



UNITED STATES

NUCLEAR REGULATORY COMMISSION

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

JUN 05 2012

Wes Guigar
Radiation Safety Officer
Saginaw Asphalt Paving, Co.
2981 Carrollton Rd.
Saginaw, MI 48604

Dear Mr. Guigar:

Enclosed is your NRC Material License No.21-32165-02 in accordance with your request.

Please review the enclosed document carefully and be sure that you understand all conditions. If there are any errors or questions, please notify the U.S. Nuclear Regulatory Commission, Region III office at (630) 829-9887 so that we can provide appropriate corrections and answers.

Please be advised that your license expires at the end of the day, in the month, and year stated in the license. Unless your license has been terminated, you must conduct your program involving byproduct materials in accordance with the conditions of your NRC license, representations made in your license application, and NRC regulations. In particular, note that you must:

1. Operate in accordance with NRC regulations 10 Code of Federal Regulations (CFR) Part 19, "Notices, Instructions and Reports to Workers; Inspections," 10 CFR Part 20, "Standards for Protection Against Radiation," and other applicable regulations.
2. Notify NRC, in writing, within 30 days:
 - a. When the Radiation Safety Officer permanently discontinues performance of duties under the license or has a name change; or
 - b. When the mailing address listed on the license changes.
3. In accordance with 10 CFR 30.36(d) and/or license condition, notify NRC, promptly, in writing, and request termination of the license:
 - a. When you decide to terminate all activities involving materials authorized under the license; or
 - b. If you decide not to complete the facility, acquire equipment, or possess and use authorized material.

4. Request and obtain a license amendment before you:
 - a. Order byproduct material in excess of the amount, or radionuclide, or form different than authorized on the license;
 - b. Add or change the areas of use or address or addresses of use identified in the license application or on the license; or
 - c. Change ownership of your organization.

You will be periodically inspected by NRC. Failure to conduct your program in accordance with NRC regulations, license conditions, and representations made in your license application and supplemental correspondence with NRC will result in enforcement action against you. This could include issuance of a notice of violation, or imposition of a civil penalty, or an order suspending, modifying or revoking your license as specified in the General Statement of Policy and Procedure for NRC Enforcement Actions. Since serious consequences to employees and the public can result from failure to comply with NRC requirements, prompt and vigorous enforcement action will be taken when dealing with licensees who do not achieve the necessary meticulous attention to detail and the high standard of compliance which NRC expects of its licensees.

Title 10 CFR 30.3 requires, in part, that no person shall possess or use byproduct material except as authorized by a specific or general license issued pursuant to Title 10, Chapter 1, Code of Federal Regulations. Contrary to 10 CFR 30.3, as of March 2, 2012, Saginaw Asphalt Paving, Co. (Applicant) possessed and used Radium-226 without a valid NRC license, and was not exempt from the requirements for a license. Specifically, the applicant did not submit an application for a specific NRC license to possess or use byproduct material, resulting in a Severity Level IV violation of 10 CFR 30.3.

Prior to the enactment of the Energy Policy Act of 2005 (EPAAct), on August 8, 2005, naturally occurring and accelerator-produced radioactive materials (NARM) were not covered under the Atomic Energy Act of 1954, and therefore, were not regulated by the NRC. On October 4, 2007, the NRC issued Regulatory Information Summary (RIS) 2007-22 informing recipients of the recent issuance of regulations concerning the new byproduct materials. The RIS notified recipients that the Commission would be terminating waivers in phases, beginning November 30, 2007, and ending August 7, 2009. After the waivers were terminated, any user who was in possession of NARM materials was required to apply for an NRC license. The violation was identified by the applicant who immediately applied for a specific license to achieve compliance.

The violation is being treated as a Non-Cited Violation (NCV), consistent with Section 2.3.2 of the Enforcement Policy. If you contest the violation or significance of the NCV, you should provide a response within 30 days of the date of this letter, with the basis for your denial, to the Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington DC 20555-0001, with copies to: (1) the Regional Administrator, Region III; and (2) the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

The NRC's Safety Culture Policy Statement became effective in June 2011. While a policy statement and not a regulation, it sets forth the agency's *expectations* for individuals and

organizations to establish and maintain a positive safety culture. You can access the policy statement and supporting material that may benefit your organization on NRC's safety culture Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/safety-culture.html>. We strongly encourage you to review this material and adapt it to your particular needs in order to develop and maintain a positive safety culture as you engage in NRC-regulated activities.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure 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 Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Sincerely,



Jennifer L. Bishop
Health Physicist
Materials Licensing Branch

License No. 21-32165-02
Docket No. 030-38530

Enclosures: 1. License No. 21-32165-02
2. New Portable Gauge License Package