

January 5, 2009

EA-08-286  
NMED No. 080416

Mr. Lawrence R. Kondrat, President  
Cal Testing Services, Inc. d/b/a  
Calumet Testing Services  
1945 North Griffith Boulevard  
Griffith, IN 46319

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL  
PENALTY – \$6500, NRC INSPECTION REPORT  
NO. 030-10856/2008-001(DNMS) – CAL TESTING SERVICES, INC.  
D/B/A CALUMET TESTING SERVICES

Dear Mr. Kondrat:

This refers to an NRC inspection conducted on September 29 and 30, 2008, at your Griffith, Indiana facility. The purpose of this inspection was to determine if licensed activities were conducted safely and in accordance with your NRC license. During the inspection, an apparent violation of NRC requirements was identified. At the conclusion of the inspection, on September 30, 2008, the inspector discussed the circumstances of the apparent violation, the significance of the issue, and the need for lasting and effective corrective actions. Details regarding the apparent violation were provided in NRC Inspection Report No. 030-10856/2008-001(DNMS) dated October 23, 2008.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violation identified in the report by either attending a Predecisional Enforcement Conference (PEC), or by providing a written response before we made our final enforcement decision. In a letter dated November 13, 2008, you provided a response to the apparent violation.

Based on the information developed during the inspection and the information that you provided in your response to the inspection report, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the subject inspection report. The violation involved failure, on July 22, 2008, to connect the control cable to the source assembly before cranking the source out of the radiographic exposure device, resulting in a disconnected source event. Exposure of the source assembly without connecting it to the control cable is a violation of license condition 20. The root cause of the event was the failure to connect the control cable to the source assembly. Contributing factors were the radiographers becoming distracted from equipment set-up activities when they engaged in repair of a safety connector and a radiographer's use of increased force to push the camera's Posilock button from the locked to the unlocked position despite identification of increased resistance.

The violation is of concern to the NRC because the radiography crew, other Cal Testing Services personnel, or members of the public could have been exposed to radiation in excess of NRC limits due to the disconnected source. Therefore, this violation has been categorized, in accordance with the NRC Enforcement Policy, as a Severity Level III violation.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$6500 is considered for a Severity Level III violation. Because your facility has been the subject of escalated enforcement actions within the last two years<sup>1</sup>, the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. Credit was not warranted for identification because the violation was identified by an event. Credit was warranted for your corrective actions. Your immediate corrective actions included: (1) taking the drive cable assembly out of service and shipping it to the manufacturer for evaluation; (2) reprimanding the radiographers involved; (3) instructing all radiographers that radiographic exposure devices were not to be used as alignment aids when replacing safety connector pins and that any necessary pin replacements be done away from the exposure device; (4) conducting misconnect tests on all equipment; and (5) reminding all personnel of their obligation to check all connections and to stop operations if anything unusual occurs. To prevent recurrence, your long term corrective actions included: (1) revising your quarterly maintenance procedures to include conducting misconnect tests; (2) obtaining and distributing to applicable personnel redesigned safety connector pins to minimize pin loss; and (3) conducting a radiation safety meeting on August 26, 2008, for all radiography and supervisory personnel where management and the radiation safety officer discussed the incident in detail as well as reviewing the operating and emergency procedures.

Therefore, to emphasize the importance of safe radiographic operations, to encourage prompt and comprehensive correction of violations, and recognizing that this is the second Severity Level III violation within the last two years, I have been authorized, after consultation with the Director, Office of Enforcement, to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) in the base amount of \$6500. In addition, issuance of this Notice constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in Inspection Report No. 030-10856/2008-001(DNMS) and your letter dated November 13, 2008. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if you choose to provide one, 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->

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<sup>1</sup> A Severity Level III Notice of Violation was issued on September 7, 2007 (EA-07-191), for the failure of a radiographer to wear personnel dosimetry during radiographic operations.

[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. If personal privacy or proprietary information is necessary to provide an acceptable response, 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 information, 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). The NRC also includes significant enforcement actions on its Web site at [www.nrc.gov/about-nrc/regulatory/enforcement.html](http://www.nrc.gov/about-nrc/regulatory/enforcement.html).

Sincerely,

***/RA by Mark A. Satorius Acting for/***

James L. Caldwell  
Regional Administrator

Docket No. 030-10856  
License No. 13-16347-01

Enclosures:

1. Notice of Violation and Proposed Imposition of Civil Penalty
2. NUREG/BR-0254 Payment Methods (Licensee only)

cc w/encl: State of Indiana

document system (ADAMS), accessible from the NRC 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. If personal privacy or proprietary information is necessary to provide an acceptable response, 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 information, 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). The NRC also includes significant enforcement actions on its Web site at [www.nrc.gov/about-nrc/regulatory/enforcement.html](http://www.nrc.gov/about-nrc/regulatory/enforcement.html).

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James L. Caldwell  
Regional Administrator

Docket No. 030-10856  
License No. 13-16347-01

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cc w/encl: State of Indiana

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DATE	12/24/08	12/29/08	12/29/08	12/30/08	12/30/08	12/31/08
	D:OE	D:FSME	D:OGC			
	N. Hilton for Carpenter <sup>1</sup>	Burgess <sup>2</sup>	M. Clark for Marco <sup>3</sup>			
	12/23/08	12/22/08	12/17/08			

**OFFICIAL RECORD COPY**

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1. OE concurrence received via E-mail from N. Coleman on December 24, 2008.
  2. FSME concurrence received via E-mail from M. Burgess on December 22, 2008.
  3. OGC "No Legal Objection" received via from M. Clark on December 17, 2008.

Letter to Lawrence R. Kondrat from James L. Caldwell dated January 5, 2009

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF  
CIVIL PENALTY -- \$6500, NRC INSPECTION REPORT  
NO. 030-10856/2008-001(DNMS) – CAL TESTING SERVICES, INC.  
D/B/A CALUMET TESTING SERVICES

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NOTICE OF VIOLATION  
AND  
PROPOSED IMPOSITION OF CIVIL PENALTY

Cal Testing Services d/b/a  
Calumet Testing Services  
Griffith, IN

Docket No. 030-10856  
License No. 13-16347-01  
EA-08-286

During an NRC inspection conducted on September 29 and 30, 2008, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the NRC proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violation and associated civil penalty is set forth below:

Condition 20 of NRC License No. 13-16347-01 requires, in part, that the licensee conduct its program in accordance with the statements, representations, and procedures contained in the letter dated May 27, 1998 (with attachments). The letter dated May 27, 1998, includes an attached application dated May 27, 1998. Table 10.3 of the application titled, "Radiation Safety Program – Operating and Emergency Procedures Handling and Use of Sealed Sources and Radiography Exposure Devices" requires, in part, that the control cable be connected to the source assembly before cranking the source out of the radiographic exposure device.

Contrary to the above, on July 22, 2008, the licensee failed to connect the control cable to the source assembly before cranking the source out of the radiographic exposure device, resulting in a disconnected source event.

This is a Severity Level III violation (Supplement VI).  
Civil Penalty - \$6500.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to be taken to correct the violation and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 030-10856/2008-001(DNMS) and your letter dated November 13, 2008. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-08-286", and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator and Enforcement Officer, Region III, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

You may pay the civil penalty proposed above in accordance with NUREG/BR-0254 by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, a statement indicating when and by what method payment was made, or may protest imposition of the civil penalty in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should you fail to answer within 30 days of the date of this Notice, the NRC will issue an order imposing the civil penalty. Should you elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in

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part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violation listed in this Notice, in whole or in part; (2) demonstrate extenuating circumstances; (3) show error in this Notice; or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, your response should address the factors addressed in Section VI.C.2, "Civil Penalty Assessment," of the Enforcement Policy. Any written answer addressing these factors pursuant to 10 CFR 2.205, should be set forth separately from the statement or explanation provided pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. Your attention is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205 to be due, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The responses noted above, i.e., Reply to Notice of Violation, Statement as to Payment of Civil Penalty, and Answer to a Notice of Violation, should be addressed to: Cynthia A. Carpenter, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with copies to the Regional Administrator and Enforcement Officer, U.S. Nuclear Regulatory Commission, Region III, 2443 Warrenville Road, Suite 210, Lisle, IL 60532.

If you choose to respond, 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, your response should not include any personal privacy, proprietary, security-related, 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 may be required to post this Notice within two working days.

Dated this 5<sup>th</sup> day of January 2009

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