



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
2100 RENAISSANCE BOULEVARD, SUITE 100
KING OF PRUSSIA, PENNSYLVANIA 19406-2713

September 10, 2013

Docket No. 03010925

License No. 07-01579-19

Charles G. Riordan
Vice Provost for Research
University of Delaware
Office of the Provost
101 Hullahen Hall
Newark, DE 19716-1001

SUBJECT: NRC INSPECTION REPORT NO. 03010925/2013001, UNIVERSITY OF DELAWARE, NEWARK, DELAWARE, AND NOTICE OF VIOLATION

Dear Mr. Riordan:

On July 15-17, 2013, Farrah Gaskins of this office conducted a safety inspection at the University of Delaware, Newark, Delaware and the Lewes, Delaware site of activities authorized by the above listed NRC license. The inspection was an examination of your licensed activities as they relate to radiation safety and to compliance with the Commission's regulations and the license conditions. The inspection consisted of observations by the inspector, interviews with personnel, and a selective examination of representative records. Additional information provided in the telephone conversation on August 21, 2013, between William Fendt of your organization and Ms. Gaskins of this office was also examined as part of the inspection. The findings of the inspection were discussed with William Fendt of your organization at the conclusion of the inspection.

Based on the results of this inspection and in accordance with the NRC Enforcement Policy, the NRC has determined that one Severity Level IV violation of NRC requirements occurred. The violation involved the failure to have the required certification and emergency contact on shipping papers when transporting packages to university laboratories on public highways.

The violation is cited in the enclosed Notice of Violation (Notice), because the violation was identified by the NRC.

During our telephone conversation and inspection exit meeting on August 21, 2013, Mr. Fendt indicated that corrective actions have been initiated and the shipping paper with the correct information which includes the licensee's certification and the emergency contact information will be included with any packages requiring the use of shipping papers.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure(s), 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 and guidance are included on the NRC's website at www.nrc.gov; select **Nuclear Materials; Med, Ind, & Academic Uses**; then **Regulations, Guidance and Communications**. The current Enforcement Policy is included on the NRC's website at www.nrc.gov; select **About NRC, Organizations & Functions; Office of Enforcement; Enforcement documents**; then **Enforcement Policy (Under 'Related Information')**. 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 8:00 a.m. to 5:30 p.m. EST, Monday through Friday (except Federal holidays).

Please contact Farrah Gaskins at (610) 337-5143 if you have any questions regarding this matter.

Sincerely,

Original Signed By Judith A. Joustra

Judith A. Joustra, Chief
Commercial and R&D Branch
Division of Nuclear Materials Safety

cc: W. Fendt, Radiation Safety Officer
State of Delaware

Current NRC regulations and guidance are included on the NRC's website at www.nrc.gov; select **Nuclear Materials; Med, Ind, & Academic Uses**; then **Regulations, Guidance and Communications**. The current Enforcement Policy is included on the NRC's website at www.nrc.gov; select **About NRC, Organizations & Functions; Office of Enforcement; Enforcement documents**; then **Enforcement Policy (Under 'Related Information')**. 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 8:00 a.m. to 5:30 p.m. EST, Monday through Friday (except Federal holidays).

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Judith A. Joustra, Chief
Commercial and R&D Branch
Division of Nuclear Materials Safety

cc: W. Fendt, Radiation Safety Officer
State of Delaware

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SUNSI Review Complete: Gaskins

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NAME	FGaskins/fcg		JJoustra/jaj			
DATE	09/10/13		09/10/13			

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NOTICE OF VIOLATION

University of Delaware
Newark, DE

Docket No. 03010925
License No. 07-01579-19

During an NRC inspection conducted on July 15-17, 2013 and August 21, 2013, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 71.5(a) requires that each licensee that transports licensed material outside the site of usage, as specified in the NRC license, or where transport is on public highways, or delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the DOT regulations in 49 CFR parts 107, 171 through 180, and 390 through 397, appropriate to the mode of transport.

49 CFR 177.817(a) requires, in part, a person may not accept a hazardous material for transportation or transport a hazardous material by highway unless that person has received a shipping paper prepared in accordance with part 172 of this subchapter or the material is excepted from shipping paper requirements under this subchapter.

49 CFR Part 172.204(d)(1) requires, in part, that the certifications required by 49 CFR 172.204(a) must be legibly signed by a principal, officer, partner, or employee of the shipper or his agent.

49 CFR Part 172.201(d) requires, in part, that a person who offers a hazardous material for transportation must provide an emergency response telephone number, including the area code, for use in an emergency involving the hazardous material.

Contrary to the above, as of July 15, 2013, the licensee transported hazardous materials requiring shipping papers on public highways without the required written, signed shipper's certifications or the required emergency contact information on the shipping paper. Specifically, the licensee delivered packages to authorized users on public highways using the original radioisotope vendor's shipping paper and did not provide the required certification or the emergency contact telephone number specific to the licensee. Between February 2011 and July 2013, less than 1% of the total packages delivered to campus required the shipping papers with the appropriate certifications and emergency contact information.

This is a Severity Level IV violation (Enforcement Policy Section 6.8).

Pursuant to the provisions of 10 CFR 2.201, University of Delaware is hereby required to submit a written statement or explanation 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). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full

compliance will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

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 of receipt.

Dated This 10 day of September 2013