

February 9, 2011

NMED No. 100594 (Closed)
EN 46465

Mr. William E. Sherman
Radiation Safety Officer
Continental Cement Company
10107 Hwy 79 SO.
Hannibal, MO 63401

SUBJECT: NOTICE OF VIOLATION – CONTINENTAL CEMENT COMPANY

Dear Mr. Sherman:

On December 8, 2010, you reported an Event to the U.S. Nuclear Regulatory Commission (NRC) (Event Number 46465) concerning the failure of a Berthold Waybelt Scale Process Gauge Model P2608-100 containing 5 millicuries of Cobalt 60 to close properly. On December 15, 2010, you provided a written report to the NRC describing the event and identifying corrective actions. The NRC conducted an in-office review through January 17, 2011. The in-office review included review of your written report and the additional information you provided by facsimile on January 7, 2011. During the in-office review the NRC inspector identified a violation of NRC requirements. A final telephonic exit meeting between you and Mr. Edward Kulzer of my staff was held on January 24, 2011.

Based on the results of the in-office review, the NRC has determined that a Severity Level IV violation of NRC requirements occurred. The violation was evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at http://www.nrc.gov/about_nrc/regulatory/enforcement/enforce_pol.html. The violation involved failure to limit the quantity of byproduct material to that which is authorized in the license. The violation is cited in the enclosed Notice of Violation (Notice); it is being cited because it was identified by the inspector.

The root cause of the violation was the licensee being unaware of the possession limits in its NRC License No. 24-20263-01 and failure to provide Berthold with the License prior to ordering and installing the new gauge. Specifically, in the December 15, 2010 letter, you identified that the Berthold Technologies Model P2608-100 level gauge in your possession contained 5.0 millicuries of Cobalt 60; however, your License only authorizes possession to 3.0 millicuries of Cobalt 60. After being informed of the violation the licensee took an immediate corrective action and requested an expedited license amendment on January 7, 2011. The long term corrective actions were to modify the existing procurement procedure for service on these devices to include a review of the license possession limits and provide a copy of the license to the service provider.

The NRC has concluded that information regarding the reason for the violation, the corrective action taken and planned to correct the violations and prevent recurrence is already adequately addressed on the docket, in this letter, your December 15, 2010 letter, and in your license

amendment request dated January 7, 2011. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your 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 Title 10 Code of Federal Regulations (CFR) 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site 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.

Sincerely,

/RA/

Tamara E. Bloomer, Chief
Materials Inspection Branch

Docket No. 030-18167
License No. 24-20263-01

Enclosures:
Notice of Violation

cc: Mark Andrews, Manager, Knoxville Field Office
State of Missouri

W. Sherman

-2-

amendment request dated January 7, 2011. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your 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 Title 10 Code of Federal Regulations (CFR) 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site 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.

Sincerely,

/RA/

Tamara E. Bloomer, Chief
Materials Inspection Branch

Docket No. 030-18167
License No. 24-20263-01

Enclosures:
Notice of Violation

cc: Mark Andrews, Manager, Knoxville Field Office
State of Missouri

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NOTICE OF VIOLATION

Continental Cement Company, LLC
Hannibal, MO

Docket No. 030-18167
License No. 24-20263-01

During a U. S. Nuclear Regulatory Commission (NRC) review of a licensee's 30-day Event notification response conducted between December 15, 2010 and January 7, 2011, a violation of the NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 of the Code of Federal Regulations (CFR) 30.34(c) requires, in part, that each licensee confine his possession and use of byproduct material to the locations and purposes authorized in the license.

NRC License No. 24-20263-01, Amendment 11, dated June 18, 2010, states the maximum amount that the licensee can possess at one time under that license shall not exceed 3 millicuries of Cobalt 60.

Contrary to the above, from approximately September 24, 2007, through January 7, 2011, the licensee failed to confine its possession limit of Cobalt 60 to 3 millicuries. Specifically, the licensee possessed a Berthold Technologies Model P2608-100 level gauge containing 5.0 millicuries of Cobalt 60.

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

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to be taken 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 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, DC 20555-0001 with a copy to the Regional Administrator, Region III, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site 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.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 9th day of February 2011.