



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION III
2443 WARRENVILLE RD. SUITE 210
LISLE, IL 60532-4352

September 11, 2014

EA-14-146

Mr. Joseph Michalsky, Director of Engineering
Jackson County Road Commission
2400 Elm Road
Jackson, MI 49201

**SUBJECT: NRC SPECIAL INSPECTION REPORT NO. 03037787/2014002(DNMS) AND
NOTICE OF VIOLATION – JACKSON COUNTY ROAD COMMISSION**

Dear Mr. Michalsky:

On July 29, 2014, an inspector from the U.S. Nuclear Regulatory Commission (NRC) conducted a special inspection at your facility in Jackson, Michigan, with continued in-office review through August 27, 2014. The purpose of the inspection was to review the circumstances surrounding your request, dated June 27, 2014, to name a new Radiation Safety Officer (RSO). The in-office review included additional interviews with your staff and a review of training documentation not available during the onsite inspection. Mr. Craffey of my staff conducted a final exit meeting with Mr. Valdez of your staff by telephone on September 4, 2014, to discuss the inspection findings.

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

Based on the results of this inspection, the NRC has determined that two violations of NRC requirements occurred. The first violation concerned the licensee's failure to ensure that licensed material was used by, or under the supervision and in the physical presence of, individuals who had received adequate training, as required by Condition 11 of NRC License No. 21-32704-01. The second violation concerned the licensee's failure to appoint a qualified individual to fulfill the duties and responsibilities of an RSO under Condition 12 of NRC License No. 21-32704-01.

The violations were evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The Policy normally characterizes both the conduct of licensed activities by unqualified individuals and the appointment of an unqualified individual as RSO as Severity Level III violations, and thus considers them for escalated enforcement action. However, the Region considered the completed training and apparent knowledge of both gauge users, the absence of actual safety or security consequences, and the short duration of the proposed RSO's tenure as sufficient mitigating factors to characterize both violations at a Severity Level IV. Therefore, the violations are cited in the enclosed Notice of Violation (Notice). The violations are being cited because they were identified by the NRC.

The inspector determined that the root cause of both violations was a lack of understanding of NRC training requirements. Because the violations share a common root cause, the NRC is characterizing these violations as one Severity Level IV problem. As corrective action to restore compliance, you requested that the license be placed in standby pending the proposed RSO's completion of the required training. The proposed RSO completed the required training on August 25, 2014, and had it certified by a listed RSO two days later. As corrective action to address recurrence, you and your proposed RSO registered for a 40-hour offsite RSO training course to be held in October 2014.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be useful in preparing your response. You can find the Information Notice on the NRC's website at: <http://www.nrc.gov/reading-rm/doc-collections/gen-comm/info-notices/1996/in96028.html>. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with 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, will be made available electronically for public inspection in the NRC's Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC's 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 publicly available without redaction.

Please feel free to contact Ryan Craffey of my staff if you have any questions regarding this inspection. Mr. Craffey can be reached at 630-829-9655.

Sincerely,

/RA/

Aaron T. McCraw, Chief
Materials Inspection Branch
Division of Nuclear Materials Safety

Docket No. 030-37787
License No. 24-32704-01

Enclosure:
Notice of Violation

The inspector determined that the root cause of both violations was a lack of understanding of NRC training requirements. Because the violations share a common root cause, the NRC is characterizing these violations as one Severity Level IV problem. As corrective action to restore compliance, you requested that the license be placed in standby pending the proposed RSO's completion of the required training. The proposed RSO completed the required training on August 25, 2014, and had it certified by a listed RSO two days later. As corrective action to address recurrence, you and your proposed RSO registered for a 40-hour offsite RSO training course to be held in October 2014.

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/RA/

Aaron T. McCraw, Chief
Materials Inspection Branch
Division of Nuclear Materials Safety

Docket No. 030-37787
License No. 24-32704-01

Enclosure:
Notice of Violation

cc w/encl: Daniel Valdez, Surveyor/Engineering Specialist
State of Michigan

DISTRIBUTION:
See next page

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Letter to Joseph Michalsky from Aaron T. McCraw dated September 11, 2014

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NOTICE OF VIOLATION

Jackson County Road Commission
Jackson, Michigan

License No. 24-32704-01
Docket No. 030-37787
EA-14-146

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on July 29, 2014, with continued in-office review through August 27, 2014, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. Condition 11 of NRC License No. 21-32704-01 states that licensed material shall only be used by, or under the supervision and in the physical presence of, individuals who have received the training described in application dated May 5, 2008.

Item 8 of the application dated May 5, 2008, states that before using licensed materials, authorized users will have successfully completed one of the training courses described in Criteria in the section entitled "Training for Individuals Working In or Frequenting Restricted Areas" in NUREG-1556 Vol. 1, Rev. 1, dated November 2001.

The Criteria of Section 8.8 of NUREG-1556 Vol. 1, Rev. 1, dated November 2001, describes two courses: a portable gauge manufacturer's course for users; or an equivalent course that meets Appendix D criteria.

Contrary to the above, between July 17, 2008, and July 18, 2014, the licensee failed to ensure that licensed material was used by, or under the supervision and in the physical presence of, individuals who had received the training described in the application dated May 5, 2008. Specifically, the licensee allowed two individuals to use licensed material without supervision at various temporary job sites in Jackson County, Michigan, and the individuals had not completed either a portable gauge manufacturer's course for users, or an equivalent course that meets Appendix D criteria.

- B. Condition 12 of NRC License No. 21-32704-01, Amendment No. 1, authorized a specifically named individual to fulfill the duties and responsibilities of the Radiation Safety Officer (RSO) for the license.

Contrary to the above, from June 26, 2014, to July 30, 2014, the named individual, specifically authorized by Condition 12 of the license to fulfill the duties and responsibilities as RSO, was no longer employed by the licensee and did not fulfill the duties and responsibilities of the RSO. Specifically, the individual listed as RSO had been fired by the company on June 26, 2014, and the individual whom the licensee had appointed to replace him as RSO was not qualified to fulfill the duties and responsibilities, because his gauge user training did not meet the requirements of Condition 11 of the license.

This is a Severity Level IV problem (Section 6.3)

Pursuant to the provisions of CFR 2.201, Jackson County Road Commission is hereby required to submit a written statement or explanation 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). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include: (1) the reason for the violations, or, if contested, the basis for disputing the violations or their severity level, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken, and (4) the date when full compliance was or will be achieved. Your response may reference or include previously 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.

Your response will be made available electronically for public inspection in the NRC's Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC's 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 publicly available without redaction.

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.

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

Dated this 11th day of September 2014.