

June 11, 2010

Jay Miller, Vice President  
Chicago Testing Laboratory, Inc.  
doing business as  
Indianapolis Testing Laboratory, Inc.  
30W114 Butterfield Road  
Warrenville, Illinois 60555

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 030-38067/10-01(DNMS) AND  
NOTICE OF VIOLATION – INDIANAPOLIS TESTING LABORATORY

Dear Mr. Miller:

On May 12, 2010, the U.S. Nuclear Regulatory Commission (NRC) conducted an inspection at your Indianapolis, Indiana facilities, with continued NRC in-office review through May 27, 2010. The NRC in-office review included receipt and review of information related to your leak test records. A telephone exit meeting between Daniel Rogers, your Radiation Safety Officer (RSO), and Andrew Bramnik and Michael LaFranzo of my staff was conducted on May 27, 2010, to discuss the inspection findings.

This 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 your license. Within these areas, the inspection consisted of selected examination of procedures and representative records, observations of activities, and interviews with personnel.

Based on the results of this inspection, the NRC has determined that three Severity Level IV violations of NRC requirements occurred. The violations were evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The three violations involved the failure to: (1) confine possession of radioactive material to devices and quantities authorized by your license; (2) comply with Department of Transportation requirements to transport licensed material with shipping papers and properly label packages containing radioactive materials; and (3) sign a gauge out in a logbook prior to use. The violations are being cited because they were identified by the NRC. The potential corrective actions to address the above violations were discussed between your RSO and members of the NRC staff during the site inspection and via telephone.

The violations are 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 guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful.

J. Miller

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You can find the information notice on the NRC website at: <http://www.nrc.gov/reading-rm/doc-collections/gen-comm/info-notices/1996/in96028.html>. 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 Title 10 Code of Federal Regulations (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 Agencywide Documents 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.

We will gladly discuss any questions you have concerning this inspection.

Sincerely,

**/RA/**

Tamara E. Bloomer, Chief  
Materials Inspection Branch

Docket No. 030-38067  
License No. 13-32754-01

Enclosure:  
Notice of Violation

cc w/ encl: Daniel Rogers, RSO  
State of Indiana  
State of Illinois

J. Miller

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Tamara E. Bloomer, Chief  
Materials Inspection Branch

Docket No. 030-38067  
License No. 13-32754-01

Enclosure:  
Notice of Violation

cc w/ encl: Daniel Rogers, RSO  
State of Indiana  
State of Illinois

\*See previous concurrence

DOCUMENT NAME: G:\Work in progress\IR- Indianapolis Testing Lab - Cover Letter and NOV.doc

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DATE	06/11 /10		06/11 /10		06/11/10		

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## NOTICE OF VIOLATION

Indianapolis Testing Laboratory  
Indianapolis, Indiana

Docket No. 030-38067  
License No. 13-32754-01

During an U.S. Nuclear Regulatory Commission (NRC) inspection conducted May 12, 2010, with continued NRC in-office review through May 27, 2010, three violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. Title 10 Code of Federal Regulations (CFR) Part 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 8.A. of NRC License No. 13-32754-01 states that the total possession of cesium-137 is not to exceed 18 millicuries. Condition 8.B. of NRC License No. 13- 32754-01 states that the total possession of americium-241 is not to exceed 88 millicuries.

Conditions 9.A. and 9.B. limit the use of cesium-137 and americium-241 to Troxler Electronics, Inc., Model No. 3440 portable gauging devices.

Contrary to the above, between February 17 and May 12, 2010, the licensee possessed a Humboldt Manufacturing Gauge Model No. 5001P containing sealed sources of cesium-137 and americium-241; a device not authorized by the license and containing a quantity of byproduct material that resulted in the licensee exceeding its total possession limit.

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

- B. 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, comply with the applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation (DOT) in 49 CFR Parts 107, 171-180, and 390-397.

1. 49 CFR 177.817(a) requires that a carrier cannot accept hazardous material for transportation or transport unless it is accompanied by shipping papers prepared in accordance with 49 CFR 172.200-203. Pursuant to 49 CFR 172.101, radioactive material is classified as hazardous material.

Contrary to the above, on multiple occasions between September 10, 2009, and May 12, 2010, the licensee transported sealed sources of cesium-137 and americium-241 outside the confines of its plant without shipping papers.

2. 49 CFR 172.403 requires, in part, with exceptions not applicable here, that each package of radioactive material be labeled, as appropriate, with two RADIOACTIVE WHITE-I, RADIOACTIVE YELLOW-II, or RADIOACTIVE YELLOW-III labels on opposite sides of the package. The contents, activity, and

transport index must be entered in the blank spaces on the label using a legible and durable, weather resistant means. The contents entered on the label must include the name or abbreviation (e.g., <sup>99</sup>Mo) of the radionuclides as taken from the listing in 49 CFR 173.435, or for mixtures of radionuclides, those nuclides determined in accordance with the provisions of 49 CFR 173.433(f), with consideration of space available on the label. The activity must be expressed in terms of the appropriate SI units (e.g., Becquerel, Terabecquerel etc...), or in terms of appropriate SI units followed by customary units (e.g., curies, millicuries, or microcuries).

Contrary to the above, between September 10, 2009, and May 11, 2010, the licensee transported sealed sources of cesium-137 and americium-241 outside the confines of its plant, and the RADIOACTIVE label affixed to the packages did not identify the correct information. Specifically:

- a. On multiple occasions between March 4 and May 11, 2010, the licensee transported a device containing sealed sources of cesium-137 and americium-241 outside the confines of its plant, and the RADIOACTIVE label affixed to the package did not identify the activity of cesium-137 and the transportation index.
- b. On multiple occasions between September 10, 2009, and May 11, 2010, the licensee transported a second device containing sealed sources of cesium-137 and americium-241 outside the confines of its plant, and the RADIOACTIVE label affixed to the package did not identify the transportation index.

This is a Severity Level IV violation (Supplement V)

- C. Condition 21 of NRC License No. 13-32754-01 requires, in part, that the licensee conduct its program in accordance with the statements, representations, and procedures contained in its application dated June 24, 2009.

Appendix A of the application dated June 24, 2009, states, in part, that prior to use, operators are to sign out the gauge in a logbook, stating the date(s) of use, name(s) of authorized user(s) who will be responsible for the gauge, and the temporary job site(s) where the gauge will be used.

Contrary to the above, on multiple occasions between April 13 and May 11, 2010, the licensee failed to sign a gauge out in a logbook prior to use. Specifically, licensee personnel used a portable gauge at a temporary job site located in Indianapolis, Indiana, without signing out the gauge.

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

Pursuant to the provisions of 10 CFR 2.201, Indianapolis Testing Laboratory, Inc. is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the

Regional Administrator, Region III, 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, 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, DC 20555-0001. Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents 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 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 11th day of June 2010.