



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

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

November 14, 2016

EA-16-154

Mr. Robert Rouse
Radiation Safety Officer
CQM, Inc.
2679 Continental Drive
Green Bay, WI 54311-6627

SUBJECT: NOTICE OF VIOLATION – CQM, INC.; NRC ROUTINE INSPECTION REPORT
NO. 03033465/2016002(DNMS)

Dear Mr. Rouse:

This letter refers to the U.S. Nuclear Regulatory Commission (NRC) inspection conducted on July 15, 2016, at a temporary jobsite in Monticello, Indiana, with continued in-office review through August 23, 2016. 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. During the inspection, an apparent violation of NRC requirements was identified. The circumstances surrounding this apparent violation, the significance of the issue, and the need for lasting and effective corrective action were discussed with you and a member of your staff on August 23, 2016. Details regarding the apparent violation were provided in NRC Inspection Report No. 03033465/2016002(DNMS), dated September 19, 2016. The inspection report can be found in the NRC's Agencywide Documents Access and Management System (ADAMS) at Accession Number ML16263A391. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violation identified in the report by providing a written response or requesting a predecisional enforcement conference. You provided a written response to the apparent violation in a letter dated October 17, 2016.

Based on the information developed during the inspection, as well as the information you provided in your response dated October 17, 2016, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the subject inspection report. The violation involved failure to use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance, as required by Title 10 of the *Code of Federal Regulations* (CFR) 30.34(i). Specifically, your staff only used one independent physical control, a single padlocked hasp on a portable gauge case with the gauge inside, and did not provide control and constant surveillance at all times in this configuration.

The root cause of the violation was licensee oversight. Specifically, you did not realize that the transportation case containing the portable gauge had only one physical barrier to prevent removal of the gauge from the case in the open bed truck. The failure to use two independent physical barriers to properly secure the gauge when stored in its case is of significance to the NRC because of the potential for unauthorized individuals to gain control of the radioactive material, which could result in an unintended exposure to a member of the public. Therefore, this violation has been categorized, in accordance with the NRC Enforcement Policy, at Severity Level III. In accordance with the Enforcement Policy, a base civil penalty in the amount of \$7,000 is considered for a Severity Level III violation.

Because your facility has not been the subject of escalated enforcement actions within the last two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. The NRC determined that credit was warranted for *Corrective Action*. Specifically, as part of immediate corrective actions, the NRC inspector observed the authorized user wrapping and locking another cable through the top case handle and around the width of the case. You committed to using the new cable, in addition to the aforementioned padlock, as a means to correct for the deficiency in the original setup and a means to comply with 10 CFR 30.34(i). In addition, you issued a memorandum to authorized gauge users on July 15, 2016, highlighting the deficiencies and a detailed memorandum on July 18, 2016, explaining that the gauge case must be locked such that two locked barriers prevent unauthorized removal of the gauge from the case, and the case containing the gauge must be locked such that two locked barriers prevent unauthorized removal of the case with the gauge in it. The memo also discussed the importance of maintaining constant control and surveillance of the gauge. Regarding your long-term corrective actions, you committed to annual 10 CFR 30.34 (i) training, beginning in February 2017 that will contain details on how to secure portable gauges. Finally, you purchased four chests for placement in open bed vehicles, providing two tangible barriers for the chest to be removed from the truck and two tangible barriers before the chest itself can be opened.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III violation constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding: (1) the reason for the violation; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in the inspection report, your written response dated October 17, 2016, and this letter. Therefore, you are not required to respond to the Notice enclosed with this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

R. Rouse

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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 made available electronically for public inspection in the NRC Public Document Room and in ADAMS. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

Sincerely,

/RA/

Cynthia D. Pederson
Regional Administrator

Docket No. 030-33465
License No. 48-26564-01

Enclosure:
Notice of Violation

cc w/encl: State of Indiana

NOTICE OF VIOLATION

CQM, Inc.
Green Bay, WI

License No. 48-26564-01
Docket No. 030-33465
EA-16-154

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on July 15, 2016, at a temporary jobsite in Monticello, Indiana, with continued in-office review through August 23, 2016, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 of the *Code of Federal Regulations* (CFR) 30.34(i) states that each portable gauge licensee shall use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

Contrary to the above, on several occasions, including July 14 and 15, 2016, the licensee failed to use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee. Specifically, the licensee only used one independent physical control, a single padlocked hasp on a portable gauge case with the gauge inside and did not provide control and constant surveillance at all times in this configuration.

This is a Severity Level III violation (Section 6.3).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 03033465/2016002(DNMS), in your letter dated October 17, 2016, and in this letter transmitting this Notice of Violation (Notice). However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-16-154" and send it 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.

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.

If you choose to respond, 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>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

Enclosure

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

Dated this 14th day of November 2016.

Letter to Mr. Robert Rouse from Ms. Cynthia D. Pederson dated November 14, 2016

SUBJECT: NOTICE OF VIOLATION – CQM, INC.; NRC ROUTINE INSPECTION REPORT NO. 03033465/2016002(DNMS)

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¹ OE Concurrence received by email from K. Norman on November 09, 2016