

## NOTICE OF VIOLATION

Miller Bros. Paving Inc.  
Archbold, Ohio

Docket No. 030-29713  
License No. 34-24855-01

During an NRC inspection conducted on September 20 through October 8, 1996, four violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600 (60 FR 34381, dated June 30, 1995), the violations are listed below:

1. Condition 11.B. of License No. 34-24855-01 identifies the licensee's Radiation Safety Officer as Mr. Mark Kachenmeister.

Contrary to the above, as of June 10, 1992, an individual other than Mark Kachenmeister served as the Radiation Safety Officer.

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

2. Condition 12.A. of License No. 34-24855-01 requires the licensee test sealed sources for leakage and/or contamination at intervals not to exceed 6 months or at such other intervals that are specified by certificate of registration referred to in 10 CFR 32.210.

Contrary to the above, the licensee did not test sealed sources for leakage and/or contamination at intervals not to exceed 6 months. Specifically, two asphalt gauges Serial No. 1140 and Serial No. 1089, each containing a sealed source with a nominal 100 millicuries (3.7 GBq) americium-241, were not leak tested at the required intervals, and these devices were used at temporary job sites. Specifically, one asphalt gauge No. 1140 was last leak tested on July 14, 1995, and the second gauge was leak tested on May 23, 1994, intervals that exceeded 6 months. Alternate intervals were not specified by certificate of registration referred to in 10 CFR 32.210.

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

3. Condition 15 of License No. 34-24855-01 requires the licensee to conduct a physical inventory every six months to account for all sources and/or devices received and possessed under the license.

Contrary to the above, from January 17, 1991 through July 17, 1996, the licensee did not conduct a physical inventory every six months to account for all sources and/or devices received, possessed and stored under the license.

This is a repeat violation.

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

4. 10 CFR 71.5(a) requires that a licensee who transports licensed material outside of the confines of its plant or other place of use, 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.

49 CFR 172.200(a) requires, with exceptions not applicable here, that each person who offers a hazardous material for transportation describe the hazardous material on the shipping paper in the manner required by subpart C of 49 CFR Part 172. Pursuant to 49 CFR 172.101, radioactive material is classified as hazardous material.

Contrary to the above, in May and June of 1996, the licensee transported asphalt gauges Serial Nos. 1089 and 1140, respectively, to temporary jobsites and did not include with the shipments a shipping paper describing the material.

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

Pursuant to the provisions of 10 CFR 2.201, Miller Bros. Paving 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 III, 801 Warrenville Road, Lisle, Illinois 60532-4351 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.

Because your response will be placed in the NRC Public Document Room (PDR), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR 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.

Dated at Lisle, Illinois  
this 22nd day of October 1996