



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

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

January 13, 2015

EA-14-173

Mr. Terry Wilkins, President
Mid American Inspection Services, Inc.
1206 Effie Road
Gaylord, MI 49734

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 03031160/2014001(DNMS) AND
NOTICE OF VIOLATION – MID AMERICAN INSPECTION SERVICES, INC.

Dear Mr. Wilkins:

On October 16, 2014, an inspector from the U.S. Nuclear Regulatory Commission (NRC) conducted a routine inspection at your facility in Gaylord, Michigan, and at a temporary job site in Thompsonville, Michigan, with continued in-office review through December 17, 2014. The purpose of the inspection was to review activities performed under your NRC license to ensure that activities were being performed in accordance with NRC requirements. The results of the inspection are presented in this letter and in the enclosed non-public Inspection Report (Enclosure 3).

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 procedures and representative records, observations of activities, and interviews with personnel.

Based on the results of this inspection, apparent violations of NRC requirements were identified and are being considered for escalated enforcement action 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 apparent violations are of a security-related nature; details are available in Enclosure 3 (non-public). Immediate corrective actions for the violations have since been taken to restore compliance with NRC requirements.

Enclosures 2 and 3 contain Sensitive
Unclassified Non-Safeguards Information.
When separated from Enclosures 2 and 3, this
transmittal letter and Enclosure 1 are is
decontrolled.

T. Wilkins

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Because the NRC has not made a final determination in this matter, the NRC is not issuing a Notice of Violation for these inspection findings at this time. Mr. Ryan Craffey of my staff discussed the circumstances surrounding these apparent violations, the significance of the issues, and the need for lasting and effective corrective action with you at the inspection exit meeting on December 22, 2014.

Before the NRC makes its enforcement decision, we are providing you an opportunity to either: (1) respond in writing to the apparent violations addressed in this inspection report within 30 days of the date of this letter; or (2) request a Predecisional Enforcement Conference (PEC). **Please contact Aaron McCraw at 630-829-9650 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 "Response to the Apparent Violations in Inspection Report No. 03031160/2014001(DNMS); EA-14-173," and should include, for the apparent violations: (1) the reason for the apparent violations, or, if contested, the basis for disputing the apparent violations; (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 was or will be achieved. 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 violations. 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>. 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 agency will proceed with its enforcement decision or will schedule a PEC.

If you choose to request a PEC, the conference will afford you the opportunity to provide your perspective on the apparent violations 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. If a PEC is held, the NRC will issue a press release to announce the time and date of the conference; however, the conference will be closed to public observation because security-related information will be discussed.

As your facility has not been the subject of escalated enforcement action within the last two years or two inspections, a civil penalty may not be warranted in accordance with Section 2.3.4 of the Enforcement Policy. In addition, based upon NRC's understanding of the facts and your corrective actions, it may not be necessary to conduct a PEC in order to enable the NRC to make a final enforcement decision. Our final decision will be based on your confirming on the license docket that the corrective actions previously described to the inspector have been or are being taken.

T. Wilkins

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Please be advised that the number and characterization of the apparent violations described in the enclosed inspection report 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.

In addition to the apparent violations, the NRC has also determined that Severity Level IV violations of NRC requirements occurred. The violations were also evaluated in accordance with the NRC Enforcement Policy. One violation concerned the failure to comply with the applicable requirements of the U.S. Department of Transportation (DOT) regulations in Title 49 of the *Code of Federal Regulations* (CFR) Part 172.704(c)(2) for recurrent training, as required by 10 CFR 71.5(a). The inspector determined that the root cause of the violation was a lack of understanding of NRC and DOT requirements. As corrective action, the licensee developed revised hazardous materials transportation training, and committed to providing this training to all hazmat employees in a timely fashion and at the required intervals thereafter. The violation is cited in the enclosed publicly available Notice of Violation (Notice)(Enclosure 1). The NRC is citing the violation in the Notice because the inspector identified the violation.

The other Severity Level IV violations are of a security-related nature; details are available in Enclosure 3 (non-public). The licensee took immediate corrective actions to restore compliance with NRC requirements. The violations are cited in the enclosed non-public Notice of Violation (Enclosure 2). The NRC is citing the violations in the non-public Notice because the inspector identified the violations.

You are required to respond to this letter regarding the Severity Level IV violations and should follow the instructions specified in the enclosed Notices when preparing your response. The guidance in 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.

During this inspection, the NRC also evaluated the implementation of corrective actions for two violations of U.S. DOT requirements cited previously in IR 03031160/2013001(DNMS). The inspector found that corrective actions had been taken as stated in the report, and that the violations were non-recurring. Therefore, the NRC considers these violations closed.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and Enclosure 1, as well as your response to the public Notice, 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>.

Enclosures 2 and 3 contain security-related information and their disclosure to unauthorized individuals could present a security vulnerability; therefore, Enclosures 2, 3 and your response to the non-public Notice will not be made available electronically for public inspection. Please mark the top of each page of your response to the non-public Notice with "Security-Related Information – Withhold Under 10 CFR 2.390." To the extent possible, your response to both Notices should not include any personal privacy, proprietary, or safeguards information.

T. Wilkins

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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 by Julio F. Lara acting
for/***

Patrick L. Loudon, Director
Division of Nuclear Materials Safety

Docket No. 030-31160
License No. 21-26060-01

Enclosures:

1. Notice of Violation (publicly available)
2. Notice of Violation (non-public)
3. Inspection Report No. 03031160/2014001(DNMS) (non-public)

cc w/o encls 2 & 3: State of Michigan

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T. Wilkins

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Sincerely,

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Patrick L. Loudon, Director
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cc w/o encls 2 & 3: State of Michigan

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Letter to Terry Wilkins from Patrick L. Loudon, dated January 13, 2015.

SUBJECT: NRC INSPECTION REPORT NO. 03031160/2014001(DNMS) – MID
AMERICAN INSPECTION SERVICES, INC.

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NOTICE OF VIOLATION

Mid American Inspection Services, Inc.
Gaylord, Michigan

License No. 21-26060-01
Docket No. 030-31160

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on October 16, 2014, one violation of NRC safety requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 of the *Code of Federal Regulations* (CFR) Part 71.5(a) requires that each licensee who transports licensed material outside the site of usage, as specified in the NRC license, or where transport is on public highways, or who 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.

Title 49 CFR 172.702 requires that each hazmat employer shall ensure that each hazmat employee is trained and tested, and that no hazmat employee performs any function subject to the requirements of 49 CFR Parts 171-177 unless trained, in accordance with Subpart H of 49 CFR Part 172. The terms Hazmat Employer and Hazmat Employee are defined in 49 CFR 171.8.

Title 49 CFR 172.704(a) specifies the elements of hazmat employee training as: (1) general awareness/familiarization training, (2) function-specific training, (3) safety training; (4) security awareness training; and (5) in-depth security training, if applicable. Title 49 CFR 172.704(c) requires, in part, that a hazmat employee receive initial training and recurrent training at least once every three years.

Contrary to the above, as of October 16, 2014, the licensee did not provide training for its hazmat employees which satisfied the requirements in Subpart H to 49 CFR Part 172, in that it did not provide recurrent training, and the licensee otherwise meets the definition of hazmat employer in 49 CFR 171.8. Specifically, seven of the licensee's thirteen hazmat employees had not been provided recurrent hazmat training in the last three years. The most recently trained individual of the seven last received recurrent hazmat training on March 19, 2010, which expired on March 19, 2013.

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

Pursuant to the provisions of CFR 2.201, Mid American Inspection Services, Inc. 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 violation, or, if contested, the basis for disputing the violation or its 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 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

Enclosure 1

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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, the 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 13th day of January, 2015.