



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

January 13, 2009

Docket No. 03006580

License No. 45-08890-02

William W. Briody
Corporate Radiation Safety Officer
Froehling and Robertson, Inc.
3015 Dumbarton Road
Richmond, VA 23228

SUBJECT: INSPECTION 03006580/2008001, FROEHLING AND ROBERTSON, INC.,
CHESAPEAKE, VIRGINIA SITE AND NOTICE OF VIOLATION

Dear Mr. Briody:

On October 21, 2008, Kathy Modes of this office conducted a safety inspection at 833 Professional Place West, Chesapeake, Virginia of activities authorized by the above listed NRC license. The inspection was limited to a review of the October 16, 2008 vehicle accident on the Monitor-Merrimac Bridge Tunnel. The vehicle involved in the accident was transporting a portable density gauge which contained two radioactive sources. Additional information provided in your correspondence dated October 23, 2008; November 14, 2008; and December 15 and 19, 2008 was also examined as part of the inspection. The findings of the inspection were discussed with you at the conclusion of the inspection.

Based on the results of this inspection, it appears that your activities were not conducted in full compliance with NRC requirements. A Notice of Violation is enclosed that categorizes the violation by severity level. 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, you should document the specific actions taken and any additional actions you plan to prevent recurrence. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. After reviewing your response to this Notice, including your proposed corrective actions and the results of future inspections, the NRC will determine whether further NRC enforcement action is necessary to ensure compliance with NRC regulatory requirements.

Current NRC regulations are included on the NRC's website at www.nrc.gov; select **Nuclear Materials; Medical, Academic, and Industrial Uses of Nuclear Material**; then **Regulations, Guidance, and Communications Page**. The current Enforcement Policy is included on the NRC's website at www.nrc.gov; select **About NRC; How We Regulate; Enforcement**; then **Enforcement Policy**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-888-293-6498. The GPO is open from 7:00 a.m. to 8:00 p.m. EST, Monday through Friday (except Federal holidays).

W. Briody

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Please contact Kathy Modes at (610) 337-5251 if you have any questions regarding this matter.

Sincerely,

Original signed by Judith A. Joustra for

Marie Miller, Chief
Security and Industrial Branch
Division of Nuclear Materials Safety

Enclosure
Notice of Violation

cc:
Commonwealth of Virginia

W. Briody

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Please contact Kathy Modes at (610) 337-5251 if you have any questions regarding this matter.

Sincerely,

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Enclosure
Notice of Violation

cc:
Commonwealth of Virginia

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D. J. Holody, RI

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OFFICE	DNMS/RI	N	DNMS/RI	DNMS/RI		
NAME	KModesKAD		MMiller/JAJ f/			
DATE	1/7/2009		1/13/09			

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NOTICE OF VIOLATION

Froehling and Robertson, Inc.
Richmond, VA

Docket No. 03006580
License No. 45-08890-02

During an NRC inspection conducted on October 21, 2008, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 71.5(a) requires that a licensee who transports licensed material outside of the site of usage, as specified in the NRC license, or where transport is on public highways, or who delivers licensed material to a carrier for transport, comply with the applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation (DOT) in 49 CFR Parts 170 through 189.

49 CFR 172.702 requires that each hazmat employer shall ensure that each hazmat employee is trained and tested, and that no hazmat employee performs any function subject to the requirements of 49 CFR Parts 171-177 unless trained, in accordance with Subpart H of 49 CFR Part 172. The terms Hazmat Employer and Hazmat Employee are defined in 49 CFR 171.8.

49 CFR 172.704(a) specifies the elements of hazmat employee training as: (1) general awareness/familiarization training, (2) function-specific training, and (3) safety training. 49 CFR 172.204(c) requires, in part, that a hazmat employee receive initial training, and recurrent training at least once every three years.

Contrary to the above, between September 3, 2007 and November 17, 2008, the licensee did not provide training for its hazmat employees which satisfied the requirements in Subpart H to 49 CFR Part 172, in that recurrent training was not provided every three years, and the licensee otherwise meets the definition of hazmat employer in 49 CFR 171.8. Specifically, a gauge user's hazmat certification expired on September 2, 2007, but the gauge user was transporting radioactive material without the required training on October 16, 2008.

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

Pursuant to the provisions of 10 CFR 2.201, Froehling and Robertson, Inc. is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555, with a copy to the Regional Administrator, Region I, 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, (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.

If you contest this enforcement action, you should also provide a copy of your response to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, any response which contests an enforcement action shall be submitted under oath or affirmation.

Your response will be placed in the NRC Public Document Room (PDR) and on the NRC Web site. To the extent possible, it should, therefore, not include any personal privacy, proprietary, or safeguards information so that it can be made publically available without redaction. However, if you find it necessary to include such information, you should clearly indicate the specific information that you desire not to be placed in the PDR, and provide the legal basis to support your request for withholding the information from the public.

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

Dated This 13th day of January 2009