



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

July 18, 2006

Docket No. 03036955  
EA No. 06-171

License No. 29-31053-01

Nalin Shah  
President/RSO  
Encore Specialty, LLC  
177 Edison Avenue  
Edison, NJ 08820

SUBJECT: INSPECTION 03036955/2006001, ENCORE SPECIALTY, LLC, EDISON, NEW JERSEY SITE, NOTICE OF VIOLATION AND EXERCISE OF ENFORCEMENT DISCRETION

Dear Mr. Shah:

On June 14, 2006, Craig Gordon of this office conducted a safety inspection at the above address of activities authorized by the above listed NRC license. The inspection was an examination of your licensed activities as they relate to radiation safety and to compliance with the Commission's regulations and the license conditions. The inspection consisted of observations by the inspector, interviews with personnel, and a selected examination of representative records. You and I discussed the findings of the inspection at the conclusion of the inspection on July 18, 2006.

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.

A violation of 10 CFR 30.34(i) was identified during this inspection and is described in the attached Notice of Violation. Although such violations are normally categorized at Severity Level III and considered for escalated enforcement action, because (1) one physical control existed to prevent loss or theft of the portable gauge, (2) you retained possession of the gauge, (3) you took appropriate action to correct the violation and prevent recurrence of similar violations in the future, and (4) the violation was not willful, we are exercising enforcement discretion to categorize this violation at Severity Level IV. However, any future violations of 10 CFR 30.34(i) will be categorized at Severity Level III and evaluated for a civil penalty in accordance with Section VI.C. of the Enforcement Policy.

Nalin Shah  
Encore Specialty, LLC

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Current NRC regulations are included on the NRC's website at [www.nrc.gov](http://www.nrc.gov); select **Nuclear Materials; Medical, Academic, and Industrial Uses of Nuclear Material**; then **Toolkit Index Page**. The current Enforcement Policy is included on the NRC's website at [www.nrc.gov](http://www.nrc.gov); select **What We Do, Enforcement**, then **Enforcement Policy**. Or you may 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).

Your cooperation with us is appreciated.

Sincerely,

***Original signed by John D. Kinneman***

John D. Kinneman, Chief  
Security and Industrial Branch  
Division of Nuclear Materials Safety

Enclosure:  
Notice of Violation

cc:  
State of New Jersey

Nalin Shah  
Encore Specialty, LLC

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## NOTICE OF VIOLATION

Encore Specialty, LLC  
Edison, NJ

Docket No. 03036955  
License No. 29-31053-01  
EA No. 06-171

During an NRC inspection conducted on June 14, 2006, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 30.34 (i) requires that each portable gauge licensee shall use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

Contrary to the above, as of June 14, 2006 at the licensee's Edison, New Jersey storage location, a second independent physical control that forms a tangible barrier to secure the licensee's Humboldt Model 5001B (S/N 2383) portable gauge from unauthorized removal was not available, and the gauge was not under the control and constant surveillance of the licensee.

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

Pursuant to the provisions of 10 CFR 2.201, Encore Specialty, LLC 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 - EA No. 06-171" 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.

Nalin Shah  
Encore Specialty, LLC

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

Dated This 18<sup>th</sup> day of July 2006