



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

July 8, 2005

Docket No. 03032029

License No. 52-25133-01

Jennifer O'Neill
President/RSO
S&M Testing Laboratory
P. O. Box 193145
San Juan, PR 00919-3145

**SUBJECT: INSPECTION 03032029/2005001, S&M TESTING LABORATORY, SAN JUAN,
PUERTO RICO SITE AND NOTICE OF VIOLATION**

Dear Ms. O'Neill:

On May 9, and 12, 2005, Sattar Lodhi and Orysia Masnyk Bailey of this office conducted a safety inspection at your facilities in Caguas, Puerto Rico, 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. The findings of the inspection were discussed with you at the conclusion of the inspection.

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.

The inspectors noted that two of the transport containers stored at your facilities on May 9, had cracks and did not meet the criteria for a Type A container. During the inspection and during a telephone conversation with the inspectors on June 9, 2005, you confirmed that these damaged containers are only used to store your inoperable gauges and that you do not use these containers to transport gauges to job sites. The inspectors reminded you that all containers that are used to transport nuclear gauges must meet the criteria specified in 49 CFR 173.410 and 173.412 for a Type A container. If you use overpacks for these damaged containers, they must meet these and any other applicable requirements.

You also informed the inspectors that only the persons who have completed the nuclear gauge user training are authorized to use the gauges and that you had six authorized gauge users. The inspectors reviewed training records of these users and confirmed that each of these individuals had received the required training and the certificates of completion of their training

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were in your files. You also stated that the required HAZMAT refresher training is scheduled for the last week of June, 2005. During the June 9, 2005, conversation with the inspector, you confirmed that you do not permit untrained workers to use the gauges. In your response to this letter, please confirm each of these statements.

Current NRC regulations and the General Policy and Procedure for NRC Enforcement Actions are available at the NRC web site at <http://www.nrc.gov/materials/miau/mat-toolkits.html> and <http://www.nrc.gov/what-we-do/regulatory/enforcement> or by contacting the Government Printing Office (GPO) toll-free at 1-888-293-6498. The GPO is open from 7:00 a.m. to 9:00 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:
Commonwealth of Puerto Rico

J. O'Neill
S&M Testing Laboratory

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SISP Review Complete: (Reviewer's Initials) JDKinneman

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OFFICE	DNMS/RI	N	DNMS/RI	N	DNMS/RI	N		
NAME	Slodhi/JDK f/		OMBailey/JDK f/		JDKinneman/JDK			
DATE	07/08/2005		07/08/2005		07/08/2005			

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NOTICE OF VIOLATION

S&M Testing Laboratory
San Juan, PR

Docket No. 03032029
License No. 52-25133-01

During an NRC inspection conducted on May 9, and 12, 2005, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

- A. Condition 17 of License No. 52-25133-01 requires that each gauge or its container be locked while in storage.

Contrary to the above, on May 9, 2005, three gauges were not in their storage containers and the gauges themselves were not locked.

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

Pursuant to the provisions of 10 CFR 2.201, S&M Testing Laboratory 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" 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. Therefore, to the extent possible, it should 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.

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

Dated This 8th day of July 2005