

# STATE OF COLORADO

Bill Owens, Governor  
Jane E. Norton, Executive Director

*Dedicated to protecting and improving the health and environment of the people of Colorado*

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Colorado Department  
of Public Health  
and Environment

August 24, 2005

Richard Cherry, President  
Cotter Corporation  
7800 East Dorado Place, Suite 210  
Englewood, CO 80111

Subject: **Notice of Violation**

This letter is a Notice of Violation of certain requirements of Title 25, Article 11, CRS, Colorado Radioactive Materials License Number 369-01, and the State of Colorado *Rules and Regulations Pertaining to Radiation Control* (the Regulations).

1. License Condition 15.2.5 (Amendment 41) and License Condition 9.4.3 (Amendment 42) requires Cotter to notify the Division no less than 10 calendar days prior to scheduling any shipment of Milling Facility uranium oxide product.

Contrary to this requirement, in correspondence dated August 22, 2005 (received by email on that same date) Cotter notified the Department of shipments of Uranium Oxide that were made on August 16 and 19, 2005. This shipment notification was not provided until several days after the shipments had occurred.

The licensee must ensure that timely notifications are provided to the Department in accordance with the requirements of the Regulations and the license. Please provide a written response describing in detail how Cotter will provide proper timely notifications to the Department.

The Department acknowledges receipt of an email on August 24, 2005 containing a copy of correspondence from Jim Cain to Jake Jacobi dated November 8, 2001 indicating that notifications would be provided on the day of the shipment. The Department also acknowledges that in recent weeks the negotiations pertaining to the Order on Consent have addressed the notification requirement and that a three day advance notification has been determined adequate. The notification provided on August 22, 2005 was not timely. The Department hereby directs Cotter to provide shipment notifications at least three working days in advance of the intended shipment date.

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Your written response must be submitted within thirty (30) days of receipt of this letter and must include: (1) a detailed description of the corrective actions which have been taken to achieve compliance; (2) plans to achieve compliance with the requirements which cannot be remedied within thirty (30) days; and (3) other relevant information. Any proposed compliance schedules or plans to achieve full compliance after thirty days must specifically include implementation deadlines for each of the key components of the plan. If these deadlines are not met, this will provide the Division a basis, without further notice, to institute proceedings for suspension, revocation or modification of your license, as provided in RH 3.23 of the Regulations.

As required by RH 10.2 of the Regulations, this notice must be posted so as to permit individuals engaged in licensed activities to observe it on the way to or from any particular licensed activity location to which the document applies. Any acknowledgment to this report by the licensee shall be posted within five (5) working days after dispatched by the licensee. Such documents shall remain posted for a minimum of five (5) working days or until actions correcting the violations have been completed, whichever is later.

If you have any questions concerning this letter, please contact Mr. Thomas Pentecost of this Division at (303) 692-3458.

A handwritten signature in black ink, appearing to read 'Tim G. Bonzer', written over a horizontal line.

Tim G. Bonzer, Lead of Compliance  
Radiation Management Unit  
Hazardous Materials and Waste Management Division

TGB:TP

CF: Patrick Mutz, Mill Manager  
P.O. Box 1750, Canon City, CO 81215-1750

Certified Mail: 7002-2410-0001-0129-2933