

EA-11-061
NMED No. 110206 (Closed)

Mr. Greg Maule
Mill Manager
Escanaba Paper Company, Inc.
P O Box 757
Escanaba, MI 63045

SUBJECT: NRC INSPECTION REPORT NO 03013087/2011001(DNMS) – ESCANABA
PAPER COMPANY

Dear Mr. Maule:

On June 28, 2011, a U.S. Nuclear Regulatory Commission (NRC) inspector conducted a routine inspection of your facilities located in Escanaba, Michigan. The purpose of the inspection was to determine whether activities authorized under your license were conducted safely and in accordance with NRC requirements. In addition, the inspector reviewed the circumstances surrounding Event No. 46832 in which you reported a failed shutter. The enclosed report presents the results of this inspection, which were discussed with your staff during the telephonic exit meeting held on August 2, 2011.

During this inspection the NRC staff examined activities conducted under your license as they relate to public health, safety, and compliance with the Commission's rules and regulations and with the conditions of your license. Within these areas, the inspection consisted of selected examination of procedures and representative records, observations of activities, and interviews with personnel.

Based on the results of this inspection, an apparent violation was identified and is being considered for escalated enforcement action 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 apparent violation involved unauthorized dismantling and non-routine repair of components related to the radiological safety of a gauge that had a broken shutter, as discussed in Section 2.2 of the subject inspection report. The circumstances surrounding this apparent violation, the significance of the issues, and the need for lasting and effective corrective action were discussed with your staff at the inspection exit meeting on August 2, 2011. As a result, it may not be necessary to conduct a pre-decisional enforcement conference in order to enable the NRC to make an enforcement decision.

In addition, since your facility has not been the subject of escalated enforcement actions within the last two years or two inspections, and based on our understanding of your corrective action, a civil penalty may not be warranted in accordance with Section 2.3.4 of the Enforcement Policy. The final decision will be based on your confirming on the license docket that the corrective actions previously described to the staff have been or are being taken.

Before the NRC makes its enforcement decision, we are providing you an opportunity to either: (1) respond to the apparent violation addressed in this inspection report within 30 days of the date of this letter; or (2) request a Predecisional Enforcement Conference (PEC). If a PEC is held, it will be open for public observation and the NRC will issue a press release to announce the time and date of the conference. Please contact Tamara E. Bloomer at (630) 829-9627 within ten days of the date of this letter to notify the NRC of your intended response.

If you choose to provide a written response, it should be clearly marked as a "Response to an Apparent Violation in Inspection Report No. 03013087/2011001(DNMS); EA-11-061" and should include, for the apparent violation: (1) the reason for the apparent violation, or, if contested, the basis for disputing the apparent violation; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken to avoid further violation; and (4) the date when full compliance will be achieved. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a predecisional enforcement conference.

If you choose to request a PEC, the conference will afford you the opportunity to provide your perspective on the apparent violation and any other information that you believe the NRC should take into consideration before making an enforcement decision. The topics discussed during the conference may include the following: information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned to be taken.

In presenting your corrective actions, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violation. In addition, please be advised that the number and characterization of the apparent violations may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

The NRC is concerned about your staff's level of knowledge of the activities authorized by your license as demonstrated by this apparent violation. Therefore as part of the above response, please include a discussion addressing how you will enhance staff's understanding of your license provisions to ensure compliance with NRC regulatory requirements.

In accordance with 10 CFR 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 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 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.

G. Maule

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If you have any questions concerning this matter, please contact Edward Kulzer of my staff at 630-829-9875.

Sincerely,

/RA Patrick Loudon for/

Anne T. Boland, Director
Division of Nuclear Materials and Safety

Docket No. 030-13087
License No. 21-17630-01

Enclosure:
Inspection Report No. 03013087/2011001(DNMS)

cc w/encl: Darren Hendon, Radiation Safety Officer
State of Michigan

G. Maule

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

Sincerely,

/RA Patrick Louden for/

Anne T. Boland, Director
Division of Nuclear Materials and Safety

Docket No. 030-13087
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Enclosure:
Inspection Report No. 03013087/2011001(DNMS)

cc w/encl: Darren Hendon, Radiation Safety Officer
State of Michigan

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Region III

Docket No. 030-13087

License No. 21-17630-01

Report No. 3013087/2011001(DNMS)

EA No. EA-11-061

NMED No. 110206

Licensee: Escanaba Paper Company

Location: Escanaba, MI

Date: July 28, 2011, with in-office review
through August 2, 2011

Exit Date: August 2, 2011

Inspector: Edward L. Kulzer, Health Physicist

Approved By: Tamara E. Bloomer, Chief
Nuclear Materials Inspection Branch
Division of Nuclear Materials Safety

Enclosure

EXECUTIVE SUMMARY

Escanaba Paper Company NRC Inspection Report 03013087/2011001(DNMS)

On May 9, 2011, Escanaba Paper Company (licensee) reported an Event (Event No. 46832) in which the fixed gauge shutter handle broke during a shutter check. The review of the licensee's 30-day written report identified a potential violation. On June 28, 2011, a U.S. Nuclear Regulatory Commission (NRC) inspector conducted a routine inspection at the licensee's facility in Escanaba, Michigan and also followed up on the May 9 event.

The licensee manufactures paper products and uses cesium-137 in fixed gauges to measure the physical properties of materials. The NRC License No. 21-17630-01 authorizes the licensee to use several models of nuclear gauges for measuring physical properties of materials.

The inspector identified an apparent violation of the license involving unauthorized dismantling and non-routine repair of components related to the radiological safety of a gauge that had a broken shutter. The licensee stated that the root cause of the violation was the Radiation Safety Officer's (RSO) misunderstanding as to what dismantling and maintenance actions the licensee was allowed to perform.

As corrective action for the violation, the licensee committed to: (1) clarify procedures so that only authorized personnel dismantle or conduct non-routine repair of components related to the radiological safety of a gauge; and (2) provide training to all authorized gauge users on the requirement to only use persons specifically licensed by the NRC or an Agreement State for dismantling and non-routine maintenance or repair of components related to the radiological safety of the gauge.

Report Details

1 Program Scope and Inspection History

Escanaba Paper Company (licensee) located in Escanaba, Michigan, manufactured paper products and used cesium-137 in fixed gauges to measure the physical properties of materials. The NRC License No. 21-17630-01 authorizes the licensee to use several models of nuclear gauges for measuring physical properties of materials. The licensee had a total of 86 gauges, 18 were generally licensed in accordance with Title 10 of the Code of Regulations (CFR) Section 31.5.

The licensee was last inspected on October 10, 2007, which resulted in no findings. The previous inspection was performed on May 14, 2002, which resulted in no findings.

2 Broken Shutter Event

2.1 Inspection Scope

The inspector reviewed the circumstances of the broken gauge shutter Event No. 46832 that occurred on May 9, 2011, by reviewing the following: event report, the required 30 day response letter, the telephonic conversation record between the Radiation Safety Officer (RSO) and NRC inspectors, and interviewing the licensee personnel who responded to the event. The inspector had licensee staff perform a re-enactment of their actions in response to the event.

2.2 Observations and findings

In accordance with NRC regulatory requirements, on May 9, 2011, the licensee reported to the NRC Operations Center that the shutter handle on a Kay-Ray Model 7050 level gauge broke during performance of a shutter check. The licensee reported that the gauge was still in service, and no personnel radiation exposures occurred as a result of the event. The licensee contacted the gauge manufacturer for repair guidance. A manufacturer's representative indicated that the licensee could manipulate the shutter to move it into the closed position.

In accordance with with NRC regulatory requirements, the licensee submitted a written report of the event to the NRC dated June 7, 2011. Upon review of the licensee's 30-day response, inspectors contacted the licensee by phone to clarify information provided in the report. The RSO stated that two licensee employees removed the fixed gauge from installation, dismantled the back paneling, and manually closed the shutter with a rod. The RSO further explained that those actions were taken because the shutter handle was broken off and the shutter was stuck in the open position.

After working on the gauge, the licensee secured the gauge as required. The licensee waited for a licensed service provider to package and dispose of the gauge and to dismantle, package and remove two other Kay-Ray Model 7050 gauges for disposal.

The inspector informed the RSO that Condition 17.B of the licensee's NRC license states that the following services shall not be performed by the licensee: dismantling and non-routine maintenance or repair of components related to the radiological safety

of the gauge; and that these services shall be performed only by persons specifically licensed by the NRC or an Agreement State to perform such services.

In response, the RSO confirmed that, until he receives final notification regarding the NRC's findings, the licensee will not perform any similar repair or maintenance of any gauge shutter should one become stuck in the open position (due to the shutter handle breaking off).

During the inspection, the inspector asked the licensee to describe the event and each step performed. The licensee demonstrated the use of an 18-inch rod used to close the shutter on a box of similar size. The inspector observed a reenactment including measurement of the distance each licensee staff member was away from the source during each step of the process. The estimated maximum cumulative dose received by any licensee staff member was 0.06 mrem.

The inspector determined that two licensee employees removed the fixed gauge from installation, dismantled the back paneling, and manually closed the shutter with a rod. Condition 17.B of the licensee's NRC license states that the following services shall not be performed by the licensee: dismantling and non-routine maintenance or repair of components related to the radiological safety of the gauge; and that these services shall be performed only by persons specifically licensed by the NRC or an Agreement State to perform such services. The licensee's removal of the fixed gauge from installation, dismantlement of the back paneling, and manual closure of the shutter with a rod on May 9, 2011, is an apparent violation of Condition 17.B of the license.

The inspector concluded that the root cause of the apparent violation was the authorized user's failure to understand the conditions in their license. A contributing factor was the licensee received improper advice from a consultant.

As corrective action for the violation, the RSO committed to: (1) clarifying procedures so that non-approved personnel do not assist in performing this work, and (2) providing training to all authorized gauge users on the requirement to use persons specifically licensed by the NRC or an Agreement State dismantling and non-routine maintenance or repair of components related to the radiological safety of the gauge.

2.3 Conclusions

The inspector identified an apparent violation of the license involving unauthorized dismantling and non-routine repair of components related to the radiological safety of a gauge that had a broken shutter.

3 **Other Areas Inspected**

3.1 Inspection Scope

The inspector reviewed other areas of the licensee's radiation safety program including physical inventories, gauge disposals, leak tests, and shutter checks by reviewing the licensee's records.

3.2 Observations and Findings

Physical Inventories

Based on licensee records, the inspector determined that the licensee had completed physical inventory inspections at the required frequency. The last inventory was completed in January of 2011.

Shutter Checks

Based on licensee records, the inspector determined that the licensee conducted shutter checks as required. The inspector determined that all shutter checks were performed in a timely manner.

Leak Tests

Based on licensee records, the inspector determined that the licensee conducted leak tests as required. The inspector determined that the licensee performed the required leak tests at six month intervals. The last leak test was completed in December of 2010. The most recent set of leak tests results had not been returned from the testing facility.

Gauge Disposals

Based on licensee records several gauges were returned to the manufacturer for disposal after having been leak tested.

3.3 Conclusions

The inspector determined that the licensee implemented other areas of its radiation safety program as required. No violations of NRC regulatory requirements were identified.

4 Exit Meeting Summary

The NRC inspector presented the preliminary inspection findings during an onsite exit meeting with the Mill Manager and the RSO on June 28, 2011. The licensee did not identify any information reviewed during the inspection and proposed for inclusion in this report as proprietary in nature. After an in-office review of the inspection data, a final telephonic final exit meeting was conducted on August 2, 2011, with the RSO.

ATTACHMENT: SUPPLEMENTAL INFORMATION

SUPPLEMENTAL INFORMATION

PARTIAL LIST OF PERSONNEL CONTACTED

Jeff Thennes, Supervisor
* Darren Hendon, Radiation Safety Officer
Greg Maule, Mill Manager

* Attended the telephonic exit meeting on August 2, 2011

INSPECTION PROCEDURES USED

87124 Fixed and Portable Gauges

LIST OF ACRONYMS USED

ADAMS	Agencywide Document Access and Management System
CFR	Code of Federal Regulations
DNMS	Division of Nuclear Materials Safety
NRC	U.S. Nuclear Regulatory Commission
PEC	Predecisional Enforcement Conference
RSO	Radiation Safety Officer