



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

February 2, 2018

Mr. James Zyrowski
1461 Peck Road
Brown City, Michigan, 48416

SUBJECT: BURTON AVIATION – FINAL REQUEST FOR INITIAL SITE VISIT AND TO
PERFORM RADIOLOGICAL SURVEYS

Dear Mr. Zyrowski:

I am writing to follow-up on the attempts made by the U.S. Nuclear Regulatory Commission (NRC) staff to contact you regarding our interest in your property at 6727 Airport Road, Marlette, Michigan. As discussed in our letter dated October 6, 2016,¹ our records indicate that your property was previously used by Burton Aviation to repair aircraft flight instruments. It is possible that these instruments contained radium-226 (Ra-226), a radioactive isotope that, in certain quantities, may pose a risk to public health and safety. Ra-226 was commonly used in World War II era aircraft flight instruments and is currently regulated by the NRC.

On April 11, 2017, the NRC staff contacted you via phone and requested access to your property to survey it, but you declined that request. The NRC staff has subsequently attempted to contact you via e-mail, on June 21, 2017, and via phone starting on July 18, 2017, but has not been successful. It has been a few months since our last discussion regarding the NRC staff's request to survey your property, and I wanted to follow-up with you one last time regarding this request. However, if you are not the current owner of the property, please let us know.

The area of interest at your property is limited to inside the hangar that was previously used by Burton Aviation. It is important to note that NRC staff has experience at similar sites where aircraft instrumentation has been repaired. Previously conducted surveys have identified Ra-226 contamination at some, but not all, of these sites. These surveys include instances when the owner was unaware that the products repaired at the site were painted with Ra-226. As previously stated, we are requesting access to the property to perform radiological surveys and to collect samples to determine whether there is any residual contamination and to confirm that there is no concern for public health and safety. This testing will not damage your property, and these tests will be conducted at no cost to you.

During your previous conversation with the NRC staff, you stated Burton Aviation had only repaired and maintained aircraft engines and our records indicating that it specialized in aircraft flight instrument repair were incorrect. If you have any sales brochures, invoices, or other records that support this, we would appreciate the opportunity to review them and determine an appropriate path forward. If Burton Aviation did only repair and maintain aircraft engines, then the potential for there being a radiological concern at your property would be unlikely.

¹ Agencywide Documents Access and Management System Accession Number ML16277A237.

If you would prefer to meet with NRC staff, via teleconference or in-person, to further discuss your property and our experience surveying similar properties, we can work to arrange this. However, this will be our final attempt to contact you to schedule the survey.

The enclosed Site Summary Report provides all of the information that the NRC has concerning historical radium storage at your property, which we found through a search of publicly available information. The enclosed Backgrounder provides more detail on the history of radium use and its potential health effects. The enclosed brochure provides an overview of the NRC.

In accordance with Title 10 of the *Code of Federal Regulations* Section 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

If, within one year following the date of this letter, you would like the NRC staff to perform this survey at your property, or if you have any questions concerning this letter, please contact Mr. Stephen Koenick, Chief, Materials Decommissioning Branch, Division of Decommissioning, Uranium Recovery and Waste Programs, Office of Nuclear Materials Safety and Safeguards, at (301) 415-6631, or Mr. Jeffrey Whited, Project Manager, at (301) 415-4090. Subsequent to one year from the date of this letter, it is important to note that you will be responsible for assessing as well as addressing any issues related to radium contamination on the property. I hope that we can work together to resolve this issue and determine the current radiological status of your property.

Sincerely,

/RA/

John R. Tappert, Director
Division of Decommissioning, Uranium Recovery
and Waste Programs
Office of Nuclear Material Safety
and Safeguards

Docket No.: 03038951

Enclosures:

1. Site Summary Report
2. Radium Backgrounder
3. U.S. Nuclear Regulatory Commission *Overview*

REGISTERED LETTER – RETURN RECEIPT REQUESTED

SUBJECT: BURTON AVIATION – FINAL FOR INITIAL SITE VISIT AND TO PERFORM
RADIOLOGICAL SURVEYS

DISTRIBUTION:

RidsRgn3MailCenter

M. Kunowski, RIII

B. Lin, RIII

J. Whited, NMSS

ADAMS Accession No.: ML17312B610

***via e-mail**

OFFICE	DUWP/MDB/PM	DUWP/LA	RIII/DNMS/BC	DUWP/MDB/BC	OGC (NLO)	DUWP
NAME	JWhited	CHolston	MKunowski*	SKoenick	Ilrvin	JTappert
DATE	11/09/2017	11/09/2017	12/08/2017	12/11/2017	01/10/2018	02/02/2018

OFFICIAL RECORD COPY

Burton Aviation: Site Summary

The following information was extracted from public records.

Address

6727 Airport Road, Marlette, MI

Site Description/History

Public records indicate that Burton Aviation was established in 2000 in Marlette, MI. The company specializes in aircraft flight instrument repair and employs approximately 1-4 workers (Manta, 2015). Radium may have been present at this facility if gauges with luminous radium dials were repaired at the site.

The amount/extent of radium contamination at these sites (including historical information and/or informed assumptions about the radium facilities' structures/areas, processes, and activities)

It is unknown if radium was or is present at this site; however, it is suspected that radium may have been present in some of the aircraft instruments repaired at this facility, due to documentation of general historic use of luminous radium in vintage gauges.

Summary of Current Radium Levels:

As of November 2015, current levels of radium are unknown based on information review for this report.

Location and population near the sites

Burton Aviation is located near the Marlette airport, in a rural area. According to Figure 1, however, there appear to be houses nearby the facility.

Marlette is a city in Sanilac County. The city is located within Marlette Township. According to the 2010 U.S. Census, the population of Marlette was 1,875 (United States Census Bureau, 2015).



Figure 1. Location of Burton Aviation (6727 Airport Road, Marlette, MI) (Google, Earth 2015)

Current State/other Federal involvement

Information about cleanup activities at the site is unknown.

Current access, activities, and uses at the site

The company specializes in aircraft flight instrument repair and employs approximately 1-4 workers.

Existing Engineering Controls

No engineering controls appear to exist (see Figure 1).

Prioritization Ranking

It is suspected that radium is present at the site because Burton Aviation specializes in aircraft instrument repairs. These services may include repairing historic gauges and instruments that contained luminous radium. Therefore, the site is classified as Tier 4.

References

Manta Media Inc. 2015. Accessed May 21, 2015.

http://www.manta.com/mb_45_B32BB1P5_23/aircraft_flight_instrument_repair/michigan.

Google Earth. 2015. Accessed May 2015. <https://www.google.com/maps/>.

United States Census Bureau. Accessed October 2015.
<http://quickfacts.census.gov/qfd/states/26/26151.html>.

Radium

Radium was one of the first radioactive elements ever discovered. Marie and Pierre Curie unlocked the atom's secrets in 1898, opening the door for important innovations using radioactivity in medicine and industry. Radiation quickly became a consumer and medical sensation and radium was the posterchild. Experts concluded radiation was a lifesaver after finding it reduced tumor growth and was present in the waters at some health spas. Soon there were many radium products on the market that purported to improve health and vitality. But tragic stories began to emerge of the health impacts. Perhaps the most well-known is the "radium girls," who painted watch faces with glow-in-the-dark radium paint and developed infections and jaw cancer from licking their brushes into fine points.

Early regulation

When evidence of harm began to emerge in the early 1900s, the states each made their own decisions about how to regulate. Courts also took varying approaches on victim compensation. The federal government took action to guard against false advertising and regulate mail shipments, conducted studies, and organized some voluntary protections.

As radioactive materials became more widely available following World War II, they remained largely under state control. Radium use declined in medical and consumer products in favor of other safer materials.

Regulation today

Work on securing radioactive materials took on new urgency following the terrorist attacks on the United States in September 2001. Those attacks prompted the International Atomic Energy Agency to develop a code of conduct in 2004 to limit the potential for malicious acts. That code places one form of radium, known as radium-226, and other radioactive materials into categories based on their quantity and potential hazard.

The NRC has specific security requirements tied to these categories. As support for the IAEA code grew, Congress passed the Energy Policy Act in 2005, giving the NRC authority over radium-226. This law marked the first time the federal government had a comprehensive role in ensuring the safe use of radium-226.

Many states had developed strong programs for regulating radium and other naturally-occurring radioactive materials and it took time to transition authority. The NRC had regulations in place and fully assumed oversight in 2009. Initially, NRC staff worked exclusively with the military to identify sites

where radium might be present. These discussions made clear that the NRC's role would include ensuring that sites where radium was used are maintained in a way that protects public health and safety.

In 2016, the NRC and Department of Defense signed a [Memorandum of Understanding \(MOU\)](#) describing roles in the cleanup of radium and other unlicensed radioactive materials at military sites. The MOU and a [Regulatory Issue Summary](#) clarify NRC's jurisdiction over military radium. In late 2016, the NRC began monitoring two sites under the MOU: Treasure Island Naval Station in San Francisco and Dugway Proving Ground in Utah.

In 2013, the agency learned of two commercial sites where radium-226 had been found and other federal agencies had gotten involved. The Environmental Protection Agency was overseeing portions of the Waterbury Clock Company in Connecticut. The National Park Service was overseeing Great Kills Park in New York.

NRC staff is working with the current owner of the Waterbury Clock Company site. Contaminated areas of the site are under EPA oversight through its Brownfields Program, which provides assistance to clean up contaminated properties. NRC staff is working with EPA to clarify oversight roles and responsibilities under that program.

In 2016, NRC staff began developing an MOU with the National Park Service that will also clarify the NRC's jurisdiction over radium at Great Kills Park. The NRC is monitoring cleanup activities that the Park Service is implementing under Superfund, more formally known as the Comprehensive Environmental Response, Compensation and Liability Act.

Those projects prompted a search to identify sites in NRC's jurisdiction where radium was used, and to find out how much, if any, cleanup was done. This search was not a result of any known health and safety issues. Rather, because of its mandate to protect public health and safety, the NRC wanted to be sure there were no additional sites that might pose a risk.

With the help of the Oak Ridge National Laboratory, the NRC began to develop a fuller picture of commercial radium use. The lab produced a [catalog](#) of the various products developed and sold to the public in the early 20th century. By reviewing publicly available records, Oak Ridge identified sites where radium may have been used to make consumer goods. Then the lab looked for any cleanup records. Oak Ridge transmitted the results to the NRC in November 2015. Since that time, the agency has been working on plans to gather more information about those sites.

The NRC is working with state and local governments to identify any additional records that may help clarify whether any site cleanup has taken place. The goal is to ensure that public health and safety is adequately protected at these sites.

October 2016

OTHER KEY OFFICES

- ◆ The **Office of Enforcement** develops policies and programs to enforce NRC requirements. Enforcement action is used as a deterrent to emphasize the importance of compliance with regulatory requirements and to encourage prompt identification and prompt, comprehensive correction of violations. The office manages major enforcement actions against licensees, and assesses the effectiveness and uniformity of enforcement actions taken by NRC regional offices. Enforcement powers include notices of violations, fines, and orders to modify, suspend or revoke a license. Two separate offices are responsible for investigations.
- ◆ The **Office of Investigations** conducts investigations of licensees, applicants, contractors and vendors. The office investigates all allegations of wrongdoing by individuals or organizations other than NRC employees and NRC contractors. In addition, the office keeps abreast of inquiries and inspections and advises on the need for formal investigations. It also keeps other components of the agency informed of matters under investigation as they affect safety.
- ◆ The **Office of the Inspector General** is a statutory post mandated by the Inspector General Amendments Act of 1988. The office conducts independent reviews and appraisals of internal NRC programs and conducts investigations of alleged wrongdoing by NRC employees and contractors.

Office of Public Affairs

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NUREG/BR-0099, Rev. 14
June 2016

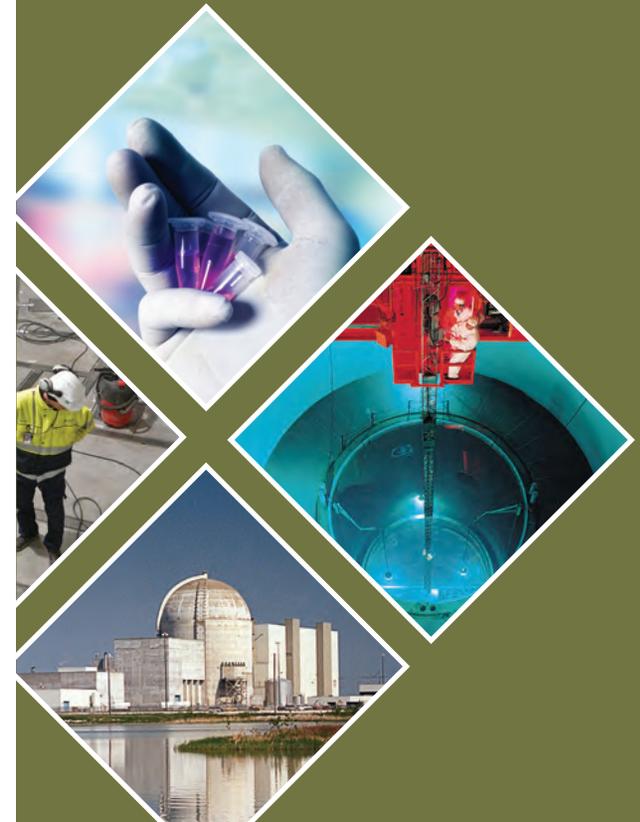
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U.S. Nuclear Regulatory Commission Overview



NRC MISSION

The NRC licenses and regulates the Nation's civilian use of radioactive materials to protect public health and safety, promote the common defense and security, and protect the environment. Specifically, the NRC regulates commercial nuclear power plants; research, test and training reactors; nuclear fuel cycle facilities; and the use of radioactive materials in medical, academic and industrial settings.

The agency also regulates the transport, storage, and disposal of radioactive materials and waste, and licenses the import and export of radioactive materials. While the NRC only regulates industries within the United States, the agency works with agencies around the world to enhance global nuclear safety and security.

STATUTORY AUTHORITY

The Energy Reorganization Act of 1974 created the NRC from the Atomic Energy Commission. The new agency was to oversee — but not promote — the commercial nuclear industry. The agency began operations on January 18, 1975. The NRC's regulations can be found in Title 10, "Energy," of the *Code of Federal Regulations* (10 CFR).

The NRC, its licensees (those licensed by the NRC to use radioactive materials), and the Agreement States (States that assume regulatory authority over use of certain nuclear materials) share a responsibility to protect public health and safety and the environment. Federal regulations and the NRC's regulatory program are key, but the primary responsibility for safely handling and using these materials lies with the licensees.



ORGANIZATIONS AND FUNCTIONS

The NRC's Commission is made up of five members nominated by the President and confirmed by the U.S. Senate for 5-year terms. The President designates one member to serve as Chairman. The Chairman acts as the principal executive officer and spokesperson of the agency. The members' terms are staggered so that one Commissioner's term expires on June 30 every year. No more than three Commissioners can belong to the same political party.

The Commission formulates policies and regulations governing nuclear reactor and materials safety, issues orders to licensees, and adjudicates legal matters. The Executive Director for Operations carries out the policies and decisions of the Commission, and directs the activities of the program and regional offices. The NRC has about 3,600 employees and an annual budget of about \$1 billion.

The NRC is headquartered in Rockville, Md., and has four regional offices. The **Regional Offices** conduct inspection, enforcement (in conjunction with the Office of Enforcement), investigation, licensing, and emergency response programs. At least two NRC employees, called Resident Inspectors, are assigned to, and work out of, each nuclear power plant. The NRC also has a Technical Training Center in Tennessee.

The major program offices within the NRC include:

- ◆ **The Office of Nuclear Reactor Regulation.** Handles all licensing and inspection activities for existing nuclear power reactors and research and test reactors.
- ◆ **The Office of New Reactors.** Oversees the design, siting, licensing, and construction of new commercial nuclear power reactors.
- ◆ **The Office of Nuclear Security and Incident Response.** Oversees agency security policy for nuclear facilities and users of radioactive materials. It provides a safeguards and security interface with other Federal agencies and maintains the agency's emergency preparedness and incident response program.



◆ **The Office of Nuclear Material Safety and Safeguards.** Regulates activities and oversees the regulatory framework for the safe and secure production of commercial nuclear fuel and the use of nuclear material in medical, industrial, academic and commercial applications; uranium recovery activities; and the decommissioning of previously operating nuclear facilities. It regulates safe storage, transportation, and disposal of high- and low-level radioactive waste and spent nuclear fuel. The office also works with Federal agencies, States, and Tribal and local governments on regulatory matters.

- ◆ **The Office of Nuclear Regulatory Research.** Provides independent expertise and information for making timely regulatory judgments, anticipating problems of potential safety significance, and resolving safety issues. It helps develop technical regulations and standards and collects, analyzes, and disseminates information about the safety of commercial nuclear power plants and certain nuclear materials.

Three independent groups serve the Commission:

- ◆ **Advisory Committee on Reactor Safeguards,** mandated by statute, is a committee of scientists and engineers independent of NRC staff. They review and make recommendations to the Commission on all applications to build and operate nuclear power reactors, the safety aspects of nuclear facilities and the adequacy of safety standards. This includes update license amendments and license renewals.
- ◆ **Advisory Committee on the Medical Uses of Isotopes** is made up of physicians and scientists who consider medical questions and, when asked, give expert opinions to the NRC on the medical uses of radioactive materials.
- ◆ **Atomic Safety and Licensing Board Panel** provides a way for the public to get a full and fair hearing on civilian nuclear matters. Individuals who are directly affected by licensing action involving certain facilities producing or using nuclear materials may submit a request to participate in a hearing before these independent judges.