



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

REGION III  
2443 WARRENVILLE ROAD, SUITE 210  
LISLE, ILLINOIS 60532-4352

May 16, 2018

Mr. Kenneth Ballard  
Soils Supervisor and Radiation Safety Officer  
Road Commission for Oakland County  
R.C.O.C.  
2420 Pontiac Lake Road  
Waterford, MI 48328

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 03009514/2018001(DNMS) AND  
NOTICE OF VIOLATION – ROAD COMMISSION FOR OAKLAND COUNTY

Dear Mr. Ballard:

On April 17, 2018, an inspector from the U.S. Nuclear Regulatory Commission (NRC) conducted a routine inspection at your Waterford, Michigan facility and at a temporary jobsite in West Bloomfield, Michigan. 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. Mr. Robert Gattone of my staff conducted a final exit meeting by telephone with you on April 26, 2018, to discuss the final 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 procedures and representative records, observations of activities, and interviews with personnel.

Based on the results of this inspection, the NRC has determined that three Severity Level IV violations of NRC requirements occurred. 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 violations concerned the licensee's failure to: (1) affix Yellow II labels on a portable gauge case that was used to transport the gauges on public highways, as required by Title 10 of the *Code of Federal Regulations* (CFR) Part 71.5 and 49 CFR 172.403(b); (2) include the correct identification number prescribed for the material as shown in Column (4) of the 49 CFR 172.101 table on a shipping paper, as required by 10 CFR Part 71.5 and 49 CFR 172.202(a)(1); and (3) have the transport index on shipping papers assigned to each package in the shipment requiring RADIOACTIVE YELLOW-II labels, as required by 10 CFR 71.5 and 49 CFR 172.203(d)(5). The violations are cited in the enclosed Notice of Violation (Notice). The NRC is citing the violations in the enclosed Notice because the inspector identified violations.

The inspector determined that the root cause of the first violation was that you did not notice that the gauge case did not have Yellow-II labels and there were no Yellow-II labels in stock. As corrective actions to restore compliance and to prevent recurrence, you committed to obtain extra Yellow-II labels so that when Yellow II labels become worn the licensee will have enough labels to replace the worn out labels. The inspector determined that the root cause of the

second violation was that you were unaware that the applicable identification number was changed from “UN2974” to “UN3332” years ago. As corrective action, you revised the shipping papers to include “UN3332” instead of “UN2974” during the onsite inspection. The inspector determined that the root cause of the third violation was oversight. As corrective action, you added the transport index to the shipping papers during the onsite inspection.

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 will be achieved is already adequately addressed on the docket in this letter. Therefore, you are not required to respond to this letter unless the description herein 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 you choose to provide one, 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 Mr. Gattone if you have any questions regarding this inspection. Mr. Gattone can be reached at 630-829-9823.

Sincerely,

***/RA John Giessner Acting for/***

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

Docket No. 030-09514  
License No. 21-15646-01

Enclosure: Notice of Violation

cc w/encl: State of Michigan

Letter to Kenneth Ballard from Aaron T. McCraw, dated May 16, 2018

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 03009514/2018001(DNMS) AND  
NOTICE OF VIOLATION – ROAD COMMISSION FOR OAKLAND COUNTY

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OFFICE	RIII-DNMS	E	RIII-DNMS	E		
NAME	RGatton:ps Aaron McCraw for		AMcCraw John Giessner for			
DATE	5/16/2018		5/16/2018			

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## NOTICE OF VIOLATION

Road Commission for Oakland County  
Waterford, Michigan

License No. 21-15646-01  
Docket No. 030-09514

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on April 17, 2018, three violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

Title 10 of the *Code of Federal Regulations* (CFR) 71.5(a) requires that a licensee who transports licensed material outside of 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, comply with the applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation (DOT) in 49 CFR Parts 107, 171-180, and 390-397.

1. Title 49 CFR 172.403(b) requires that the label to be affixed to a package is based on the radiation level at the surface of the package and the transport index. The label to be applied must be the highest category required for either of the two determining conditions of the package. Title 49 CFR 172.403(c) defines the categories of labels to be applied to radioactive materials packages and requires, in part, that: (1) packages with surface radiation levels of less than or equal to 0.005 millisievert (mSv) per hour (0.5 millirem (mrem) per hour) be labeled "White-I," (2) packages with surface radiation levels greater than 0.005 mSv/h (0.5 mrem/h) but less than or equal to 0.5 mSv/h (50 mrem/h) be labeled "Yellow-II," and (3) packages with surface radiation levels greater than 0.5 mSv/h (50 mrem/h) be labeled "Yellow-III."

Contrary to the above, on April 11 and 17, 2018, the licensee transported, on public highway, a Troxler Model 3440 portable gauge containing 8 millicuries (mCi) of cesium-137 (Cs-137) and 40 mCi of americium-241 (Am-241) in a package that had surface radiation levels greater than 0.005 mSv/h but less than or equal to 0.5 mSv/h and there were no Yellow-II labels on the package.

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

2. Title 49 CFR 172.202(a) and (b) require in part, with exceptions not applicable here, that the shipping description of a hazardous material on the shipping paper include, in the following sequence: (1) the proper shipping name prescribed for the material in 172.101, (2) the hazard class prescribed for the material as shown in Column 3 of the 172.101 Table, and (3) the identification number prescribed for the material as shown in Column 4 of the 172.101 Table. Pursuant to 49 CFR 172.101, radioactive material is classified as hazardous material.

Contrary to the above, on several occasions including April 17, 2018, the licensee transported, on public highway, a Troxler Model 3440 portable gauge containing 8 mCi of Cs-137 and 40 mCi of Am-241, and the shipping description on the shipping papers that accompanied the shipment did not include the identification number prescribed for the material as shown in Column 4 of the 172.101 Table.

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

Enclosure

3. Title 49 CFR 172.203(d) requires, in part, that the description for a shipment of radioactive material include: (1) the name or abbreviation (e.g., Mo-99) of each radionuclide that is in the radioactive material and is listed in 49 CFR 173.435, or for mixtures of radionuclides, those nuclides determined in accordance with the provisions of 49 CFR 173.433(f); (2) the physical and chemical form of the material (if not special form); (3) the activity contained in each package of the shipment in terms of the appropriate SI units (e.g., Becquerel, Terabecquerel etc...), or in terms of appropriate SI units followed by customary units (e.g., curies, mCi, or microcuries); (4) the category of label applied to each package (e.g., RADIOACTIVE WHITE-I), and (5) the transport index assigned to each package in the shipment bearing RADIOACTIVE YELLOW-II OR YELLOW-III labels.

Contrary to the above, on several occasions including April 17, 2018, the licensee transported, on public highway, a Troxler Model 3440 portable gauge containing 8 mCi of Cs-137 and 40 mCi of Am-241, and the description on the shipping papers that accompanied the shipments did not include the transport index assigned to each package in the shipment bearing RADIOACTIVE YELLOW-II labels.

This is a Severity Level violation (Section 6.8).

The NRC has concluded that information regarding the reason's for the violations, 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 the 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, IR 03009514/2018001(DNMS)" 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>. 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.

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

Dated this 16<sup>th</sup> day of May, 2018.