



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PA 19406-1415

January 10, 2000

EA 2000-002

Mr. Joseph D. Tario, P.E.
President
Maxim Technologies of New York, Inc.
5 Knaber Road
Mechanicsville, New York 19402-2847

Dear Mr. Tario:

SUBJECT: NOTICE OF VIOLATION
(NRC Inspection Report Nos. 150-00031/99-002;150-00031/99-03)

This letter refers to the NRC inspection conducted on December 22, 1999, at the Maxim Technologies of New York, Inc. (Maxim) offices in Mechanicsville, New York. The purpose of this inspection was to determine whether activities performed in non-agreement states under the general license described in 10 CFR 150.20(a)(1) (reciprocity), and approved by the NRC, were conducted safely and in accordance with NRC requirements. During the inspection, the NRC identified problems with your radiography safety program, including certification of radiography technicians and the failure to monitor radiation exposure for one radiographer. In a telephone conversation on January 5, 2000, Mr. Eric Reber of my staff informed you that the NRC had sufficient information regarding the violation and your corrective actions to make an enforcement decision without a predecisional enforcement conference or a written response from you. On January 7, 2000, you indicated that Maxim did not believe that a predecisional enforcement conference or written response was needed.

Based on the information developed during the inspection, two violations of NRC requirements were identified and are being cited in the enclosed Notice of Violation (Notice). The first violation involves the performance of radiography in Vermont and Connecticut (states under NRC jurisdiction) during the time period from August through October 1999 by individuals who were not certified through a radiographer certification program by a certifying entity. Certification is required by NRC regulations for radiographers performing radiography work in areas subject to NRC jurisdiction.

During the inspection, the NRC determined that this violation appeared to be an isolated occurrence for which you took appropriate corrective action. Nonetheless, the violation was significant because certification demonstrates that the person has received appropriate radiation safety training to ensure that radiography activities are conducted safely and in accordance with requirements. Therefore, the first violation is categorized as a Severity Level III problem in accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, dated November 9, 1999.

PDR ADOLC

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In accordance with the Enforcement Policy, a base civil penalty in the amount of \$2,750 is considered for a Severity Level III violation or problem. Because your facility has not been the subject of an escalated enforcement action in past, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section VI.B.2 of the Enforcement Policy. Credit for corrective actions is warranted because your corrective actions, at the time of the inspection, were considered prompt and comprehensive. These actions include, but are not limited to, (1) discontinuing the use of non-certified radiographers in non-agreement states; and (2) plans to certify the radiographers who perform radiography in jurisdictions where certification is required.

Therefore, to encourage prompt and comprehensive correction of violations, I have been authorized to not propose a civil penalty in this case. However, similar violations in the future could result in further escalated enforcement action. In addition, issuance of this Notice constitutes escalated enforcement action, that may subject you to increased inspection effort.

The second violation involves the failure to monitor, over a period of approximately one month, any occupational radiation exposure to a radiographer. This violation is categorized as a Severity Level IV.

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 specify the status of your plans to certify the radiographers, as well as the corrective actions taken to address the second violation. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

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.

Sincerely,



Hubert J. Miller
Regional Administrator

Docket No. 150-00031
License No. NY 2505-3627

Enclosure: Notice of Violation

cc w/encl:
State of New York
State of Vermont
State of Connecticut

Maxim Technologies of New York, Inc.

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