

From: [REDACTED]
To: ["McCarty, Kathy";](#)
CC:
Subject: RE: Office of Enforcement Review-Beryllium
Date: Friday, August 22, 2008 12:21:00 PM
Attachments: [ExhibitLabels clip image002 0008.jpg](#)

Kathy,

Confused? Imagine if I had been talking about 10CFR708. I'll put my sarcasm aside for the moment, because you have taken the time to respond to my email.

The reference you provided in your email, 10CFR850.38, deals with the proper signage for "the access point to a beryllium regulated area." The picture I sent is not the entry to a beryllium regulated area, but a label on a forklift that is not in a beryllium regulated area. I also emphasized that, based on personal experience and previous discussions involving (this specific) forklift, it was deemed an impractical option (based upon the complexity of the equipment, uncertainty of success and the decontamination cost versus replacement cost). That division appears to have salvaged the equipment and given/released it to another division, which is a transfer that should not have been permitted based upon the previous owner's knowledge. I speculated in my email to you that it seems less likely that there has been a breakthrough in forklift decontamination techniques, and more likely a case of a transfer of a contaminated piece of equipment (whether it is intentional or inadvertent, remains to be determined). But, you respond by stating the same warning sign is valid for decontaminated equipment once removed from a contaminated area. That is a very trusting position to take for someone involved in code regulation, particularly with a contractor who didn't do things right the last time. Nevertheless, don't you think this methodology would be confusing to the less informed casual observer (it would be equivalent to seeing a rad-contaminated tag in a non-contaminated area)? Well, believe it or not, UT-Battelle did also. That's why they created their own Procedure < <http://sbms.ornl.gov/sbms/SBMSearch/subjarea/beryllium/pro4.cfm>>

to address the issue of signage for equipment released from a beryllium contaminated area. In fact, if you read IG Report #737, that is the very non-compliance that the Inspector General cited UT-Battelle for in 2006. The picture that I have attached above, would have been, in most cases, the appropriate sign (from company's own inventory), to distinguish the equipment from other similarly marked items. Even if someone had added a written note to the label I wouldn't have been so concerned, which would not have been compliant, but at least there was some marking indicating that, it was

'deconned' (referenced a cleanup date, a supervisor's initials, etc.).
This way, one has to be very trusting.

[REDACTED]

-----Original Message-----

From: McCarty, Kathy [<mailto:Kathy.McCarty@hq.doe.gov>]

Sent: Friday, August 22, 2008 9:13 AM

To: [REDACTED]

Subject: RE: Office of Enforcement Review-Beryllium

I apologize but I am confused by your e-mail. I cannot ascertain whether the forklift was ever removed from the beryllium contaminated facility, was ever decontaminated and what the results of the decontamination efforts were, whether or not the forklift is labeled as in the photograph or if that particular label is nowhere to be found on the forklift, and, most importantly, whether anyone is being exposed to beryllium as a result of use of or contact with the forklift. Again, I would call your attention to the provisions in 10 CFR 850.31 which provides the requirements for removable contamination levels and labeling. Even if the forklift has been decontaminated to below the release criteria and has been moved to another area, it is still required to have the Danger tag on it because of the potential for internal contamination. The Danger tag in the photograph is compliant with 10 CFR 850.38. Additional information regarding these requirements can be found on the HSS Regulatory Policy and Response Line available at <http://www.hss.energy.gov/HealthSafety/WSHP/il/> and by searching on the word "beryllium."

If you wish to discuss in more detail, please call me at (301) 903-0100. Otherwise, I can have one of my staff members continue to work with you via e-mail to understand your concerns better.

Kathy

-----Original Message-----

From: [REDACTED]

Sent: Wednesday, August 20, 2008 7:17 AM

To: McCarty, Kathy
Subject: RE: Office of Enforcement Review-Beryllium

Kathy,

First, for clarification purposes the forklift is an indoor type (cushion tires and battery powered). It wasn't moved from the building to be stored outside. And, if it was removed from a building that was identified as a beryllium contaminated facility, then it is reasonable to assume that it should be posted as such in the place it was moved to. But it is not. Second, this forklift was previously identified as beryllium contaminated and unless it was decontaminated it should not have left the building. UT-Battelle made the decision to abandon this forklift and two others in the building, because there is no way to ensure the forklift would ever be completely and safely decontaminated (particularly for porous surfaces particularly for tires, pedals and seats). Even if UT-Battelle was presented with a cost effective way of decontaminating a 'twenty year old forklift', I believe the company would still prefer to purchase a new clean unit and avoid the risk of beryllium exposure or contamination spread. But, if you believe the company did safely decontaminate it prior to moving it, there is still the issue of labeling. In the culmination of their investigation the OIG (Report 737) wrote that among other violations, UT-Battelle failed to properly identify and label all equipment transferred from the building (Page 6). Third, if we believe 'in the tooth fairy' and that the unit was properly decontaminated and labeled (although the label is nowhere to be found), then why is the DANGER beryllium contamination warning label still attached (see attached picture)?

