

NOTICE OF VIOLATION

Michigan Department of Transportation
Lansing, MI 48909

Docket No. 030-04813
License No. 21-03039-01

During an NRC inspection conducted on September 16, 1996, 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 13 (A) of License No. 21-03039-01 requires, in part, that sealed sources containing byproduct material be tested for leakage at intervals not to exceed six months.

Contrary to the above, a Troxler Model 3411B moisture/density gauge containing 8 millicuries (296 megabecquerels) of cesium-137 and 40 millicuries (1.48 gigabecquerels) of americium-241, as sealed sources, was not tested for contamination or leakage from December 6, 1995 to July 12, 1996, and from December 7, 1994, to July 6, 1995.

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

2. Condition 21 of License No. 21-03039-01 requires that licensed material be possessed and used in accordance with statements, representations and procedures contained in an application dated May 26, 1994, and a letter dated November 9, 1994.

Item 2 of the referenced letter dated November 9, 1994 requires that surveys be conducted where and when maintenance or repair of gauges is performed.

Contrary to the above, as of September 16, 1996, surveys were not performed when maintenance or repair was performed on moisture/density gauges.

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

3. 10 CFR 71.5(a) requires that a licensee who transports licensed material outside 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 177.817(e) requires, in part, that the driver of a motor vehicle containing hazardous material ensure that the shipping paper is readily available to, and recognizable by, authorities in the event of accident or inspection. Specifically, (i) when the driver is at the vehicle's controls, the shipping paper shall be: (A) within his immediate reach while he is restrained by the lap belt; and (B) either readily visible to a person entering the driver's compartment or in a holder which is mounted to the inside of the door on the driver's side of the vehicle;

(ii) when the driver is not at the vehicle's controls, the shipping paper shall be: (A) in a holder which is mounted to the side of the door on the driver's side of the vehicle; or (B) on the driver's seat in the vehicle.

Pursuant to 49 CFR 172.101, radioactive material is classified as a hazardous material.

Contrary to the above, on September 16, 1996, the licensee transported a Troxler 3440 moisture density gauge containing 8 millicuries (296 megabecquerels) of cesium-137 and 40 millicuries (1.48 gigabecquerels) of americium-241 outside the confines of its plant and the driver of the vehicle did not ensure that the shipping paper was readily available in the driver's compartment, as required. Specifically, the shipping papers were located behind the seat of the vehicle.

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

Pursuant to the provisions of 10 CFR 2.201, the Michigan Department of Transportation 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 9th day of October 1996