

**From:** [Dykert, Jason](#)  
**To:** [Davies, Jim](#); [Finstad, Jimmy](#)  
**Subject:** Portable Nuclear Gauge contract work  
**Date:** Friday, May 24, 2019 9:07:00 AM  
**Attachments:** [image003.png](#)  
[image004.png](#)  
[image006.png](#)  
[image007.png](#)

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Mr. Davies and Mr. Finstad,

As described below in your email, and discussed on the phone, MDT permitting consultant inspectors to use portable gauges appears to be in compliance with NRC regulations and license conditions.

The consultant inspectors are trained under and are using MDT's portable gauge Operating and Emergency procedures, are authorized to use the gauges in accordance with MDT's license requirements, the RSO knows where the gauges are being used and stored, and the consultant company and MDT have a written agreement in place authorizing the consultant inspectors to work as MDT employees. Because of the controls in place, it appears that 10 CFR 30.34(b), 10 CFR 30.3, 10 CFR 30.41, and MDT's license conditions are being met, as described by Region IV's Division of Nuclear Materials Safety Director and Deputy Director.

Please contact me if you have any issues or questions,

Jason C Dykert  
Health Physicist, Inspection Branch  
US NRC, Region IV  
(817) 200 - 1427



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**From:** Davies, Jim <jdavies@mt.gov>  
**Sent:** Monday, May 20, 2019 3:13 PM  
**To:** Dykert, Jason <Jason.Dykert@nrc.gov>  
**Cc:** Davies, Jim <jdavies@mt.gov>; Christensen, Kevin <kechristensen@mt.gov>; Metcalfe, Oak <rmetcalfe@mt.gov>; Moffett, Anson <amoffett@mt.gov>; Finstad, Jimmy <jfinstad@mt.gov>; Dahlke, Ryan <rdahlke@mt.gov>  
**Subject:** [External\_Sender] RE: Portable Nuclear Gauge

Hi Jason,

Based on our phone conversation today with you and the following MDT people in attendance:

Ryan Dahlke, MDT Consultant Design Bureau Chief

Oak Metcalfe, MDT State Materials Engineer

Anson Moffett, MDT Quality Control Supervisor

Jim Davies, MDT Materials Bureau Chief

we agreed MDT is in compliance with the NRC with respect to the consultant inspectors MDT has hired to assist with our MDT construction crews.

As discussed, these inspectors are trained by the MDT Radiation Safety Officer and act as MDT employees on MDT supervised construction crews.

In the event of an incident, these inspectors are trained to follow MDT's established radiation safety protocols.

Training records, gauge locations and transportation documents are all maintained by MDT and are available upon request.

All gauges will be used, transported and stored in accordance with MDT's established policies including incident management and security.

Dosimeters are supplied and monitored by MDT for the consultant inspectors.

Thanks for meeting with us on short notice.

Jim



**Jim Davies, P.E.**

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**From:** Dykert, Jason <[Jason.Dykert@nrc.gov](mailto:Jason.Dykert@nrc.gov)>

**Sent:** Thursday, January 17, 2019 12:03 PM

**To:** Finstad, Jimmy <[jfinstad@mt.gov](mailto:jfinstad@mt.gov)>

**Subject:** RE: Portable Nuclear Gauge

Hi Jimmy,

I have seen violations written for this exact scenario because of the lack of proper controls in place and a failure to obtain NRC consent prior to the work.

10 CFR 30.34(b) requires, in part, that no license nor any right under a license be transferred, through transfer of control of any license to any person unless the Commission gives its consent in writing. 10 CFR 30.3 in part, requires that no person shall manufacture, produce, transfer, receive, acquire, own, possess, or use byproduct material except as authorized in a specific or general license issued in accordance with the regulations in this chapter. Also, 10 CFR 30.41 states that no licensee shall transfer byproduct material except as authorized pursuant to this section.

I would suggest putting together a contract that specifically addresses the items in the attached document, getting it signed, and sending it to us for review prior to allowing that

kind of work. It has been approved of in the past, so it is possible, it just requires approval in writing.

Jason

**From:** Finstad, Jimmy [<mailto:jfinstad@mt.gov>]

**Sent:** Thursday, January 17, 2019 10:58 AM

**To:** Dykert, Jason <[Jason.Dykert@nrc.gov](mailto:Jason.Dykert@nrc.gov)>

**Subject:** [External\_Sender] Portable Nuclear Gauge

Good morning,

The management is considering contracting out some of our compaction testing. I would like to know if we can allow these consultants to use our Troxler 3440 gauges under our license. They will be under the supervision of a state employee(project manager), but be an independent company. I would just like to make sure we would be in compliance with NRC regulations as per our liscense. Please advise.

Thank you,  
Jimmy

*James P. Finstad  
Radiation Safety Officer  
Materials Bureau  
Montana Department of Transportation  
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