April 9, 2010

Charlie DeStefano
Radiation Safety Officer
Thermo Gamma Metrics
10010 Mesa Rim Road
San Diego, CA 92121

SUBJECT: NOTICE OF VIOLATION – FAILURE TO REPORT SPECIAL NUCLEAR MATERIAL IN VIOLATION OF TITLE 10 OF THE CODE OF FEDERAL REGULATIONS 150.17

Dear Mr. DeStefano:

The U.S. Nuclear Regulatory Commission (NRC) requires all licensees possessing one gram or more of special nuclear material (SNM) to make an inventory report to the Nuclear Materials Management and Safeguards System (NMMSS) between January 1 and March 31 of each year as stated in Title 10 of the *Code of Federal Regulations* (10 CFR) 150.17. NMMSS records show your site as possessing one gram or more of SNM as of December 31, 2008. Records indicate that the annual inventory report for 2008 has not been received. This report was to be submitted to NMMSS by March 31, 2009.

The NRC has determined that a violation of NRC requirements occurred. The violation was evaluated in accordance with the NRC Enforcement Policy included on the NRC's Web site at www.nrc.gov; select **What We Do**, **Enforcement**, and then **Enforcement Policy**. The violation is being cited in the enclosed Notice of Violation (Notice).

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. 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, and your response, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system Agency-wide Document Access and Management 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 you have any questions, please feel free to contact Steven Ward of my staff at (301) 492-3426, or via e-mail at Steven.Ward@nrc.gov.

Sincerely,

/RA/

Sheena Whaley, Chief
Material Control and Accounting Branch
Fuel Facility Licensing Directorate
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

CA License No.: 3775-37

Enclosure: Notice of Violation

cc: State of California

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DATE	04/01/10	04/05/10	04/09/10

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NOTICE OF VIOLATION

Thermo Gamma Metrics License No. 3775-37
San Diego, California

During a Nuclear Regulatory Commission (NRC) review of reports submitted to the Nuclear Materials Management and Safeguards System, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

> 10 CFR 150.17, Material status reports, states in part: Each licensee possessing, or who had possessed in the previous reporting period, special nuclear material in a quantity totaling one gram or more of contained uranium-235, uranium-233, or plutonium shall complete and submit Material Balance Reports (DOE/NRC Form 742) concerning special nuclear material that the licensee has received, produced, possessed, transferred, consumed, disposed, or lost. The Physical Inventory Listing Report (DOE/NRC Form 742C) must be submitted with each Material Balance Report. Each licensee unless otherwise specified shall submit a report no later than March 31 of each year.
>
> Licensees were notified of this requirement in Federal Register Volume 73, No. 111, published June 9, 2008. Additionally, from August to November 2009 NRC staff called all licensees who had not yet reported under these requirements. Contrary to the above, the licensee has yet to submit a Material Balance Report and Physical Inventory Listing Report that was due by March 31, 2009.

This is a Severity Level IV violation.

Pursuant to the provisions of 10 CFR 2.201,Thermo Gamma Metrics, 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 State of California, Department of Public Health, Radiological Health Branch; and to the Chief, Material Control and Accounting Branch, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This response should be clearly marked as a “Reply to 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.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001.

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 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 9th day of April 2010