



February 6, 1997

U.S. Nuclear Regulatory Commission  
Attn: Document Control Desk  
Washington, D.C. 20555

Subject: "Reply to a Notice of Violation"

Docket No. 30-32230  
License No. 11-27076-01

In June of 1996, the Idaho Transportation Department received a citation from the Nuclear Regulatory Commission based on gage security at the jobsite. This was in relation to an incident where the State required the Contractor to furnish a testing laboratory (trailer). The Contractor moved the trailer to another jobsite without first allowing State Personnel to remove the nuclear gage. Specifically, the Gage was a Troxler Model 3242, containing a 0.10 mCi Cf-252 source. In addition, the Contractor and the Consulting Engineer had access to the trailer.

Following the incident, a directive was issued stating that no trailer will be moved without the express permission of the Resident Engineer, insuring that all nuclear equipment has been removed from the trailer. Since this incident, no other violations have been identified.

Corrective action to provide security of nuclear equipment has been established and shall be maintained. Effective immediately, the following procedures will be the "Rules of Practice" and shall be implemented.

1. Access to trailers housing and/or storing nuclear equipment must be restricted to authorized State Personnel.
2. Nuclear gages shall be locked in their case or chained and locked within the trailer by means of an eyebolt or other suitable hardware so as to provide the double security system.
3. A hitch locking device preventing hook up to any vehicle shall be in place before any nuclear equipment can be moved into the trailer.
4. All keys allowing access to test trailers containing Department-owned nuclear test equipment shall be in the custody of authorized State Personnel only. In addition, all keys which allow removal of the hitch locking device shall be in the custody of authorized State Personnel as well.

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As of February 1997, these procedures have been implemented and shall be strictly enforced. This should not present an immediate problem since the normal construction season is generally from Spring to Fall. During the Winter months the Idaho Transportation Department schedules classes for all personnel who use or transport nuclear equipment. These classes cover safety, transportation, emergency response, and regulations of nuclear equipment. All personnel who operate and/or transport nuclear gages must attend this class annually. By the beginning of the 1997 construction season, there shall be no individual in ITD's Nuclear Gage Program that isn't aware of these new policies.

Should you have any questions concerning this response, please contact David Turner at (208) 334-8447.

Sincerely,

A handwritten signature in cursive script, appearing to read "David Turner".

David Turner, RSO  
Materials Section



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

REGION IV

611 RYAN PLAZA DRIVE, SUITE 400  
ARLINGTON, TEXAS 76011-8064

January 15, 1997

EA 96-486

Mr. David Turner  
Radiation Safety Officer  
State of Idaho  
Transportation Department  
Highways Materials Section  
P. O. Box 7129  
Boise, Idaho 83703

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SUBJECT: NRC INSPECTION 30-32230/96-01 AND NOTICE OF VIOLATION

Dear Mr. Turner:

On December 30, 1996, the NRC completed an inspection of activities conducted at your office in Boise, Idaho. The inspection included a review of an incident reported by you in August, 1996, involving the relocation of a gauge from one temporary job site to another by a contractor working with your staff. A telephonic exit briefing was subsequently conducted with you on December 30, 1996.

The inspection included review of information provided by you to the NRC Region IV office, interviews with members of your staff and the contractor's employees, and a review of written reports maintained by your office documenting the Idaho Transportation Department's review of the incident.

Based on the results of the inspection, a violation of NRC requirements was identified. The violation involves the failure to secure from unauthorized access or removal an asphalt content gauge containing 60 microcuries of Californium-252 stored in a construction trailer. The inspection verified that the trailer where the gauge was stored was not secure in that it was relocated to a second temporary jobsite without your knowledge or consent. In addition, we found that personnel other than Transportation Department employees possessed keys to the trailer allowing them to gain access to the area where the gauge was stored. The violation is cited in the enclosed Notice of Violation (Notice). Please note that you are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

The NRC considers the failure to control access to byproduct material to be a significant concern because of the potential for loss of the material and for members of the public to receive unintended and possibly significant radiation exposures. This incident raises concerns regarding the controls established by the Idaho Transportation Department to secure licensed materials because the gauge appeared to have been taken without your specific knowledge or consent. However, in this case we recognize that the failure to secure the gauge was not intentional. Also, it was noted that your staff identified that the

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State of Idaho

gauge had been moved and promptly retrieved it, and you subsequently reported the incident to the NRC and implemented preliminary corrective actions. Given that small quantities of radioactive material were involved which, given the nature of the material, pose no real risk to members of the public, the NRC is classifying the violation at Severity Level IV. Please be advised that future failures to secure licensed material may result in significant enforcement action.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response will be placed in the NRC Public Document Room (PDR). To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction.

Should you have any questions concerning this letter, please contact Robert A. Brown at (817) 860-8130 or Linda Howell at (817) 860-8213.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ross A. Scarano", written in a cursive style.

Ross A. Scarano, Director  
Division of Nuclear Materials Safety

Docket No.: 30-32230  
License No.: 11-27076-01

Enclosure:  
Notice of Violation

cc w/enclosure:  
Idaho Radiation Control Program Director

ENCLOSURE

NOTICE OF VIOLATION

State of Idaho  
Boise, Idaho

Docket No.: 30-32230  
License No.: 11-27076-01  
EA 96-486

During an NRC inspection conducted on September 17 through December 30, 1996, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10 CFR 20.1801 requires that a licensee secure from unauthorized removal or access licensed materials that are stored in controlled or unrestricted areas. 10 CFR 20.1802 requires that a licensee control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage. As defined in 10 CFR 20.1003, *controlled area* means an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee for any reason; *unrestricted area* means an area, access to which is neither limited nor controlled by the licensee.

Contrary to the above, during June 1996, the licensee did not secure from unauthorized removal or access licensed materials that were stored in controlled and unrestricted areas. Specifically, a Troxler Model 3242 asphalt content gauge had been stored in a construction trailer at a temporary jobsite and the licensee did not secure the gauge from unauthorized access or removal. Keys to the trailer were in possession of personnel other than the licensee's employees, allowing contractor staff to enter the trailer where the gauge was stored. In addition, the trailer, with the asphalt gauge, was moved from the temporary job site without the licensee's knowledge or surveillance. The gauge contains a nominal 60 microcurie californium-252 sealed source.

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

Pursuant to the provisions of 10 CFR 2.201, State of Idaho 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 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, (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,

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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 placed in the NRC Public Document Room (PDR), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR 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 2.790(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.

Dated at Arlington, Texas  
this 15th day of January 1997