



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

April 13, 2001

NRC Docket No. 15000019
CAL No. 01-001
EA No. 01-104

NY License No. 2823-4060

Humberto Macia
President and Radiation Safety Officer
Macia Consulting Enterprises, Inc.
287 New Hackensack Road
Poughkeepsie, NY 12603

SUBJECT: CONFIRMATORY ACTION LETTER NO. 01-001

Dear Mr. Macia:

On April 11, 2001, the NRC conducted a reciprocity inspection of your program at Newark International Airport, Newark, New Jersey. At that time, we identified concerns regarding security and control of portable nuclear gauges. In addition, on April 12, 2001, you provided documentation indicating that Mr. Vincente Magistrado, one of your gauge users, received hazmat training on December 5, 1994. Recurrent hazmat training must be received at least once every three years and thus Mr. Magistrado's training appears to be not current.

Pursuant to a telephone conversation between yourself and Pamela Henderson of this office on April 13, 2001, it is our understanding that you have taken or will take the following actions which will be completed by the dates specified:

1. In order to assure that all the gauges are secured and controlled as required, you will:
 - a. by Monday, April 16, 2001, issue a memorandum to all gauge users addressing regulatory requirements and your expectations concerning security and control of gauges,
 - b. by Friday, April 20, 2001, provide training to all gauge users on requirements for security and control of gauges, and
 - c. by Friday, April 20, 2001, conduct an audit on gauge security and control at the Newark International Airport jobsite.
2. Immediately prohibit Mr. Vincente Magistrado from transporting gauges until he receives Hazmat training required by 49 CFR 172.704 and until you provide us with documentation indicating that his Hazmat training was received within the last three years and provide an outline of the subjects covered by the training.

Pursuant to Section 182 of the Atomic Energy Act, 42 U.S.C. 2232, you are required to:

- 1) Notify me immediately if your understanding differs from that set forth above;
- 2) Notify me if for any reason you cannot complete the actions within the specified schedule and advise me in writing of your modified schedule in advance of the change; and
- 3) Notify me in writing when you have completed the actions addressed in this Confirmatory Action Letter.

Issuance of this Confirmatory Action Letter does not preclude issuance of an order formalizing the above commitments or requiring other actions on the part of the licensee, nor does it preclude the NRC from taking enforcement action for violations of NRC requirements that may have prompted the issuance of this letter. In addition, failure to take the actions addressed in this Confirmatory Action Letter may result in enforcement action.

In accordance with 10 CFR 2.790, a copy of this letter will be placed in the NRC Public Document Room (PDR) and will be accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html>. 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. 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.

Sincerely,

Original signed by Francis M. Costello

George Pangburn, Director
Division of Nuclear Materials Safety

cc:
State of New York

H. Macia
Macia Consulting Enterprises, Inc.

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