



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

REGION IV

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

February 25, 1997

Mark M. Mattingly  
President and Radiation Safety Officer  
Mattingly Testing Services, Inc.  
P.O. Box 3126  
Great Falls, Montana 59403

SUBJECT: NOTICE OF VIOLATION

Dear Mr. Mattingly:

This refers to your letter dated January 8, 1997, and your facsimile dated February 6, 1997, submitted in response to our letter and Notice of Violation (Notice) dated December 12, 1996. We have reviewed the information in these documents, as well as information provided by you during a telephone conversation with Mr. William Radcliffe and Ms. Linda Howell of this office on February 6, 1997, and find that additional information is needed in order to complete our review of corrective actions taken or proposed by Mattingly Testing Services, Inc. (Mattingly). The specific information needed is discussed below.

In your January 8 letter, you requested that the violations cited in the Notice be "removed" as violations from your file. You also noted a concern about the manner in which the inspection findings were presented to you during the exit briefing. In particular, you noted that the inspection findings were not expressly cited as violations at that time. As Ms. Howell noted during her conversation with you on February 6, inspectors may characterize their inspection findings as preliminary findings or conclusions because the findings must undergo further review by regional management at the conclusion of the inspection. Because our inspector identified a repetitive violation, his findings were characterized as apparent violations and were reviewed further by regional management upon his return to the regional office. As noted below, your correspondence did not provide bases for withdrawing any of the violations; therefore, they remain as stated in the Notice.

You are required to respond to this letter with regard to Violation A as specified below. Your response to this letter should be directed to the NRC Region IV office within 15 days of the date of this letter.

Violation A

This violation involved a radiographer's failure to post the high radiation area at a site where he was performing radiography. As stated in your response, you contest this violation because: (1) the site was posted as a radiation area in accordance with 10 CFR 20.1902(a), (2) the site was controlled by the radiographer, in accordance with 10 CFR 34.41, to prevent access by unauthorized personnel, (3) a ladder was the only means to



access the high radiation area, and (4) the high radiation area would have been impossible to post without putting the radiographer at undue risk.

Your response did not provide a basis for retracting the violation. In addition, during the inspection, the inspector found that the type of sign used by Mattingly personnel could easily have been placed at the base of the ladder or, as you suggested during the exit briefing, hung on an easily accessible rung. Either action would have met the specified requirement since an individual would have to walk around or climb over the sign in order to climb the ladder, the only means of accessing the high radiation area.

We also note that the immediate corrective action stated in your response appears difficult to apply in the field. Your instructions, if given as stated in your letter, could leave your radiographers little choice but to knowingly disregard the regulations or face injury instead of finding safe and effective alternatives. Furthermore, you failed to identify actions taken to prevent recurrence of this violation. This is especially important since the corrective actions you had previously proposed in response to a similar violation cited in a Notice of Violation dated May 5, 1995, failed to prevent this violation from recurring. Therefore, in accordance with the instructions provided page 2 of the Notice, you are requested to respond again to each of the four items identified therein.

#### Violation B.1

This violation involved failures to correctly record the transport index on required shipping papers. Instead of placing the number representing the maximum radiation level in milliroentgen per hour at 1 meter from the package, some radiographers recorded "< 1 mR/hr." As stated in your response, you contest this violation on the basis that: (1) 10 CFR 34.24 requires that survey instruments have a range such that two milliroentgens per hour through one roentgen per hour can be measured; (2) any reading less than one is approximate only, so an entry on the transportation certificate of < 1 is more accurate than a guess of a decimal place; and (3) the survey meter does not stop at a definite increment but continues to swing between 0 and 1 on the scale.

In reviewing your response, we find that you did not provide sufficient bases for withdrawing the violation. However, we have reviewed your response to Violation B.1 as stated in your letter dated January 8, 1997, and clarified in your facsimile dated February 6, 1997, and find it responsive to the concerns raised in our Notice. No further response to this violation is required.

#### Violation B.2

Although it appears that you contested this violation stating that required information was placed on transportation labels but did not remain legible, this does not provide a basis for the withdrawal of this violation. However, we have reviewed your response to Violation B.2 and find it responsive to the concerns raised in our Notice. No further response to this violation is required.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and your response will be placed in the NRC Public Document Room (PDR). To the extent

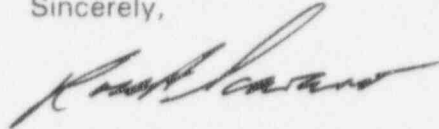
Mattingly Testing Services, Inc.

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possible, your response should not contain 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 Mr. William Radcliffe at (817) 860-8151 or Ms. 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 Material Safety

Docket No.: 30-20836  
License No.: 25-21479-01

cc:  
Montana Radiation Control Program

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Mattingly Testing Services, Inc.

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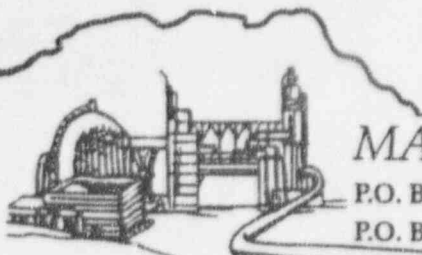
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# MATTINGLY TESTING SERVICES, INC.

P.O. Box 3126

Great Falls, Montana 59403 • (406) 264-5471

P.O. Box 30316

Billings, Montana 59107 • (406) 248-6375

January 8, 1997

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

JAN 13

Subject: Response to December 9, 1996 Letter and Notice of Violation  
Docket No. 30-20836

Regional Administrator;

This is a response to the letter received from your office dated December 9, 1996 and the Notice of Violations that was received with it on December 12.

It is hereby requested that all three items listed, be removed as "Violations" from our file.

In our exit briefing with Mr. Radcliffe following the October 1-3 audit each of these items were discussed and none were labeled as "Violations". At no time did anyone in our Radiation Safety Program intentionally disregard safety in regard to the items listed. The way in which your "Notice" is written would lead a reader to believe that appropriate safety measures were not taken. When in fact appropriate safety measures were taken at all times.

Items B1&2 of "Notice of Violations" when discussed during the exit briefing were clarifications on recording information. Information was being recorded but we were informed that the numeric entry previously used, for mR recording estimates of less than one, were no longer found acceptable, [even though 10 CFR 34.24 states "instrumentation required by this section shall have a range such that two milliroentgens per hour through one roentgen per hour can be measured"]. Any reading less than one is an approximate only, so an entry on the transportation certificate of <1 is more accurate than a guess of a decimal place. The second item regarding the recording of information was that more attention needed to be given in assuring legibility of label entries on the exposure device itself.

Item A, where a high radiation sign was not properly posted, Mr. Radcliffe while conducting his audit did in fact observe that access to the area was restricted, and posted, and under the direct surveillance of the radiographer. Mr. Radcliffe brought it to the attention of the radiographer that although he controlled access to his area and the radiographer would have been the only person who would have been able to read the HIGH RADIATION sign if posted further up the refinery tower above himself, to follow 10 CFR 20 requirements he should have placed an additional sign no matter what.

Each item was immediately addressed at the time of the audit in October and appropriate training and changes were made[see attached training sheet dated October 11, 1996]. To list these items of discussion as "Violation" without including a complete explanation surrounding the identification of each item, will cause suspicion as to the safe conduct of our radiographers.

Each item is addressed separately below.

## Item A

In response to the "Violation" that a high radiation sign was not posted. In accordance with the Auditor's instructions radiographers have been instructed that no matter how difficult it may be or how unnecessary it may appear or how physically unsafe it would be he is always to post a High Radiation sign.

97-0529

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MATTINGLY TESTING SERVICES, INC.

When Mr. Radcliffe observed this "Violation" the radiographer was making an exposure at the EXXON Billings Refinery on a processing tower. The high radiation area was on the working platform some ten feet above the ground with access only by a single ladder on the side of the tower which was posted as required by 10CFR 20.1902 a, and guarded by the radiographer as required by 10 CFR 34.41 To post a high radiation sign further up the tower between the radiographer and the source would have required an additional trip up the tower and locating something to attach it to. Knowing no one could gain access to the area above him where the exposure would be without physically removing the radiographer himself, he determined his area was safe to proceed.

Item B1

It should be stated the "<1 mR/hr" had been recorded as an approximate transportation index due to the fact that the needle on the survey meter does not stop at a definite increment but continues to swing between 0 and 1 on the scale. All radiation safety personnel were immediately instructed following the audit that the recording of "<1" was no longer found to be acceptable even though 10 CFR 34.24 only requires survey meters to have a range of from 2 mR/hr through 1 R.

This "Violation" of not recording the dimensionless number [rounded up to the first decimal place], only occurred on readings of less than one. We understood this to be an auditor's note during his exit briefing and an item to make our radiographers aware of. Radiographers were immediately made aware of this requirement. We did not know this would be considered a "Violation". A review of the past months survey reports show that radiographers have replaced "<1" reading with an approximate decimal reading.

Item B2

All radiographers have been instructed to examine the legibility of DOT Radioactive Yellow II label more frequently for clarity and to replace them with new labels as needed.

Since the majority of our work is at outdoor job sites in an extreme range of weather conditions, the problem with keeping labels in a well maintained condition is an ongoing one. All labels on exposure devices do require complete removal and replacement during quarterly maintenance. Labels requiring written information such as the Yellow II are even more difficult to maintain, however additional effort to monitor this item will be made.

Please contact our office at 406-264-5471 if you have any further questions.

Sincerely,

Mark M. Mattingly  
Radiation Safety Officer

cc NRC Document Control Desk  
George Eicholtz, Montana Department of Environmental Quality and Radiation Control  
Senator Conrad Burns  
Representative James Hill  
Smart Associates, Kerit Smart