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November 26, 1996

EA 96-468

Jack Scott
President and CEO
H. C. Nutting Company
4120 Airport Road
Cincinnati, OH 45226

SUBJECT: NRC INSPECTION REPORT NO. 030-17304/96001(DNMS)

Dear Mr. Scott:

This refers to the inspection conducted on November 6 and 7, 1996, at the H. C. Nutting Company's Columbus, Ohio field office. The purpose of the inspection was to determine whether activities authorized by the license were conducted safely and in accordance with NRC requirements. The inspection was prompted by your notification to our office of two incidents: (1) a moisture density gauge was stolen on August 6, 1996, then recovered on August 9, 1996, and (2) a moisture/density gauge was damaged at a job site on October 15, 1996. At the conclusion of the inspection, the findings were discussed with those members of your staff identified in the enclosed report. Our inspection findings were discussed further during a telephone conference call with you on November 18, 1996.

Areas examined during the inspection are identified in the report (enclosure 1). Within these areas, the inspection consisted of a selective examination of procedures and representative records, observations, independent measurements, and interviews with personnel.

Based on the inspection results, one apparent violation was identified and is being considered for escalated enforcement action in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600 (enclosure 2). The apparent violation being considered for escalated enforcement consists of failure to secure from unauthorized removal or otherwise maintain constant surveillance and immediate control of licensed material in an unrestricted area. The circumstances surrounding this damaged gauge incident, the significance of the issues and the need for lasting corrective action were discussed with members of your staff at the site exit meeting on November 7, 1996, and in the November 18, 1996 telecon.

This apparent violation is of significant concern because it is a repeat violation of one identified during our December 15, 1993 inspection and since 1988, you have had five similar reportable incidents involving damaged gauges. Because the apparent violation is being considered for escalated enforcement, no Notice of Violation is presently being issued for this inspection finding. In addition, please be advised that the number and characterization of the apparent violation described in the enclosed inspection report may change as a result of further NRC review.

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A predecisional enforcement conference to discuss the apparent violation has been scheduled for December 9, 1996, at 2:00 p.m. (CDT) in the Region III office, 801 Warrenville Road, Lisle, Illinois. The decision to hold a predecisional enforcement conference does not mean that the NRC has determined that a violation has occurred or that enforcement action will be taken. This conference is being held to obtain information to enable the NRC to make an enforcement decision, such as a common understanding of the facts, root causes, missed opportunities to identify the violations sooner, corrective actions, significance of the issues and the need for lasting and effective corrective action. In presenting your corrective action, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violation. The guidance in the enclosed NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful (enclosure 3).

In particular, during the conference we expect you to address your plans to improve the control of licensed material used at temporary job sites and to prevent similar violations from occurring in the future.

This conference is an opportunity for you to point out any errors in our inspection report and for you to provide any information concerning your perspectives on: (1) the severity of the violation, (2) the application of the factors that the NRC considers when it determines that amount of a civil penalty that may be assessed in accordance with Section VI.B.2 of the Enforcement Policy, and (3) any other application of the Enforcement Policy to this case, including the exercise of discretion in accordance with Section VII. This conference will be open to public observation in accordance with the Commission's trial program as discussed in the enclosed excerpt from the Enforcement Policy (Enclosure 2). Although not required, we encourage you to provide your comments on how you believe this conference open to public observation affected your presentation and your communications with the NRC.

You will be advised by separate correspondence of the results of our deliberations on this matter. No response to the apparent violation is required at this time.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practices," a copy of this letter and its enclosure will be placed in the NRC Public Document Room (PDR).

Sincerely,

Original signed by Cynthia D. Pederson
Cynthia D. Pederson, Director
Division of Nuclear Materials Safety

License No. 34-18882-01
Docket No. 030-17304

Enclosures: As stated (3)

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J. Scott

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