



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

February 8, 2008

Docket No. 03034997  
Control No. 141479

License No. 37-30515-01

John P. Scott  
Owner/Radiation Safety Officer  
Construction Materials Testing Services, Inc.  
5 Cromwell Street  
Wheeling, WV 26003

SUBJECT: CONSTRUCTION MATERIALS TESTING SERVICES, INC., STORAGE OF  
LICENSED MATERIAL, CONTROL NO. 141479

Dear Mr. Scott:

This refers to your request dated December 16, 2007, to amend your NRC license, to change the location of use and to change the authorization to possession-only. An Order Suspending Your License (Order) was issued by NRC on August 21, 2007, because of non-payment of fees. The Order, however, could not be delivered because you had moved from your facility in Washington, PA, without notifying the NRC of your new address. The matter was, therefore, referred to the U. S. Treasury for collection of fees that you owe the NRC.

During your telephone conversation of November 27, 2007, with Marie Miller, Chief, Materials Security and Industrial Branch, you stated that you have permanently ceased activities authorized by your NRC license. Under such circumstances the NRC regulations require that you promptly dispose of all licensed material by transferring it to an authorized recipient and request termination of your license. During the above telephone conversation, Ms. Miller authorized you to temporarily store your three portable gauges at your residence at 5 Cromwell Street, Wheeling, WV, and to ensure that the portable gauges remain secure. This temporary storage was authorized so that you would be able to maintain better control and surveillance of the material, and to provide you time to make arrangements to transfer all licensed material in your possession to another authorized entity as soon as possible. On December 13, 2007, you contacted NRC to confirm that all three gauges were moved to 5 Cromwell Street, Wheeling, WV.

Your NRC license remains in effect until terminated by the NRC in writing; therefore, you remain responsible for the security of all licensed material in your possession, and for the implementation of all regulatory requirements, including conditions of the license. When you were located by the NRC Office of Investigation on November 27, 2007, we determined that you had stored, contrary to your NRC license, one of your three portable gauges at 5 Cromwell Street, Wheeling, WV without prior NRC authorization. This is an apparent violation of your NRC license.

**Certified Mail**  
**Return Receipt Requested**

In accordance with NRC regulations, you must store the gauges in a restricted area and the gauges must remain secured from unauthorized access, as required by 10 CFR 30.34(i) (enclosed). You must also ensure that members of the public are not exposed to radiation in excess of limits specified in 10 CFR Part 20 (enclosed). Also, prior to releasing your facility in Washington, PA, for unrestricted use, you must review the leak test records of your gauges to confirm that the facility is free of any radioactive contamination. Additionally, prior to transfer of gauges to another authorized recipient, you are required to test the gauges for leakage or contamination.

We have not received further communication from you with respect to your efforts to transfer your radioactive sources. We believe that you have been given sufficient time to transfer or arrange for the transfer of your licensed radioactive sources to another authorized recipient. In order to confirm our understanding of current status of your licensed activities, please call me at (610) 337-5274, or toll free at (800) 432-1156, within seven days of receipt of this letter. You should be prepared to discuss the following:

1. The date of actual or expected transfer of licensed material;
2. The description of the storage location, and security of licensed material;
3. Your plans to communicate with us weekly at a specified time and an emergency contact telephone number; and
4. Your alternate plans to properly dispose of the license material.

Failure to promptly transfer your gauges and request termination of your license may result in escalated enforcement action against you, including imposition of a Civil Penalty in accordance with the NRC Enforcement Policy. Therefore, your prompt attention to this matter is required. The NRC can assist you with respect to disposal of your gauges if you are unable to transfer the gauges.

Please contact Sattar Lodhi of my staff at (610) 337-5364, if you have any questions. Also, for additional guidance, the current Enforcement Policy is included on the NRC's Website at [www.nrc.gov](http://www.nrc.gov); select **Site Map**, then scroll down to **Enforcement Policy**.

Sincerely,

*Original signed by John D. Kinneman for*

Brian Holian, Director  
Division of Nuclear Materials Safety

cc:  
Commonwealth of Pennsylvania  
State of West Virginia

Enclosures:  
10 CFR Part 20  
10 CFR Part 30

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Sincerely,

Brian Holian, Director  
 Division of Nuclear Materials Safety

cc:  
 Commonwealth of Pennsylvania  
 State of West Virginia

Enclosures:  
 10 CFR Part 20  
 10 CFR Part 30

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**SUNSI Review Complete: SLodhi**

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DATE	2/8/08		02/08/08	2/8/08	2/8/08
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NAME	BHolian				
DATE					

\*\* see previous concurrence