



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

November 18, 2010

Docket No. 03037848

License No. 08-31338-01

Fadil M. Abdelfatah
President
FMC & Associates, LLC
P. O. Box 70263
Washington, DC 20024

SUBJECT: NRC INSPECTION REPORT NO. 03037848/2010001, FMC & ASSOCIATES, LLC, WASHINGTON, D.C., AND NOTICE OF VIOLATION

Dear Mr. Abdelfatah:

On October 18, 2010, Sattar Lodhi of this office conducted a safety inspection at 515 M Street, S.E, Navy Yard Bldg 74, Washington, D.C. of activities authorized by the above listed NRC license. The inspection was limited to a review of your licensed activities at a temporary job site located at the Naval Medical Center, Bethesda, MD, on August 27, 2010. The findings of the inspection were based on observations made by a representative from the State of Maryland on August 27, 2010, and were discussed with you on October 18, 2010, and by telephone at the conclusion of the inspection on November 17, 2010.

Based on the results of this inspection and in accordance with the NRC Enforcement Policy, the NRC has determined that two Severity Level IV violations of NRC requirements occurred. The violations involved: 1) the failure to follow approved operating procedures; and 2) the failure to describe the hazardous material on a shipping paper, with the shipment of the material as required by 49 CFR 172.200.

The violations are cited in the enclosed Notice of Violation (Notice), because the violations were identified by the NRC.

During our inspection debrief on October 18, 2010, you indicated that you acknowledge the violations and have taken corrective and preventative actions to address each violation and that FMC & Associates, LLC, is committed to radiation safety and to compliance with NRC regulations and licensed conditions. Further, you stated verbally that you have taken the following corrective and preventative actions:

1. Provided refresher training to all authorized gauge users on operating procedures for portable gauges;
2. Discussed the specific incident during the training session;
3. Instructed all authorized users not to use any gauge if the source rod does not retract to its shielded position prior to moving it to another location;
4. Instituted a quarterly training session for all authorized users which emphasizes a zero tolerance policy for not following regulations and operating procedures.

F. Abdelfatah

5. Initiated unannounced job site visits by the laboratory manager to verify that authorized users maintain gauges under constant surveillance at job sites, operate the gauges in a safe manner, and possess appropriate DOT papers for all gauge transportation activities.

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect FMC & Associates' corrective actions or position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC document system (ADAMS), accessible from the NRC website 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.

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 Page**. The current Enforcement Policy is included on the NRC's website at www.nrc.gov; select **About NRC; How We Regulate; 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 6:30 p.m. EST, Monday through Friday (except Federal holidays).

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

Sincerely,

Original signed by Randolph Ragland For

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

cc:
State of Maryland

F. Abdelfalah

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Sincerely,

Original signed by Randolph Ragland For

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

cc:
State of Maryland

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OFFICE	DNMS/RI	N	DNMS/RI	DNMS/RI		
NAME	SLodhi		MMiller RCR For			
DATE	11/17/2010		11/18/10			

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

FMC & Associates, LLC
Washington, DC

Docket No. 03037848
License No. 08-31338-01

During an NRC inspection conducted on October 18, 2010, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. Condition 19 of NRC License No. 08-31338-01 requires, in part, that the licensee conduct its program in accordance with the procedures contained in the application dated July 21, 2008.

Item 10 of the application titled "Operating and Emergency Procedures" requires that the licensee implement the operating and emergency procedures described in Appendix H of NUREG 1556, Vol. 1, Rev. 1.

Paragraph 9 of the Operating Procedures states that after completing each measurement in which the source is unshielded, immediately return the source to the shielded position.

Contrary to the above, after completing each measurement in which the source was unshielded, the licensee did not immediately return the source to the shielded position. Specifically, on August 27, 2010, while making measurements at a temporary job site (the Navy Medical Center), an authorized user did not immediately return the source to the shielded position before moving the gauge to another location.

This is a Severity Level IV violation (Section 6.3)

- B. 10 CFR 71.5 requires, in part, that each licensee who transports licensed material via public highways, shall comply with applicable requirements of the DOT regulations in 49 CFR parts 171 through 180.

49 CFR 172.200 requires, in part, that each person who offers hazardous material for transportation shall properly prepare the shipping paper.

Contrary to the above, on August 27, 2010, the licensee offered for transportation a portable gauge containing hazardous material, and did not describe the hazardous material in the shipping paper. Specifically, the licensee did not provide any shipping paper with the shipment.

This is a Severity Level IV violation (Section 6.8)

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance will be achieved is already adequately addressed on the docket. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the

Notice of Violation
FMC & Associates, LLC

description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation," and send it 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).

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 18th day of November 2010