



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

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

December 15, 2016

EA-16-179  
NMED No. 160270 (Closed)

Mr. Tim Howell  
Vice President of Operations  
Romeo RIM, Inc.  
74000 Van Dyke Avenue  
Romeo, MI 48065

SUBJECT: NOTICE OF VIOLATION - ROMEO RIM, INC.; NRC SPECIAL INSPECTION  
REPORT NO. 99990003/2016003 (DNMS)

Dear Mr. Howell:

This refers to the U.S. Nuclear Regulatory Commission (NRC) inspection conducted on July 12, 2016, at your Romeo, Michigan facility, with continued in-office review through September 9, 2016. The purpose of the inspection was to review the circumstances surrounding the improper transfer of a fixed gauge containing radioactive material. During this inspection, apparent violations of NRC requirements were identified. The significance of the issue and the need for lasting and effective corrective actions were discussed with you and Wade Spurlin, Environmental and Quality Director, during the telephonic exit meeting on September 9, 2016. Details regarding the apparent violations were provided in NRC Inspection Report No. 99990003/2016003 (DNMS), dated September 26, 2016. A copy of the inspection report can be found 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> under accession number ML16271A052.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violations identified in the report by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In an e-mail, dated October 11, 2016, Mr. Spurlin provided a response to the apparent violations indicating the information in our inspection report concerning corrective actions was accurate.

Based on the information developed during the inspection and the information that you provided in your response to the inspection report, dated October 11, 2016, the NRC has determined that violations of NRC requirements occurred. These violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in detail in the subject inspection report. The violations involved the failure to: (1) transfer or dispose of a generally licensed device containing byproduct material in a manner authorized by Title 10 of the *Code of Federal Regulations* (CFR) 31.5(c)(8)(i); (2) test the device for leakage of radioactive material and proper operation of the on-off mechanism at the intervals required by 10 CFR 31.5(c)(2); (3) appoint an individual responsible for having knowledge of the appropriate regulations and requirements and the authority for taking required actions to comply with appropriate regulations

and requirements, as required by 10 CFR 31.5(c)(12); and (4) register the device with the NRC, as required by 10 CFR 31.5(c)(13)(i). Specifically, due to the loss of institutional knowledge involving the unregistered fixed gauge containing radioactive material, the gauge was unknowingly disposed of as scrap during the decommissioning of a manufacturing work center. The gauge was not tested as required for leakage or proper operation of the on-off mechanism. Following retirement of the last known responsible individual, a new individual was not appointed to the position.

Once your facility was notified by the State of Indiana that the gauge was located at a metal scrap yard, you contracted with a licensed gauge service vendor who performed leak and shutter tests of the device and retrieved it from the scrapyards for ultimate disposal at a waste facility. You also reviewed the circumstances surrounding the removal of the gauge and determined that these activities did not pose a radiological threat to members of the public because there was a low probability that workers would have been exposed to radiation levels in excess of public dose limits. Finally, you determined that while the gauge was in transit to the metal scrap yard, it did not pose a radiological threat to members of the public because the device travelled through remote areas and was transferred between modes of transit using heavy machinery rather than by direct handling.

The failure to maintain control of the fixed gauge program is a significant safety concern because members of the public could have received an unintended exposure to radiation. Therefore, these violations are categorized collectively in accordance with the NRC Enforcement Policy as a Severity Level III problem.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$7,000 is considered for a Severity Level III problem.

Because your facility has not been the subject of escalated enforcement actions within the last 2 years, 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 *Corrective Action* credit was warranted due to the following implemented corrective actions: (1) appointed an individual to be responsible for investigating the loss of control of the gauge and for arranging for its final disposal; (2) contracted with a vendor to perform the shutter check, leak test and dispose of the gauge; (3) contacted the gauge vendor to verify that no other gauges had been purchased by the licensee; (4) performed a site inspection of all process equipment to verify no additional NRC regulated materials were possessed by the facility; and (5) developed an equipment disposition checklist to ensure that equipment planned for decommissioning and disposal was reviewed by a properly trained individual prior to removal from the site.

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.

The NRC has concluded that information regarding: (1) the reason for the violations; (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 NRC Inspection Report No. 99990003/2016003 (DNMS), dated September 26, 2016, and in Mr. Spurlin's e-mail,

T. Howell

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dated October 11, 2016. Therefore, you are not required to respond to 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.

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 any, will be made available electronically for public inspection in the NRC Public Document Room and in ADAMS. 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. 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. 99990003  
General License under 10 CFR 31.5

Enclosure:  
Notice of Violation

## NOTICE OF VIOLATION

Romeo RIM  
Romeo, Michigan

Docket No. 99990003  
General License under 10 CFR 31.5  
EA-16-179

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on July 12, 2016, with continued in-office review through September 9, 2016, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. Title 10 *Code of Federal Regulations* (CFR) 31.5(c)(8)(i) requires, in part, that any person who acquires, receives, possesses, uses or transfers byproduct material in a device pursuant to a general license shall, except as provided in 10 CFR 31.5(c)(9), transfer or dispose of the device containing byproduct material only by transfer to persons authorized by a specific license pursuant to 10 CFR Parts 30 and 32 or an Agreement State to receive the device.

Contrary to the above, on May 24, 2016, Romeo RIM transferred a generally licensed fixed gauge containing cesium-137 to companies who were not authorized by a specific license pursuant to 10 CFR Parts 30 and 32 or an Agreement State to receive the device, and the exception in 10 CFR 31.5(c)(9) did not apply. Specifically, the device was transferred to Sims Metal Management who partially disassembled the process equipment and then transferred the gauge and disassembled process equipment to Steel Dynamics. Neither company was licensed to receive the gauge.

- B. Title 10 CFR 31.5(c)(2) requires, with the exception of the devices listed in 10 CFR 31.5(c)(2)(i) and (ii), that any person who acquires, receives, possesses, uses or transfers byproduct material in a device pursuant to a general license shall assure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than six month intervals or at such other intervals as are specified in the label. The information in the label specified a leak test frequency of 36 months.

Contrary to the above, between June 1998, and July 8, 2016, an interval greater than 36 months, Romeo RIM failed to test a generally licensed fixed gauge containing cesium-137, which is not subject to the exemptions specified in 10 CFR 31.5(c)(2)(i) and (ii), for leakage of radioactive material and proper operation of the on-off mechanism.

- C. Title 10 CFR 31.5(c)(12) requires, in part, that any person who acquires, receives, possesses, uses or transfers byproduct material in a device pursuant to a general license shall appoint an individual responsible for having knowledge of the appropriate regulations and requirements and the authority for taking required actions to comply with appropriate regulations and requirements.

Contrary to the above, between February 16, 2001, and May 24, 2016, Romeo RIM possessed a generally licensed fixed gauge containing cesium-137, but failed to appoint an individual responsible for having knowledge of the appropriate regulations and requirements and the authority for taking required actions to comply with appropriate regulations and requirements. Specifically, the last known responsible individual retired

Enclosure

in 1991, and the licensee did not appoint another such individual until June 23, 2016. The effective date of this requirement was February 16, 2001.

- D. Title 10 CFR 31.5(c)(13)(i) requires, in part, that any person who acquires, receives, possesses, uses or transfers byproduct material in a device pursuant to a general license shall register, in accordance with 10 CFR 31.5(c)(13)(ii) and (iii), devices containing at least 370 megabecquerels (10 millicuries) of cesium-137.

Contrary to the above, between February 16, 2001, and May 24, 2016, Romeo RIM possessed a generally licensed Texas Nuclear, Model 5202 fixed gauge containing more than 370 megabecquerels (10 millicuries) of cesium-137, but failed to register the device in accordance with 10 CFR 31.5(c)(13)(ii) and (iii). The effective date of this requirement was February 16, 2001.

This is a Severity Level III problem (Section 6.7).

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 99990003/2016003 (DNMS), dated September 26, 2016, and in Mr. Spurlin's e-mail, dated October 11, 2016. 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-16-179" 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, 2443 Warrenville Road, Suite 210, Lisle, IL 60532 within 30 days of the date of the letter transmitting this Notice of Violation.

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, United States 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 Public Document Room or in 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>. 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.

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

Dated this 15th day of December 2016

Letter to Tim Howell from Cynthia D. Pederson dated December 15, 2016

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REPORT NO. 99990003/2016003 (DNMS)

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<sup>1</sup> OE Concurrence received by email from K. Norman on December 6, 2016