



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION IV  
612 EAST LAMAR BLVD, SUITE 400  
ARLINGTON, TEXAS 76011-4005

August 26, 2008

Mr. Mark M. Ficek  
President  
Mattingly Testing Services, Inc.  
12555 West Andrews Lane  
Molt, Montana 59057

SUBJECT: RESPONSE TO NRC INSPECTION REPORT 030-20836/08-001 AND NOTICE  
OF VIOLATION

Dear Mr. Ficek:

Thank you for your letter dated August 6, 2008, in response to the violation identified in our letter and Notice of Violation (Notice) dated July 17, 2008. We have reviewed your letter and find it responsive to the concerns raised in our Notice. We will review the implementation of your corrective actions during a future inspection to determine that full compliance has been achieved and will be maintained.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and your response 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>.

Sincerely,

A handwritten signature in cursive script, appearing to read "V. H. Campbell for".

Vivian H. Campbell, Chief  
Nuclear Materials Safety Branch A

Docket No.: 030-20836  
License No: 25-21479-01

cc w/copy of licensee's letter dated August 6, 2008:  
Montana Radiation Control Program Director

## LICENSEE RESPONSE ROUTING

**COPY TO:** (along w/copy of inspection report to Director & BC)

HOWELL

CAIN

CAMPBELL

THOMPSON

**COPY TO: SUSPENSE FILE** (w/copy of inspection report):

**LICENSEE:** Mattingly Testing Services, Inc.  
**DOCKET #030-20836**  
**LICENSE #:** 25-21479-01  
**REPORT #:** 08-001

**Escalated Action--EA#:** N/A

**Inspection Report Mailed:** 07/17/2008 (ML081990333) (w/copy of IR to Director/BC)

**RESPONSE LTR DTD:** August 6, 2008 ( )

**RESPONSE LTR REC'D IN DIV:** August 20, 2008

**ACKNOWLEDGEMENT LTR DUE:** *September 10, 2008*



PO Box 30316 · Billings, MT 59107 · Ph: (406) 669-3229 · Fax: (406) 839-2015  
www.mtstestinggroup.com

RECEIVED

AUG 20 2008

**REPLY TO A NOTICE OF VIOLATION**  
NRC Inspection Report 030-20836/08-001  
and Notice of Violation

DNMS

Mattingly Testing Services, Inc.  
Molt, MT

Docket No. 030-20836  
License No. 25-21479-01

To  
United States Nuclear Regulatory Commission – US NRC  
Attn: Document Control Desk  
Washington, D.C. 20555

c.c. Regional Administrator, Region IV  
Office of Public Affairs, Region IV  
611 Ryan Plaza Drive, Suite 400  
Arlington TX 76011

**1. The reason for the violation, or, if contested, the basis for disputing the violation or severity level**

**1.1.-** According to the NOTICE OF VIOLATION, our "RSO or designee failed to conduct an inspection program that included observation of the performance of each radiographer and radiographer assistant during an actual radiographic operation at intervals not to exceed six months. Specifically, the RSO or designee failed to conduct an inspection program on the job performance of two radiographers from August 2007 through April 2008, an interval that exceeded six months. Additionally, the RSO or designee failed to conduct an inspection program of the performance of any of the radiographer assistants employed during Calendar Years 2006 through 2008."

**1.2.-** Concerning the failure to conduct an inspection program on the job performance of two radiographers from August 2007 through April 2008, we understand that there was a two month delay in observing the performance of two radiographers from August 2007 through April 2008.



PO Box 30316 · Billings, MT 59107 · Ph: (406) 669-3229 · Fax: (406) 839-2015  
www.mtstestinggroup.com

**1.3.-** The reason for the violation was a delay. We do not contest the violation and took all the necessary measures for it not to happen again.

**1.4.-** There was no failure to conduct an inspection program of the performance of any of the radiographer assistants employed during Calendar Years 2006 through 2008 as stated by the NOTICE OF VIOLATION. There was only failure in properly filing the radiographer assistants' performance reports in their files. Because the Assistant RSO was simultaneously observing the performance of both the radiographer and the radiographer assistant, he filled only one performance report for both which was filed only in the radiographer folder.

**1.5.-** The reason for the violation was that even though the radiographer and radiographer assistant performance was observed, only one report was generated and filed only in the radiographer's folder. We do not contest the violation. Immediately after the June 26, 2008 inspection conducted at our facilities, we began to generate a report for the radiographer and another report of the radiographer assistant.

## **2. The corrective steps that have been taken and the results achieved**

**2.1.-** There will be no delays in the future observation of the performance of each radiographer and radiographer's assistant, because a calendar for such observation has been established.

**2.2.-** Immediately after the June 26, 2008 inspection conducted at our facilities, we began to generate different reports for the radiographer and the radiographer assistant and to file them in their respective folders.

## **3. The corrective steps that will be taken to avoid further violations**

**3.1.-** The future observation of the performance of each radiographer and radiographer's assistant will be done according to a schedule set up to prevent delays as the one that caused the two months delay in conducting an inspection program on the job performance of two radiographers from August 2007 through April 2008.

**3.2.-** As a result of the observation of the performance of radiographers and radiographers' assistants, two separate reports which will be generated filed in the radiographers' as well as in the radiographer's assistant folders.



PO Box 30316 · Billings, MT 59107 · Ph: (406) 669-3229 · Fax: (406) 839-2015  
www.mtstestinggroup.com

**4. The date when full compliance will be achieved**

**4.1.-** On 7/21/2008, Ray Sierra, MTS Assistant RSO, returned to work after being submitted to heart surgery. As from this date, the observation of the performance of each radiographer and radiographer assistant is being done according to a schedule set up to prevent delays and, all the observation of the performance of radiographers and radiographer assistants are generating two separate reports which are being filed in the radiographers' as well as in the radiographer assistant folders.

We remain at the disposal of the US NRC to provide any additional information.

Dated this 6<sup>th</sup> of August, 2008

A handwritten signature in black ink, appearing to read "Mark Ficek".

**Mark Ficek** - President & RSO  
Mattingly Testing Services, Inc.

A handwritten signature in black ink, appearing to read "Ray Sierra".

**Ray Sierra** - ARSO  
Mattingly Testing Services, Inc.



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION IV  
612 EAST LAMAR BLVD, SUITE 400  
ARLINGTON, TEXAS 76011-4005

July 17, 2008

Mr. Mark M. Ficek  
President  
Mattingly Testing Services, Inc.  
12555 West Andrews Lane  
Molt, Montana 59057

SUBJECT: NRC INSPECTION REPORT 030-20836/08-001 AND NOTICE OF VIOLATION

Dear Mr. Ficek:

This refers to the inspection conducted on June 26, 2008, at your facility in Molt, Montana. The inspection was an examination of activities conducted under your license as they relate to safety and compliance with the Commission's rules and regulations and with the conditions of the license. Within these areas, the inspection consisted of selected examination of procedures and representative records and interviews with personnel. An exit briefing was conducted with you at the conclusion of the on-site inspection on June 26, 2008.

Based on the results of this inspection, the NRC has determined that one Severity Level IV violation of NRC requirements occurred. This violation was evaluated in accordance with the NRC Enforcement Policy included on the NRC's Web site at [www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html](http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html). The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances that surround it are described in detail. The violation involved the failure to conduct an inspection program of the performance of each radiographer and radiographer's assistant at intervals not to exceed six months. The violation is being cited in the Notice because it was identified by the NRC during the inspection.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. For your consideration and convenience, an excerpt from NRC Information Notice 96-28, "SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION," is enclosed. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

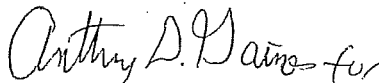
In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, Enclosure 1, and your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

Mattingly Testing Services, Inc.

-2-

Should you have any questions concerning this inspection, please contact Mr. James L. Thompson at (817) 276-6538 or the undersigned at (817) 860-8287.

Sincerely,

  
Vivian H. Campbell, Chief  
Nuclear Materials Safety Branch A

Docket No.: 030-20836  
License No.: 25-21479-01

Enclosures:

1. Notice of Violation
2. Information Notice 96-28

cc w/Enclosure 1:  
Montana Radiation Control Program Director

## NOTICE OF VIOLATION

Mattingly Testing Services, Inc.  
Molt, Montana

Docket No. 030-20836  
License No. 25-21479-01

During a NRC inspection conducted on June 26, 2008, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 34.43(e)(1) requires, in part, that the RSO or designee shall conduct an inspection program that includes observation of the performance of each radiographer and radiographer's assistant during an actual radiographic operation at intervals not to exceed six months.

Contrary to the above, the RSO or designee failed to conduct an inspection program that included observation of the performance of each radiographer and radiographer's assistant during an actual radiographic operation at intervals not to exceed six months. Specifically, the RSO or designee failed to conduct an inspection program of the job performance of two radiographers from August 2007 through April 2008, an interval that exceeded six months. Additionally, the RSO or designee failed to conduct an inspection program of the performance of any of the radiographer's assistants employed during Calendar Years 2006 through 2008.

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

Pursuant to the provisions of 10 CFR 2.201, Mattingly Testing Services, Inc. is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, Region IV, 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 or severity level, (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.

Because your response 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> to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public 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 2.390(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.

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

Dated this 17<sup>th</sup> day of July 2008