

**BARANOF MATERIALS
TESTING LLC**

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October 10, 2008
US Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555

RE: NRC Inspection Report 030-36253/08-01

This is my required response to a Notice of Violation

Violation # 1

1. The gauge was not stored at the required location because I had it stored at another warehouse location. I should have had this other location authorized.
2. I have moved the gauge back to the approved storage location.
3. I am selling my gauge and will no longer own it. Therefore I won't have to worry about a storage location for it.
4. Full Compliance Achieved 8/13/08

Violation # 2

1. I was not aware of the requirement to review my radiation protection program annually.
2. I have made a review of my radiation protection program.
3. I am selling my gauge and will not longer need a radiation protection program.
4. Full Compliance Achieved 8/13/08

Violation # 3

1. I was not aware that I had to make a not of an actual physical inventory each 6 months. I had visually looked at the gauge more frequently than every six months. But I had not made a written note of it.
2. I have made a written note of the gauge inventory.
3. I am selling the gauge and won't need to do an inventory.
4. Full Compliance Achieved 8/13/08

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Violation # 4

1. I was had the understanding that leak tests were to be conducted annually. I had a leak test done in 2007. I could not find this document and requested one from the company that performed the leak test. However they did not have a copy.
2. I am in the process of selling the gauge. A leak test will be performed by the new owner.
3. I am selling the gauge. Therefore I won't need to conduct leak tests in the future.
4. Full Compliance will be Achieved by 11/1/08

Violation # 5

1. I had forgot about the requirement for retraining each 3 years.
2. I am selling the gauge, therefore I will no longer need to transport the gauge and thus no longer need hazmat training.
3. See # 2 above.
4. Full Compliance will be Achieved by 11/1/08

Sincerely yours,

Chris McGraw



CC:

Regional Administrator
US Nuclear Regulatory Commission
611 Ryan Plaza Dr Suite 400
Arlington Texas 76011-4005

ENCLOSURE 1

NOTICE OF VIOLATION

Baranof Materials Testing, LLC
Sitka, Alaska

Docket No. 030-36253
License No. 50-27753-01

During a NRC inspection conducted on August 13, 2008, five violations of NRC requirements were identified. In accordance with the Enforcement Policy, the violations are listed below:

1. 10 CFR 30.34(c) requires, in part, that each licensee confine his possession and use of byproduct materials to the locations and purposes authorized by the license.

Condition 10.A. of License No. 50-27753-01 requires that licensed material be used or stored only at 3820 Halibut Point Road, Sitka Alaska.

Contrary to the above, from approximately May 15, 2008, to August 13, 2008, the licensee possessed a CPN model MC series portaprobe gauge containing radioactive material at 1915 Dodge Circle, Sitka, Alaska, a location not authorized by the license.

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

2. 10 CFR 20.1101(c) requires, in part, that the licensee shall periodically (at least annually) review the radiation protection program content and implementation.

Contrary to the above, the licensee failed to periodically review its radiation protection program content, and implementation at least annually. Specifically, annual reviews of the licensee's radiation protection program were not conducted from 2003 to 2008.

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

3. Condition 16 of License No. 50-27753-01 requires, in part, that the licensee shall conduct a physical inventory every six months to account for all sources and devices received and possessed under the license.

Contrary to the above, the licensee failed to conduct a physical inventory every six months to account for all sources and devices received and possessed under the license. Specifically, six month physical inventories were not performed from 2003 to 2008.

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

4. Condition 14(A) of License No. 50-27753-01 requires, in part, that sealed sources shall be tested for leakage and/or contamination at intervals not to exceed the intervals specified in the certificate of registration issued by U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or by an Agreement State.

Enclosure

Contrary to the above, sealed sources were not tested for leakage and/or contamination at intervals specified in the certificate of registration issued by U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or by an Agreement State. Specifically, the licensee failed to perform leak tests on sealed sources housed in a CPN model MC series Portaprobe from June 1, 2005, until the date of inspection on August 13, 2008, and the leak test interval for this gauge is every 12 months. This gauge was routinely being used on various projects in Sitka, Alaska during this time interval.

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

5. 10 CFR 71.5(a) requires that a licensee who transports licensed material outside of the site of usage, as specified in the NRC license, or where transport is on public highways, or who delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the Department of Transportation (DOT) regulations in 49 CFR Parts 107, 171 through 180, and 390 through 397, appropriate to the mode of transport.

49 CFR 172.702 requires that each hazmat employer shall ensure that each hazmat employee is trained and tested, and that no hazmat employee performs any function subject to the requirements of 49 CFR Parts 171-177 unless trained, in accordance with Subpart H of 49 CFR Part 172. The terms Hazmat Employer and Hazmat Employee are defined in 49 CFR 171.8.

49 CFR 172.704(a) specifies the elements of hazmat employee training as (1) general awareness/familiarization training, (2) function-specific training, (3) safety training, and (4) security awareness training. 49 CFR 172.704(c) requires, in part, that a hazmat employee receive initial training and recurrent training at least once every three years.

Contrary to the above, the licensee, meeting the definition of hazmat employer as defined in 49 CFR 171.8, failed to provide hazmat training which satisfied the requirements in Subpart H to 49 CFR Part 172, in that the licensee did not provide recurrent training at least once every three years. Specifically, the sole RSO/user had not had refresher hazmat training since he first attended the initial gauge users training course on February 19, 2003, a period greater than three years.

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

Pursuant to the provisions of 10 CFR 2.201, Baranof Materials Testing, LLC, 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).

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

Dated this 15th day of September 2008