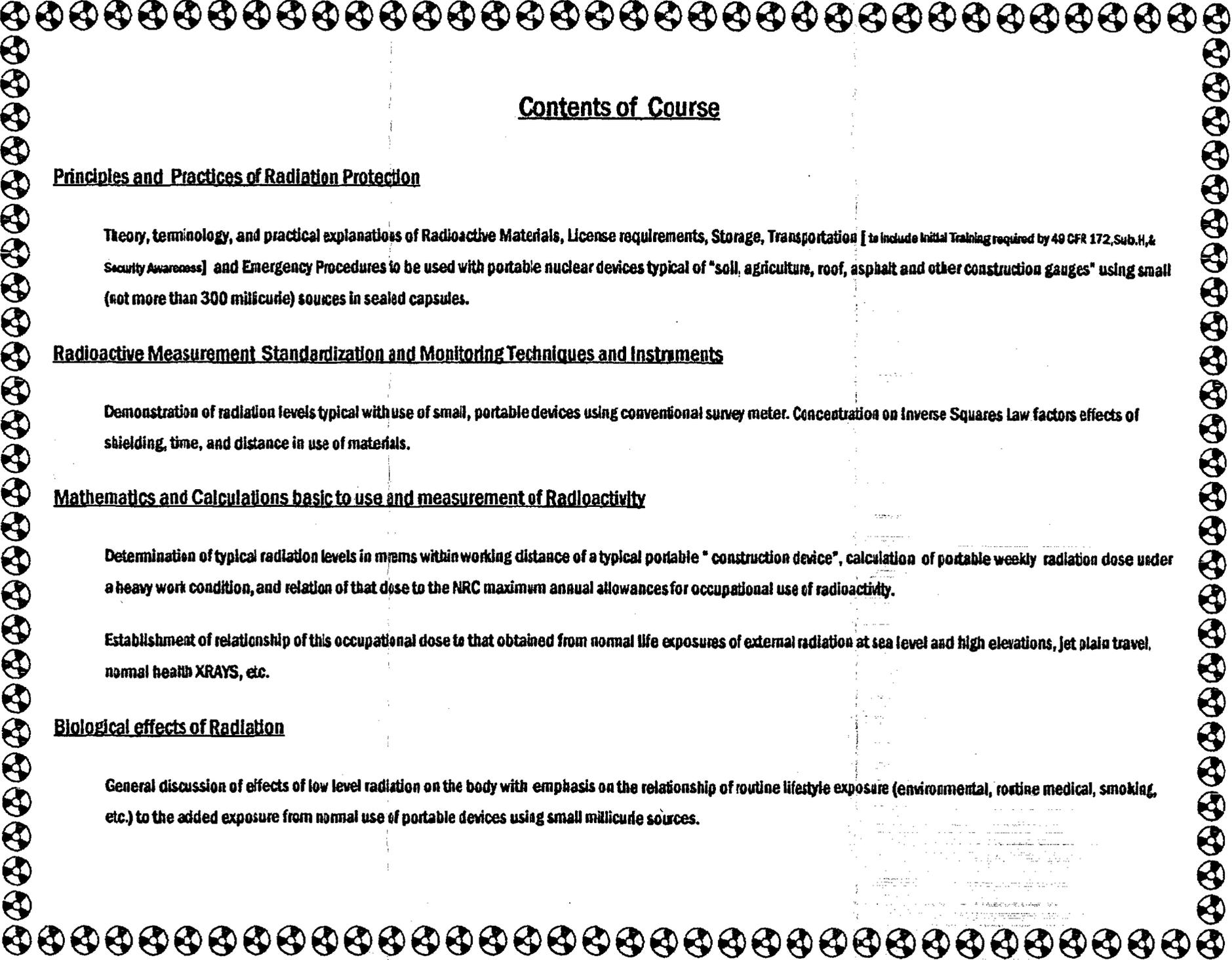
Phone: 740-969-2720 - Fax: 740-969-2122

Willie Cline

Radiation Safety Officer Willie Cline

Willie Cline

Instructor Willie Cline



Contents of Course

Principles and Practices of Radiation Protection

Theory, terminology, and practical explanations of Radioactive Materials, License requirements, Storage, Transportation [to include Initial Training required by 49 CFR 172, Sub.H, & Security Awareness] and Emergency Procedures to be used with portable nuclear devices typical of "soil, agriculture, roof, asphalt and other construction gauges" using small (not more than 300 millicurie) sources in sealed capsules.

Radioactive Measurement Standardization and Monitoring Techniques and Instruments

Demonstration of radiation levels typical with use of small, portable devices using conventional survey meter. Concentration on Inverse Squares Law factors effects of shielding, time, and distance in use of materials.

Mathematics and Calculations basic to use and measurement of Radioactivity

Determination of typical radiation levels in mRms within working distance of a typical portable " construction device", calculation of portable weekly radiation dose under a heavy work condition, and relation of that dose to the NRC maximum annual allowances for occupational use of radioactivity.

Establishment of relationship of this occupational dose to that obtained from normal life exposures of external radiation at sea level and high elevations, Jet plain travel, normal health XRAYs, etc.

Biological effects of Radiation

General discussion of effects of low level radiation on the body with emphasis on the relationship of routine lifestyle exposure (environmental, routine medical, smoking, etc.) to the added exposure from normal use of portable devices using small millicurie sources.

Cline's Technical Services, Inc.

Certificate of Attendance

This is to certify that the below listed individuals have attended a refresher training secession.
Topics covered: Operating & emergency procechures Transportation, Regulations to include Haz-Mat training and testing per 49 CFR, 172.704, Subpart H, & Security.
Materials used are part of the CTS Gauge Operators Training Course & Troxler Nuclear Gauge Transportation Guide

Elliot James
Arch Miller

Tim Canterbery
David Fredenburg

The above Training was held via telephone between Bilco Construction Co. Inc. & CTS Inc.



November 7, 2008
Date

Willie Cline
Instructor Signature
Willie Cline