



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-4005

May 15, 2006

Rex G. Hoy
Radiation Safety Officer
State of Montana
Department of Transportation
2701 Prospect Avenue
P.O. Box 201001
Helena, Montana 59620-1001

SUBJECT: NRC INSPECTION REPORT 030-05179/2006-004 AND NOTICE OF VIOLATION

Dear Mr. Hoy:

This refers to the inspection conducted on March 28, 2006, at the State of Montana Department of Transportation field office in Kalispell, Montana. The preliminary inspection results were discussed with Ms. Patti Craft at the conclusion of the onsite inspection. The inspection results were also discussed with you during a final telephonic exit briefing conducted on May 9, 2006.

This inspection was an examination of activities conducted under your license as they relate to radiation safety and compliance with the Commission's rules and regulations and with the conditions of your license. Within these areas, the inspection consisted of selected examination of procedures and representative records, observations of activities, independent measurements, and interviews with personnel.

Based on the results of this inspection, the NRC has determined that a Severity Level IV violation of NRC requirements occurred. This violation was evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Enforcement Policy**. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it is described in detail. The violation is being cited in the Notice because it was identified by the NRC during the inspection.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, please address how you intend on identifying if this problem exists at any of the other twelve field offices listed on your NRC license, and if so, how you intend on correcting any problems identified. For your consideration and convenience, an excerpt from NRC Information Notice 96-28, "SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION," is enclosed. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

State of Montana
Department of Transportation

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In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

Should you have any questions concerning this inspection or the enclosed report, please contact Janine F. Katanic, Ph.D. at (817) 860-8151 or the undersigned at (817) 860-8287.

Sincerely,

/RA Vivian H. Campbell for/

Mark R. Shaffer, Chief
Nuclear Materials Inspection Branch

Docket No.: 030-05179
License No.: 25-11498-01

Enclosures:

1. Notice of Violation
2. NRC Information Notice 96-28

cc w/Enclosure 1:
Montana Radiation Control Program Director

State of Montana
Department of Transportation

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bcc w/enclosure 1 (via ADAMS distrib):

LDWert

CLCain

MRShaffer

VHCampbell

JEWhitten

JFKatanic

KEGardin

NMIB

RIV Materials Docket File (5th floor)

SUNSI Review Completed: JFK ADAMS: X Yes No Initials: JFK

X Publicly Available Non-Publicly Available Sensitive X Non-Sensitive

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05/09/06	05/11/06	05/15/06

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T=Telephone

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ENCLOSURE 1

NOTICE OF VIOLATION

State of Montana
Department of Transportation
Helena, Montana

Docket No. 030-05179
License No. 25-11498-01

During an NRC inspection conducted on March 28, 2006, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 20.1302(a) requires, in part, that the licensee shall make or cause to be made, as appropriate, surveys of radiation levels in unrestricted and controlled areas to demonstrate compliance with the dose limits for individuals members of the public in 10 CFR 20.1301.

Contrary to the above, the licensee failed to make or cause to be made, as appropriate, surveys of radiation levels in unrestricted and controlled areas to demonstrate compliance with the dose limits for individuals members of the public in 10 CFR 20.1301. Specifically, the licensee made surveys of radiation levels in unrestricted and controlled areas for four (4) Troxler Model 3440 portable nuclear gauges stored in the licensee's field office in Kalispell, Montana. However, at the time of the inspection, eight (8) Troxler Model 3440 portable nuclear gauges were stored in the licensee's field office in Kalispell, Montana. The licensee failed to make or cause to be made, as appropriate, surveys of radiation levels in unrestricted and controlled areas resulting from the increased number of stored portable nuclear gauges to demonstrate compliance with the dose limits for individuals members of the public in 10 CFR 20.1301.

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

Pursuant to the provisions of 10 CFR 2.201, State of Montana 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, DC 20555, with a copy to the Regional Administrator, Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, 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 or severity level, (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 made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>, to the extent possible, it should

not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 15th day of May 2006