



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

September 16, 2010

Docket No. 04003149

License No. SUB-491

Michael D. Fenton
Safety Director
Fenton Art Glass Company
700 Elizabeth Street
Williamstown, WV 26187

SUBJECT: NRC INSPECTION REPORT NO. 04003149/2010001, FENTON ART GLASS COMPANY, WILLIAMSTOWN, WEST VIRGINIA SITE AND NOTICE OF VIOLATION

Dear Mr. Fenton:

On June 7 – August 25, 2010, Todd Jackson of this office conducted a safety inspection at your Williamstown, West Virginia address 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 selective examination of representative records. Additional information provided in your electronic mail message dated July 28, 2010, related to your actions to resolve your Nuclear Materials Management and Safeguards System (NMMSS) inventory discrepancy, was also examined as part of the inspection. The resolution of your NMMSS inventory was confirmed by the NMMSS Administrator on August 10, 2010. The findings of the inspection were discussed with you at the conclusion of the inspection on August 25, 2010.

Based on the results of this inspection and in accordance with the NRC Enforcement Policy, the NRC has determined that three Severity Level IV violations of NRC requirements occurred. The violations involved: 1) possession of licensed material in excess of the authorized license limit; 2) the failure to perform the required periodic review of the radiation protection program; and, 3) the failure to conduct required training;

The violations are cited in the enclosed Notice of Violation (Notice), because the violations were identified by the NRC.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC document system (ADAMS), accessible from the NRC 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 available to the Public without redaction.

Current NRC regulations are included on the NRC's website at www.nrc.gov; select **Nuclear Materials; Medical, Academic, and Industrial Uses of Nuclear Material**; then **Regulations, Guidance, and Communications Page**. The current Enforcement Policy is included on the

M. Fenton

NRC's website at www.nrc.gov; select **About NRC; How We Regulate; Enforcement;** then **Enforcement Policy**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 7:00 a.m. to 6:30 p.m. EST, Monday through Friday (except Federal holidays).

Please contact Todd Jackson at 610-337-5308 if you have any questions regarding this matter.

Sincerely,

Original signed by James P. Dwyer

James P. Dwyer, Chief
Commercial and R&D Branch
Division of Nuclear Materials Safety

Enclosure:
Notice of Violation

cc:
State of West Virginia

M. Fenton

NRC's website at www.nrc.gov; select **About NRC; How We Regulate; Enforcement; then Enforcement Policy**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 7:00 a.m. to 6:30 p.m. EST, Monday through Friday (except Federal holidays).

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James P. Dwyer, Chief
Commercial and R&D Branch
Division of Nuclear Materials Safety

Enclosure:
Notice of Violation

cc:
State of West Virginia

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OFFICE	DNMS/RI	N	DNMS/RI		DNMS/RI		
NAME	TJackson JPD For		JDwyer JPD				
DATE	August 25, 2010		September 16, 2010				

ML102590398

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Fenton Art Glass Company
Williamstown, WV

Docket No. 04003149
License No. SUB-491

During an NRC inspection conducted on June 7-August 25, 2010, three violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. Condition 8.A of NRC License No. SUB-491 specifies the licensee may possess a maximum of 28 kilograms depleted uranium oxide powder at any one.

Contrary to the above, on June 7, 2010, the licensee possessed 43 kilograms of depleted uranium oxide powder.

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

- B. 10CFR20.1101(c) requires the licensee shall periodically (at least annually) review the radiation protection program content and implementation.

Contrary to the above, from June 2005 through June 7, 2010, the licensee had not performed a review of the radiation safety program.

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

- C. Condition 13.A of NRC License No. SUB-491 requires the licensee to conduct its program in accordance with the statements, representations, and procedures contained in the license application dated May 25, 2005 (ML051600209). In Section #8 of the application dated May 25, 2005, the licensee committed to perform annual training for staff who had previously completed "Safety Program for Radioactive Materials".

Contrary to the above, from June 30, 2005 through June 7, 2010, the licensee had not performed the annual training to which it had committed.

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

Pursuant to the provisions of 10 CFR 2.201, Fenton Art Glass Company 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,

Notice of Violation
Fenton Art Glass Company

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. 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 16th day of September 2010