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May 19, 2008

U.S. Nuclear Regulatory Commission, Region IV
ATTN: Elmo Collins, Jr., Regional Administrator
611 Ryan Plaza Dr., Suite 400
Arlington, TX 76011-4005 U.S. Nuclear Regulatory Commission

RECEIVED
MAY 22 2008
DNMS

RE: REPONSE TO AN APPARENT VIOLATION IN INSPECTION REPORT
NUMBER 030-12975/2007-001; EA-08-041

Dear Mr. Collins,

Enclosed please find copies of the Response(s) to an Apparent Violation in Inspection Report Number 030-12975/2007-001; EA-08-041, which includes a (1) Response To an Inspection Finding Considered for Escalated Enforcement as well as (2) an Inspection Finding Not Considered for Escalated Enforcement.

The originals have been sent to the NRC Washington, DC Document Control Desk as required under the Notice of Violation.

If you have further questions or comments, please don't hesitate to call.

Sincerely,

A handwritten signature in cursive script that reads "Steve Malmberg".

Steve Malmberg
Radiation Safety Officer

May 19, 2008

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555-001

RE: REPOSE TO AN APPARENT VIOLATION IN INSPECTION REPORT
NUMBER 030-12975/2007-001; EA-08-041

Inspection Finding Considered for Escalated Enforcement

During an August 6, 2007 NRC on-site inspection of our Morrison-Maierle, Inc. corporate office in Bozeman, Montana and a temporary job site within the security fence at Gallatin Field Airport, violations of NRC requirements were identified. One apparent violation is being considered for escalated enforcement action.

Reason for the Apparent Violation

“.. a portable gauge was stored at a temporary job site with no independent physical controls that form tangible barriers to prevent unauthorized removal of the gauge when not under the control and constant surveillance of the licensee. This was identified as an apparent violation of 10 CFR 30.34(i). (Section 2.2)”.

A temporary job site storage area was situated within the Gallatin Field Snow Equipment Building which itself is located within the Gallatin Field Airport security fence and as such is unavailable to the general public. Any employee who accesses the airport property defined by the airport safety fence has been fingerprinted and undergone a background check by TSA. Admittedly, the gauge had not been properly secured with two physical controls to a permanent structure within the Equipment Building as required, however the gauge operator truly felt that this storage facility was secure and provided a good initial barrier against removal and his intent was not to willfully ignore the regulations.

Corrective Steps That Have Been Taken and the Results Achieved

Employees of Morrison-Maierle, Inc. immediately secured the portable gauge to a fixed, immobile generator using a single chain and lock on hand and within 24 hours had secured the gauge with two independent locks to the fixed generator to become compliant with 10 CFR 30.34. Our immediate corrective actions were documented in the NRC Inspection Report 030-12975/2007-001 (See NRC Executive Summary, Enclosure 2, Corrective Actions; See attached photo Exhibit A). Individuals involved were interviewed and procedures reviewed so that future incidents would not occur. Additionally, all other authorized employees of Morrison-Maierle, Inc. were made aware of the violation and a review of procedures, with an emphasis on proper transportation and storage, was undertaken to prevent future violations.

Root Cause of Apparent Violation

A review of the circumstances that led to the violation was conducted with internal interviews of the individuals involved and reviews of Morrison-Maierle, Inc. procedures and training. Two root causes were identified that led to the apparent violation: (1) the security of the building was not questioned and (2) recurrent HazMat training contracted through an outside firm was deemed inadequate in that it did not place a heavy emphasis on transportation and storage of gauges.

Corrective Steps That Will Be Taken to Avoid Further Violations

Recurrent Training. To emphasize transportation and storage, the RSO of Morrison-Maierle, Inc., will perform future in-house HazMat instruction and testing of authorized users rather than contract this training to an outside firm. Though the instruction will include the basics of the use and maintenance of portable nuclear gauges and personnel dosimetry, the focus will be on DOT requirements for transportation (ie: block and bracing), documentation (ie: Bill of Lading and Emergency Response Information within reach of driver), the use of two independent physical controls to secure gauges when not under the control and constant surveillance of the authorized user and attempt to include many of the possible variables (ie: truck with open bed; truck with locked top; storage in permanent facilities; storage in temporary facility).

Information Packets. Each gauge transportation case contains a packet unique to that gauge with transportation and storage information containing; Operating Procedures and Security Procedures, (both which include security requirements for: *Storage on vehicles; *Storage at temporary facilities; and *storage at permanent facilities, with examples); an Emergency Response Information sheet; and even the Special Forms for the source materials. Operators will be strongly encouraged to routinely review these information packets.

Audits. Unannounced audits of operating procedural of authorized personnel have been and will be carried out in the field for compliance of 10 CFR 30.34(i).

Management Involvement. In developing effective corrective action, management has been very supportive to ensure that future violations are avoided and has conducted meetings to discuss security issues in regard to handling of nuclear gauges. Authorized gauge users who do not follow protocol will be verbally warned for an initial infraction and if a second infraction occurs, a written warning will be issued and placed with their employee records and management notified. Further infractions may involve disciplinary action.

It is felt these corrective actions will reasonably prevent recurrence of this specific violation and prevent a similar violation.

Date When Full Compliance Achieved

Full compliance was achieved within 24 hours, by August 7, 2007, after the violation was identified.

We would like to assure you that we take any apparent violations seriously and are committed as a company to safe and compliant operations for the security and control of our nuclear gauges,

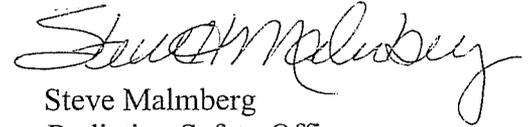
especially the operation and transportation of the gauges and the awareness of standard operating and emergency procedures for our employees.

If you have further questions or comments, please don't hesitate to call.

Sincerely,



Jack Schunke, P.E.
Vice President, Morrison-Maierle, Inc.
Bozeman Office Manager



Steve Malmberg
Radiation Safety Officer

Attch: Photo Exhibit A

Copy: U.S. Nuclear Regulatory Commission, Region IV
ATTN: Elmo Collins, Jr., Regional Administrator
611 Ryan Plaza Dr., Suite 400
Arlington, TX 76011-4005

File



Gallatin Field Airport
Gauge Secured to Generator.jpg

Exhibit A

10/12/2007

May 19, 2008

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555-001

RE: REPONSE TO AN APPARENT VIOLATION IN INSPECTION REPORT
NUMBER 030-12975/2007-001; EA-08-041

Inspection Findings Not Considered for Escalated Enforcement

During an August 6, 2007 NRC on-site inspection of our Morrison-Maierle, Inc. corporate office in Bozeman, Montana and a temporary job site within the security fence at Gallatin Field Airport, a Notice of Violation for two Severity Level IV violations of NRC requirements was issued, more specifically,

(1) "Failure to lock either gauge trigger or its transport container while in storage at the corporate office and not under constant surveillance of the licensee (Section 2.3)".

Reason for the Apparent Violation

The reason for the apparent violation was that neither the gauge triggers nor the transport containers were locked while being stored at the Morrison-Maierle, Inc. corporate office building in Bozeman, MT.

Root Cause of Apparent Violation

A review of the circumstances that led to the violation was conducted with internal interviews of the individuals involved and reviews of Morrison-Maierle, Inc. procedures and training. The root causes identified that led to the apparent violation were: (1) After offloading the gauge from the work vehicle, the case lock was left on the chains used to secure the gauge while in transit. The office building was thought by the operator to have two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal (ie: a locked outer door on the Equipment Building and a locked storage room); and (2) lack of communication. Operators were not adequately reminded of License Condition 16 of NRC License 25-17563-01 which states, in part, that "The gauge or its container must be locked when in transport, storage or when not under the direct surveillance of an authorized user".

Corrective Steps That Have Been Taken and the Results Achieved

Corrective actions were taken immediately to lock both the gauge triggers and the transport containers that were being stored within the corporate office building and additional locks were also made available for future needs. These corrective measures were documented in the NRC Inspection Report 030-12975/2007-001 (See NRC Executive Summary, Enclosure 2, Corrective Actions). All gauges have locks on their respective trigger and transportation box hasps, both while in transit and

when stored in the locked storage room. The operators involved were interviewed and notified as to the violation and that in future both triggers and transport cases were to be locked while in transit, storage or unless the gauge is in direct use or under the operators' surveillance. Additionally, all other authorized employees of Morrison-Maierle, Inc. were made aware of the violation and each received a review of procedures on security and transportation with an emphasis of locks on both gauge triggers and transport cases. In addition, the corporate buildings storage room was inspected with increased frequency by the RSO to ensure that License Condition 16 was in compliance..

Corrective Steps That Will Be Taken to Avoid Further Violations

Dedicated Gauge Storage Room. With a new Bozeman office building recently built and occupied April 2008 by Morrison-Maierle, Inc., daily monitoring of compliance of gauge use and security will be simpler due to a dedicated 10'x 10', lead-lined, locked gauge storage room that was conceived and constructed within the building proper. Signage and placards are displayed within and outside the storage room to reinforce the requirements of transportation and storage, including transportation documentation, emergency procedures, as well as a posted reminder that locks on triggers and transportation cases are always required when the gauge is in storage or not under constant surveillance. The storage room also has a double set of chains permanently fixed to the concrete floor and attached with locks to the gauge transportation case hasps. This is both for storage room security and to physically and visually act as a daily reminder in the correct method to secure the gauges as the instruments are signed out of the room and later back in (See attached photo Exhibits A, B, C and D). In addition, the RSO typically inspects the gauge storage room twice each day; initially in the morning as the gauges are being logged out for assignments and later at the end of the work day as gauges are logged back in.

Recurrent Training. To emphasize transportation and storage, the RSO of Morrison-Maierle, Inc., will perform future in-house HazMat instruction and testing authorized users rather than contract this work to an outside firm. Though the instruction will strongly reinforce the concept of the use of two independent physical controls to secure gauges when not under the control and constant surveillance of the authorized user and attempt to include many of the possible variables (ie: truck with open bed; truck with locked topper; storage in permanent facilities; storage in temporary facility).

Management Involvement. Management is being very supportive to ensure that future violations are avoided and has conducted meetings to discuss security issues in regard to handling of nuclear gauges. Authorized gauge users who do not follow protocol will be verbally warned for an initial infraction and if a second infraction occurs, a written warning will be issued and placed with their employee records and management notified. Further infractions may involve disciplinary action.

Date When Full Compliance Achieve

Full compliance was achieved on August 6, 2007 at approximately 1750 hours.

(2) "Failure to have U.S. Department of Transportation (DOT) shipping papers *accompanying* the transport of hazardous materials".

Reason for the Apparent Violation

The inspector for Morrison-Maierle, Inc. transported a portable gauge from the corporate office located in Bozeman to the Gallatin Field Airport temporary job site but failed to pick-up the required shipping paper when he left for the job as required under 10 CFR 71.5(a), "*Transportation of Licensed Material*" and 49 CFR 177.807(a), "*Shipping Papers*".

Root Cause of Apparent Violation

A review of the circumstances that led to the violation was conducted with internal interviews of the individuals involved. The root cause for the apparent violation was that the operator did neglect to pickup shipping papers prior to leaving for the job site on June 18, 2007. However, it was recognized within a few days by Morrison-Maierle, Inc. that the shipping papers were not with the vehicle and the Bill of Lading and Emergency Response Information was then presented to the inspector at the job site. Subsequently, the papers were mislaid in the company truck during weeks of on-site construction and were no longer immediately accessible to the driver and it was at this point the violation was recognized and noted by the NRC.

Corrective Steps That Have Been Taken and the Results Achieved

Once the violation was noted, additional shipping papers comprised of Bill of Lading and Emergency Response Information, were presented to the inspector at the job site who was warned that the papers were required to be kept in the vehicle and immediately accessible to the driver, not solely while on public highways but even within the confines of the airport security fence. The documentation was then maintained in the vehicle with the operator until the project at Gallatin Field was completed and the gauge returned to the permanent corporate storage facility. It should be noted that the gauge was stored on the job site at a temporary storage facility and that the gauge was not transported on a public highway until after the construction project was completed.

Corrective Steps That Will Be Taken to Avoid Further Violations

Dedicated Gauge Storage Room and Information Packets. Signage and placards are displayed within and outside the gauge room to reinforce transportation and storage requirements and transportation documentation. One placard particular to the shipping paper requirements is posted immediately above the log book to remind operators to always have a Bill of Lading and Emergency Response Information with them in a vehicle (See attached photo Exhibits C and D). In addition, each gauge transportation case contains a packet unique to that gauge with information containing; Operating Procedures (which notes the Bill of Lading and Emergency Response Information are required to be in the cab of the transport vehicle and immediately accessible to the driver); a second Emergency Response Information sheet; Security Procedures; Operating Procedures; and even the Special Forms for the source materials.

Audits. Unannounced audits of operating procedural of authorized personnel have been and will be carried out in the field for compliance of U.S. Department of Transportation shipping requirements.

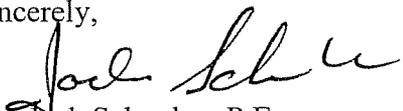
Date When Full Compliance Achieve

Full compliance was achieved on August 7, 2007, the day after the violation was noted by the NRC.

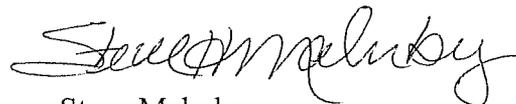
We would like to assure you that we take any apparent violations seriously and are committed as a company to safe and compliant operations for the security and control of our nuclear gauges, especially the operation and transportation of the gauges and the awareness of standard operating and emergency procedures for our employees.

If you have further questions or comments, please don't hesitate to call.

Sincerely,



Jack Schunke , P.E.
Vice President, Morrison-Maierle, Inc.
Bozeman Office Manager



Steve Malmberg
Radiation Safety Officer

Attch: Photo Exhibits A, B, C and D

Copy: U.S. Nuclear Regulatory Commission, Region IV
ATTN: Elmo Collins, Jr., Regional Director
611 Ryan Plaza Dr., Suite 400
Arlington, TX 76011-4005

File



Gallatin Field Airport
Gauge Secured to Generator.jpg

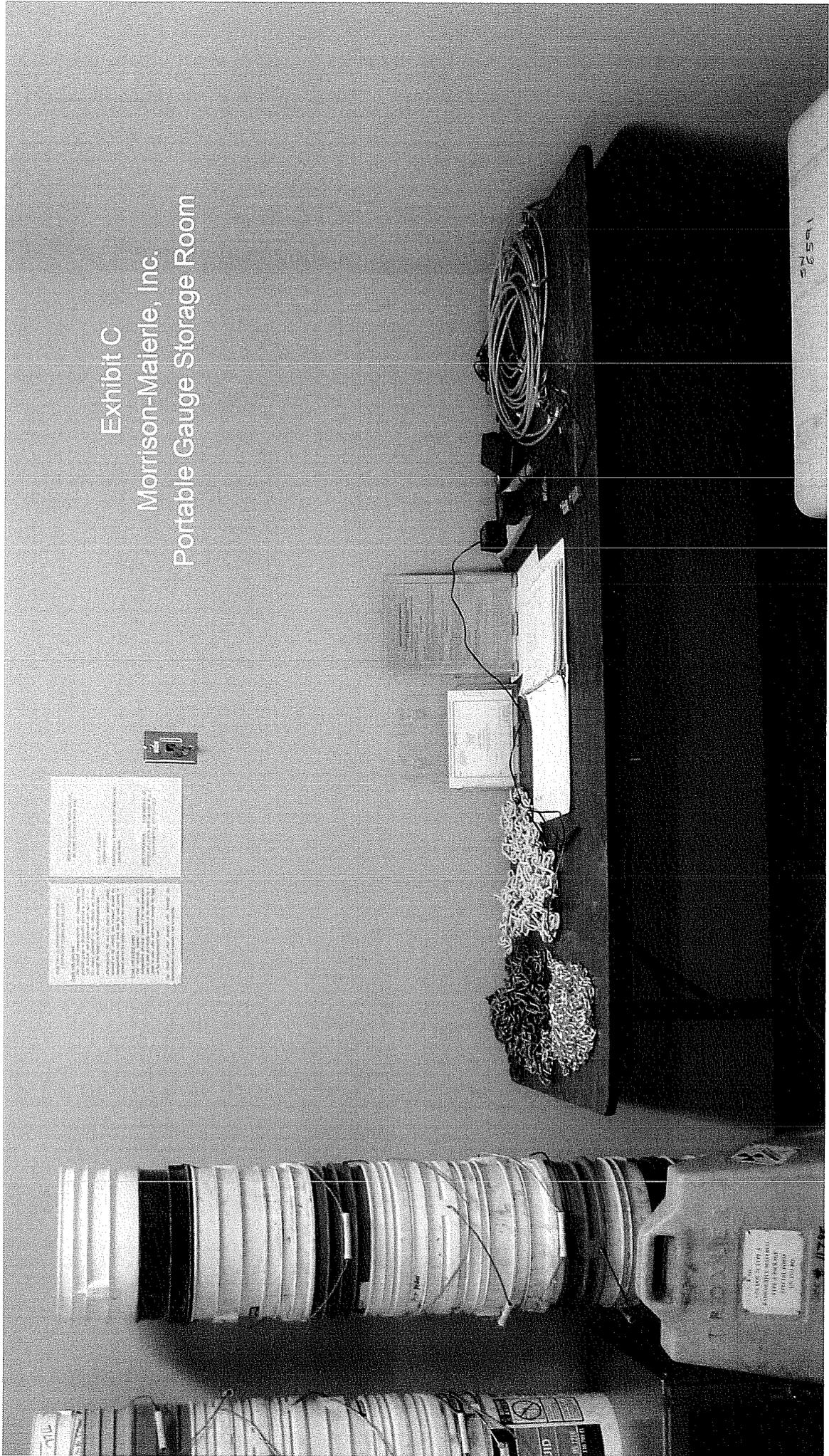
Exhibit A

10/12/2007



Exhibit B
Morrison-Maierle, Inc.
Portable Gauge Storage Room

Exhibit C
Morrison-Maierle, Inc.
Portable Gauge Storage Room



FOR TWO (2) INDEPENDENT PHYSICAL CONTROLS TO SECURE GAUGES:

Truck with open bed:

- The locked transportation case containing the portable gauge is physically secured to a vehicle with bracket, and a chain and steel cable, or two (2) chains (attached to the vehicle) are locked through the hasp(s) on the transportation case.
- Alternatively, the two (2) chains and/or cables, secured to the vehicle, are wrapped around the transportation case such that the case cannot be opened unless the chains or cables are removed.

Truck with locked topper:

- The locked topper is considered one (1) independent physical control. The transportation case is then physically secured to the vehicle by a chain or steel cable and locked through the hasp on the transportation case.

The chain or cable looped only through the transportation case handle is not acceptable.

**PRIOR TO LEAVING WITH GAUGE,
BE SURE TO HAVE WITH YOU:**

- BILL OF LADING
(yellow sheet)
- EMERGENCY RESPONSE INFORMATION
(peach sheet)

**THIS PAPERWORK IS REQUIRED TO BE
WITHIN REACH OF THE DRIVER WHILE
TRANSPORTING THE GAUGES**

Exhibit D

Morrison-Maierle, Inc.

Portable Gauge Storage Room

