



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
612 EAST LAMAR BLVD, SUITE 400
ARLINGTON, TEXAS 76011-4125

September 24, 2010

EA-10-100

Mr. Daniel Schroeder, Operations Manager
Mattingly Testing Services, Inc.
12555 West Andrews Lane
Molt, Montana 59057

SUBJECT: RELAXATION OF PORTION OF ORDER REVOKING LICENSE (EFFECTIVE IMMEDIATELY)

Dear Mr. Schroeder:

This is to acknowledge receipt of your September 23, 2010, email (Enclosure) in which you requested relaxation of Condition 4, Section IV of the Nuclear Regulatory Commission's (NRC) September 2, 2010, Order Revoking License (Effective Immediately). You have requested to extend the amount of time allowed for the licensee to remove from its possession all NRC-licensed material acquired or possessed under the authority of License 25-21479-01, from 30 days to 60 days.

The NRC has determined that there are no immediate safety concerns regarding the storage of the licensed material at the facility located in Billings, Montana. On the basis of an onsite inspection on September 5, 2010, the NRC staff confirmed that the material was placed in storage and not in use, and determined that the storage facility met the requirements for the safe and secure storage of this material. You have also stated that only you and the assistant radiation safety officer have access to the material.

The Order Revoking License (Effective Immediately) specified that the Regional Administrator, Region IV, or designee, may in writing, at any time prior to final agency action sustaining the revocation of License 25-21479-01, relax or rescind any of the conditions listed in the Order, upon demonstration by the licensee, in writing, of good cause. The NRC has reviewed your request to extend the amount of time allowed to remove all NRC-licensed material from the licensee's possession, and I hereby grant approval to relax Condition 4 of Section IV of the Order. This letter will serve as notification of relaxation of the Order by allowing an additional 30 days to remove the NRC-licensed material from the licensee's possession.

The NRC would emphasize that it is not relaxing any other provisions in the Order Revoking License (Effective Immediately) issued to the licensee. Nor is the NRC relaxing any provisions in the Confirmatory Order (Effective Immediately) issued to the licensee's President on September 2, 2009, which banned the President from NRC-licensed activity for seven years.

Your email also referenced your application for an NRC license to possess and use licensed material for industrial radiography. The basis for granting the extension of time to arrange for the transfer of licensed material assumes the sources remain in storage as required by Condition 3 of the Order and the timeframe granted in no way makes an assertion of the time necessary to review a license application. Pursuant to 10 CFR 30.33, a specific license authorizing the possession and use of radioactive material will only be issued upon the determination that an application meets the requirements of the Act, and the regulations of the Commission.

You are not required to respond to this letter; however, you may choose to if the description therein does not accurately reflect your position.

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

Should you have any questions concerning this letter, please contact Ms. Vivian Campbell, Chief, Nuclear Materials Safety Branch A, at (817) 860-8287 or Mr. Arthur T. Howell III, Director, Division of Nuclear Materials Safety, at (817) 860-8106.

Sincerely,



E. Collins
Regional Administrator

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

cc:
Roy Kemp, Deputy Administrator
Radiation Control Program Director
Division of Quality Assurance
Department of Public Health and
Human Services
2401 Colonial Drive
P.O. Box 202953
Helena, MT