



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

January 4, 2008

Docket No. 03034791
EA-07-257

License No. 29-30465-01

Frank G. Pennisi
Regional Vice President and RSO
Materials Testing, Inc.
175 Quincy Court
Hopelawn, NJ 08861

SUBJECT: NRC PREDECISIONAL ENFORCEMENT CONFERENCE
WITH MATERIALS TESTING, INC.

Dear Mr. Pennisi:

This letter refers to the Predecisional Enforcement Conference (PEC) held on December 18, 2007. A copy of the PEC Summary is enclosed. The final enforcement decision will be sent to you in separate correspondence.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC web site at <http://www.nrc.gov/reading-rm/adams.html>.

If you have any questions concerning this matter, please contact Marie Miller, Chief, Materials Security and Industrial Branch at 610-337-5205.

Your cooperation is appreciated.

Sincerely,

/RA JKinneman Acting for/

Brian Holian, Director
Division of Nuclear Materials Safety

Enclosure:
NRC Predecisional Enforcement Conference Summary

cc:
State of New Jersey
Commonwealth of Pennsylvania

January 4, 2008

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U.S. NUCLEAR REGULATORY COMMISSION
REGION I

PREDECISIONAL ENFORCEMENT CONFERENCE SUMMARY

Report No. 03034791/2007002
Docket No. 030-34791
License No. 29-30465-01
Licensee: Materials Testing, Inc.
Facility Name: Materials Testing, Inc.
175 Quincy Court
Hopelawn, NJ 08861
Conference Date and Time: December 18, 2007 at 11:00 a.m.
Conference Location: NRC Region I, King of Prussia, Pennsylvania

Inspectors:	Original signed by MMiller for	12/20/07
	_____ Richard Ladun Health Physicist	_____ date
	Original signed by MMiller for	12/20/07
	_____ Randolph C. Ragland, Jr. Senior Health Physicist	_____ date
Approved By:	Original signed by MMiller	12/20/07
	_____ Marie T. Miller, Chief Security and Industrial Branch Division of Nuclear Materials Safety	_____ date

CONFERENCE SUMMARY

NRC Predecisional Enforcement Conference, Report No. 03034791/2007002

On December 18, 2007, representatives of Materials Testing, Inc. met with NRC management in the Region I office located in King of Prussia, Pennsylvania. The meeting was held to discuss the findings described in NRC Inspection Report No. 03034791/2007001, that included one apparent repeat violation of 10 CFR 30.34(i). The apparent violation discussed was related to failure to adequately secure portable moisture density gauges as required by 10 CFR 30.34(i). The meeting was open to the public, however, there were no members of the public present.

Brian Holian, NRC Region I Director, Division of Nuclear Materials Safety, made the opening remarks and briefly described the purpose of the conference. Anne DeFrancisco, NRC Region I Enforcement Specialist, described the NRC Enforcement Policy and process. Marie Miller, Chief, NRC Region I Division of Nuclear Materials Safety, Materials Security and Industrial Branch, reviewed the apparent violation described in the inspection report.

Mr. Frank Pennisi, Regional Vice President and RSO, and Mr. James Fuller, Vice President and Neffs, PA facility Branch Manager, described the extenuating circumstances associated with the apparent violations and the licensee's uncertainty with respect to the number of portable gauges that were unsecured at the time of the inspection. After a discussion of the facts, Mr. Pennisi and Mr. Fuller acknowledged the NRC inspection findings and described the corrective actions they had taken including: (1) immediately transferring unsecured portable gauges to a secure location; (2) installing additional tangible barriers to prevent unauthorized removal of the gauges when the gauges are not under direct control of licensee staff; (3) providing instructions to authorized gauge users on the requirements of 10 CFR 30.34(i) and the guidance in NUREG-1556 Vol. 1, Rev. 1, Appendix H, and having the gauge users sign the documents indicating that they have read and understood requirements; (4) increased frequency of Branch Manager field audits; and (5) hiring a company wide Director of Technical Operations to review audits, records of audits, and security.

Anne DeFrancisco provided closing comments on the enforcement policy and enforcement options available to the representatives of Materials Testing, Inc.

Mr. Holian thanked licensee representatives for their attendance and adjourned the meeting.

LIST OF PERSONS ATTENDING

Licensee:

Frank G. Pennisi, Regional Vice President and RSO
James E. Fuller, Vice President and Branch Manager Neffs, PA
Thomas Valenzano, Branch Manager, Hopelawn, NJ

NRC:

Brian E. Holian, Director, Division of Nuclear Materials Safety (DNMS)
Marie T. Miller, Chief, Materials Security and Industrial Branch, DNMS
Sunil Weerakkody, Deputy Director, DNMS
Randolph C. Ragland, Jr., Senior Health Physicist, Materials Security and Industrial Branch, DNMS
Daniel Holody, Team Leader, ORA
Anne DeFrancisco, Enforcement Specialist, ORA

NRC Participants by Telephone:

Sally Merchant, Office of Enforcement
Leelavathi Sreenivas, Office of Enforcement