



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION III
2443 WARRENVILLE ROAD, SUITE 210
LISLE, ILLINOIS 60532-4352

May 4, 2011

Mr. David Noble
Vice President, Operations
Michigan Sugar Company
2600 S. Euclid Avenue
Bay City, MI 48606

SUBJECT: NRC REACTIVE INSPECTION REPORT NO. 030-11540/11-01(DNMS) AND
NOTICE OF VIOLATION - MICHIGAN SUGAR COMPANY

Dear Mr. Noble:

On April 11, 2011, a U.S. Nuclear Regulatory Commission (NRC) inspector conducted a reactive inspection at Michigan Sugar Company's facilities in Carrollton and Bay City, Michigan. The NRC conducted this reactive inspection because we identified that you no longer employed the Radiation Safety Officer (RSO) listed on your NRC license. The inspector conducted an exit meeting with you and your staff on April 11, 2011.

Based on the results of this inspection, 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/enforcement-pol.html>. The violation involved the failure to amend your NRC license to remove the RSO listed on your license and add the new RSO. Specifically, during the reactive inspection on April 11, 2011, the inspector inquired about the whereabouts of the Radiation Safety Officer (RSO). The inspector determined that the RSO was acting as a consultant until October 2010 after which he was no longer employed by the licensee. The licensee intended to send an individual for RSO training; however, the individual never took the training. Subsequently, the licensee named the Assistant RSO as the acting RSO and did not submit, to the NRC, a request to amend its license prior to adding the acting RSO, as required. The inspector determined that the acting RSO had previously been the licensee's RSO and should be qualified to replace the previous RSO. Additionally, the acting RSO informed the inspector that the mailing address for the license had changed and provided the inspector the new mailing address. To correct the violation, the licensee took action that resulted in issuance of a license amendment dated May 4, 2011, naming the new RSO on the license. As long-term corrective action, the licensee planned to document the requirement that any future RSO request a license amendment to change the RSO before leaving the company. This violation is cited in the enclosed Notice of Violation. The violation is being cited because the NRC identified it as part of a routine licensing review.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in this letter. Therefore, you are not required to respond to this letter unless the description herein 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.

D. Noble

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In accordance with Title 10 of the Code of Federal Regulations 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, 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's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

We will gladly discuss any questions you have concerning this inspection.

Sincerely,



Tamara E. Bloomer, Chief
Materials Inspection Branch
Division of Nuclear Materials

Docket No. 030-11540
License No. 21-13783-02

Enclosure:
Notice of Violation

cc w/encl: M. Millershaski, Acting RSO

D. Noble

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In accordance with Title 10 of the Code of Federal Regulations 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, 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's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

We will gladly discuss any questions you have concerning this inspection.

Sincerely,

/RA Robert G. Gattone, Jr.
For/

Tamara E. Bloomer, Chief
Materials Inspection Branch
Division of Nuclear Materials

Docket No. 030-11540
License No. 21-13783-02

Enclosure:
Notice of Violation

cc w/encl: M. Millershaski, Acting RSO

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*see previous concurrence

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DATE	05/02/11	05/04/11		

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Michigan Sugar Company
Bay City, Michigan

Docket No. 030-11540
License No. 21-13783-02

During a U. S. Nuclear Regulatory Commission (NRC) reactive inspection conducted on April 11, 2011, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

License Condition 11.A. of NRC License No. 21-13783-02, Amendment 16, named a specific individual as Radiation Safety Officer (RSO).

Contrary to the above, as of October 2010, the specific individual named as the RSO on License No. 21-13783-02 was no longer the RSO. Specifically, the named RSO left the employ of the licensee in October 2010 and the licensee assigned the RSO duties to the qualified Assistant RSO in 2010, but did not submit a request to amend its license to name the Assistant RSO as the RSO, as required.

This is a Severity Level IV violation (Section 6.3).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to be taken to correct the violation and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in the letter transmitting this Notice of Violation (Notice). However, you are required to submit a written statement or explanation pursuant to Title 10 of the Code of Federal Regulations (CFR) 2.201 if the description in the letter 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.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal, 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 4th day of May 2011

Enclosure

INSPECTION RECORD

Region III Inspection Report No.: 030-11540/11-01(DNMS)

License No. 21-13783-02
Docket No. 030-11540

Licensee:
Michigan Sugar Company
2600 S. Euclid Avenue
Bay City, Michigan 48606

Location Being Inspected: 2600 S. Euclid Avenue, Bay City, Michigan and
341 Sugar Street, Carrolton, Michigan

Licensee Contact: Michael Millershaski, Acting RSO
Telephone No.: 989-754-7778
Priority: 5 Program Code: 03120

Date of Last Inspection: August 5, 2008 (routine)
Date of This Inspection: April 11, 2011

Type of Inspection: Initial Announced Unannounced
 Routine Reactive

Next Inspection Date: 8/2013 Normal Reduced

Justification for reducing the routine inspection interval:

Summary of Findings and Actions:

- No violations cited, clear U.S. Nuclear Regulatory Commission (NRC) Form 591 or regional letter issued
- Non-cited violations (NCVs)
- Violation(s), Form 591 issued
- Violation(s), regional letter issued
- Follow up on previous violations

Inspector: E. L. Kulzer
Edward L. Kulzer, Health Physicist

Date: 5/4/11

Approved: Robert A. Dutton, Jr. for
Tamara E. Bloomer, Chief,
Materials Inspection Branch

Date: 5/4/11

PART I - LICENSE, INSPECTION, INCIDENT/EVENT, AND ENFORCEMENT HISTORY

1. AMENDMENTS AND PROGRAM CHANGES:

<u>AMENDMENT No.</u>	<u>DATE</u>	<u>SUBJECT</u>
16	03/30/2011	License renewal

2. INSPECTION AND ENFORCEMENT HISTORY:

No violations were identified during the last two routine inspections conducted on August 5, 2008, and June 3, 2003.

3. INCIDENT/EVENT HISTORY:

This was a reactive inspection conducted on April 11, 2011, because the NRC had identified, through routine licensing actions, that the named RSO was no longer with the company. During the inspection, the inspector inquired about the whereabouts of the Radiation Safety Officer (RSO). The inspector determined that the RSO had left the company and was acting as a consultant until October 2010. The company intended to send an individual for RSO training; however, the individual never took the training. Subsequently, the licensee appointed an Assistant RSO as the acting RSO. The inspector determined that the acting RSO had previously been RSO and should be qualified to replace the individual who recently left the company.

The inspector went to the authorized Carrolton, MI facility and found that the licensee had removed all of the gauges and returned them to Thermo Fisher Scientific on October 6, 2008. The inspector reviewed the leak test records, which did not indicate any leaking gauge sources before operations ceased at that location. The acting RSO's office was at that location. The acting RSO stated that the licensee's new mailing address is 2600 S. Euclid Avenues, Bay City, Michigan. Therefore, the licensee promptly submitted a request to change the mailing address on the license.

PART II - INSPECTION DOCUMENTATION

1. ORGANIZATION AND SCOPE OF PROGRAM:

The licensee was a sugar processing company with locations at Bay City, Carrolton, Caro, Sebawaing, and Crosswell, Michigan. The radiation safety program consisted of one RSO and two Assistant RSOs. The RSO previously reported to the Human Resources Department. The acting RSO reported directly to the Vice President of Operations. The licensee management requested one of the Assistant RSOs named on the existing NRC License to replace the RSO. The company had 36 fixed gauges and it was in the process of replacing the gauges with alternate technology microwave devices. Microwave devices replaced the seven gauges at the Carrolton facility on October 6, 2008. The seven gauges were returned to Thermo Fisher Scientific.

2. SCOPE OF INSPECTION:

Inspection Procedure(s) Used: 87124

Focus Areas Evaluated: 03.01 - 03.07

3. INDEPENDENT AND CONFIRMATORY MEASUREMENTS:

The inspector performed direct radiation measurements around the licensee's gauges, which indicated similar results as noted in the licensee's survey records. Maximum levels were measured at the surface of the gauges. Radiation levels in the unrestricted areas outside the area were indistinguishable from background. The inspector concluded that these radiation levels complied with the Part 20 limits. All survey measurements in the restricted areas were comparable to the licensee's survey results. The inspector reviewed records of leak tests, shutter checks and inventories for the Carrolton and Bay City facilities.

4. VIOLATIONS, NCVs, AND OTHER SAFETY ISSUES:

One violation of NRC requirements was identified during this inspection concerning the licensee's failure to amend the NRC License to replace the RSO that had left the company. This was a requirement of Condition 11A of the license. Section 6.3 of the NRC Enforcement Manual states that this is a Severity Level IV violation if the individual is qualified as an RSO. The inspector identified that the individual had been the previous RSO on the NRC license, and at that time met all of the requirements. The inspector determined that all required duties had been continued and that there was minimal potential for exposure to members of the public.

5. PERSONNEL CONTACTED:

*#Michael Millershaski, Acting RSO

*David Noble, Vice President, Operations

Use the following identification symbols:

Individual(s) present at entrance meeting

* Individual(s) present at exit meeting

End