



UNITED STATES  
**NUCLEAR REGULATORY COMMISSION**  
REGION I  
475 ALLENDALE ROAD  
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

August 11, 2005

Docket No. 03030838

License No. 47-25023-01

Scott Withrow  
Radiation Safety Officer  
Kanawha Stone Company, Inc.  
P.O. Box 503  
Nitro, WV 25143-0503

SUBJECT: INSPECTION 03030838/2005001, KANAWHA STONE COMPANY, INC.,  
POCA, WEST VIRGINIA SITE AND NOTICE OF VIOLATION

Dear Mr. Withrow:

On July 13, 2005, Jenny Johansen of this office conducted a safety inspection at 401 Jacobson Dr., Poca, West Virginia of activities authorized by the above listed NRC license. The inspection was an examination of your licensed activities as they relate to radiation safety and to compliance with the Commission's regulations and the license conditions. The inspection consisted of observations by the inspector, interviews with personnel, and a selected examination of representative records. The findings of the inspection were discussed with you at the conclusion of the inspection.

Based on the results of this inspection, it appears that your activities were not conducted in full compliance with NRC requirements. A Notice of Violation is enclosed that categorizes each violation by severity level. You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. After reviewing your response to this Notice, including your proposed corrective actions and the results of future inspections, the NRC will determine whether further NRC enforcement action is necessary to ensure compliance with NRC regulatory requirements.

Current NRC regulations are included on the NRC's website at [www.nrc.gov](http://www.nrc.gov); select **Nuclear Materials; Medical, industrial, and academic uses of nuclear material**; then **toolkit index page**. The Current General Policy and Procedure for NRC Enforcement Actions are included on the NRC's website at [www.nrc.gov](http://www.nrc.gov); select **What We Do, Enforcement**, then **Enforcement Policy**. Or you may obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-888-293-6498. The GPO is open from 7:00 a.m. to 9:00 p.m. EST, Monday through Friday (except Federal holidays).

S. Withrow  
Kanawha Stone Company, Inc.

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Your cooperation with us is appreciated.

Sincerely,

***Original signed by John D. Kinneman***

John D. Kinneman, Chief  
Security and Industrial Branch  
Division of Nuclear Materials Safety

Enclosure:  
Notice of Violation

cc:  
State of West Virginia

S. Withrow  
Kanawha Stone Company, Inc.

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DATE	08/04/2005		08/11/2005					

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## **NOTICE OF VIOLATION**

Kanawha Stone Company, Inc.  
Nitro, WV

Docket No. 03030838  
License No. 47-25023-01

During an NRC inspection conducted on July 13, 2005, four violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 20.1101(a) and (c) require, in part, that a licensee develop, document, and implement a radiation protection program commensurate with the scope and extent of licensed activities and sufficient to ensure compliance with the provisions of Part 20, and periodically (at least annually) review the radiation protection program content and implementation

Contrary to the above, as of July 13, 2005, the licensee had not periodically (at least annually) reviewed the radiation protection program content and implementation.

This is a Severity Level IV violation (Supplement IV).

- B. 10 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 170 through 189.

1. 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, between October 1, 2003 and July 13, 2005, the licensee transported outside the confines of its plant, licensed material, and the shipping description on the shipping paper that accompanied the shipments did not include the identification number prescribed for the material as shown in Column 4 of the 172.101 Table, which was effective October 1, 2003. Specifically, the licensee's shipping papers referred to identification number UN2974 instead of UN3332 and the gauges were transported on public roads in Virginia.

This is a Severity Level IV violation (Supplement V).

2. 49 CFR 172.403 requires, in part, with exceptions not applicable here, that each package of radioactive material be labeled, as appropriate with two RADIOACTIVE WHITE-I, RADIOACTIVE YELLOW-II, or RADIOACTIVE YELLOW-III labels on opposite sides of the package. The contents, activity, and

transportation index must be entered in the blank spaces on the label using a legible and durable, weather resistant means. The contents entered on the label must include the name or abbreviation (e.g., <sup>99</sup>Mo) of the radionuclides as taken from the listing in 49 CFR 173.435, or for mixtures of radionuclides, those nuclides determined in accordance with provisions of 49 CFR 173.433(f), with consideration of space available on the label. The activity must be expressed 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, millicuries, or microcuries)

Contrary to the above, as of July 13, 2005, both RADIOACTIVE YELLOW- II labels on the carrying cases used to transport a Troxler Model 3411-B and a Troxler Model 3440 portable nuclear density gauge, containing 8mCi of cesium-137 and 40 mCi of americium-241 had no legible printing as to the contents, activity, and transportation index of the package.

This is a Severity Level IV violation (Supplement V).

3. 49 CFR 172.304 requires, in part, that each package used in transport shall have markings that are durable, in English, and printed or affixed to the surface of the package on a label, tag or sign. Markings required are in 49 CFR Part 172, Subpart D. 49 CFR 172.324 requires, in part, with exceptions not applicable here, that for each non-bulk package that contains a hazardous substance, the letters "RQ" shall be marked on the package in association with the proper shipping name. 49 CFR 172.301 requires, in part, with exceptions not applicable here, that each package used in transport shall be marked with the proper identification number preceded by "UN" or "NA" as appropriate for the material as shown in 49 CFR 172.101

Contrary to the above, on July 13, 2005, the markings on two gauge cases did not include the "RQ" letters associated with the proper shipping name and the UN identification number was UN2974 rather than UN3332 as required.

This is a Severity Level IV violation (Supplement V).

Pursuant to the provisions of 10 CFR 2.201, Kanawha Stone Company, Inc. Is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555, with a copy to the Regional Administrator, Region I, 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 for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation, (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 will be achieved. Your response may reference or include previous 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.

If you contest this enforcement action, you should also provide a copy of your response to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, any response which contests an enforcement action shall be submitted under oath or affirmation.

Your response will be placed in the NRC Public Document Room (PDR) and on the NRC Web site. Therefore, to the extent possible, it should, therefore, not include any personal privacy, proprietary, or safeguards information so that it can be made publically available without redaction. However, if you find it necessary to include such information, you should clearly indicate the specific information that you desire not to be placed in the PDR, and provide the legal basis to support your request for withholding the information from the public.

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

Dated This 11<sup>th</sup> day of August, 2005