



UNITED STATES  
**NUCLEAR REGULATORY COMMISSION**  
REGION I  
475 ALLENDALE ROAD  
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

January 28, 2011

Docket No. 03038262

License No. 06-31405-01

Franco Balassone, P.E.  
Executive Vice President  
HAKS Material Testing Group  
36 River Street  
Bridgeport, CT 06604

**SUBJECT: NRC INSPECTION REPORT NO. 03038262/2010001, HAKS MATERIAL TESTING GROUP, BRIDGEPORT, CT, AND NOTICE OF VIOLATION**

Dear Mr. Balassone:

On November 15-16, 2010, Craig Gordon of this office conducted a safety inspection at the above address of activities authorized by the above listed NRC license. The inspection was an examination of your licensed activities as they relate to radiation safety and to compliance with the Commission's regulations and the license conditions. The inspection consisted of observations by the inspector, interviews with personnel, and a selective examination of representative records. Additional information provided in your letters dated January 7, 2011 and January 11, 2011, was also examined as part of the inspection. The findings of the inspection were discussed on January 19, 2011, with Mr. Neil Russo of your organization at the conclusion of the inspection.

Based on the results of this inspection and in accordance with the NRC Enforcement Policy, the NRC has determined that two Severity Level IV violations of NRC requirements occurred. The violations involved the failure to: 1) reevaluate the performance capability of shipping containers obtained from Laboratory Testing Services after physical changes were made to containers for the purpose of securing portable gauging devices; and, 2) provide training for hazmat employees to satisfy Department of Transportation (DOT) requirements. The violations are cited in the enclosed Notice of Violation (Notice), because the violations were identified by the NRC.

During the telephone exit meeting on January 19, 2011, you indicated that shipping containers had been reevaluated to meet DOT performance requirements, and that HAZMAT training was provided to authorized gauge users. You stated that you have taken corrective and preventative actions to address each violation and that HAKS is committed to radiation safety and to compliance with NRC regulations and licensed conditions. Further, you stated verbally and you documented in your January 7, 2011 and January 11, 2011, correspondence, that you have taken the following corrective and preventative actions:

- 1) modified shipping containers were water spray tested using DOT performance guidelines; results showed that containers remained moisture resistant after testing; and
- 2) employees attended a hazardous materials review training session on December 9, 2010.

F. Balassone

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence was adequately addressed in our records and in your correspondence dated January 7, 2011 and January 11, 2011. Therefore, you are not required to respond to this letter unless the description of your corrective actions in this letter 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 document system (ADAMS), accessible from the NRC website 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.

Current NRC regulations are included on the NRC's website at [www.nrc.gov](http://www.nrc.gov); select **Nuclear Materials; Medical, Academic, and Industrial Uses of Nuclear Material**; then **Regulations, Guidance, and Communications Page**. The current Enforcement Policy is included on the NRC's website at [www.nrc.gov](http://www.nrc.gov); select **About NRC; How We Regulate; Enforcement**; then **Enforcement Policy**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 7:00 a.m. to 6:30 p.m. EST, Monday through Friday (except Federal holidays).

Please contact Craig Gordon at 610-337-5216, if you have any questions regarding this matter.

Sincerely,

***Original signed by Marie Miller***

Marie Miller, Chief  
Security and Industrial Branch  
Division of Nuclear Materials Safety

Enclosure:  
Notice of Violation

cc wenc:  
Neil T. Russo, Radiation Safety Officer  
State of Connecticut

F. Balassone

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence was adequately addressed in our records and in your correspondence dated January 7, 2011 and January 11, 2011. Therefore, you are not required to respond to this letter unless the description of your corrective actions in this letter 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.

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Sincerely,

**Original signed by Marie Miller**

Marie Miller, Chief  
Security and Industrial Branch  
Division of Nuclear Materials Safety

Enclosure:  
Notice of Violation

cc wenc:  
Neil T. Russo, Radiation Safety Officer  
State of Connecticut

Distribution wenc:  
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**SUNSI Review Complete:** CGordon

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## NOTICE OF VIOLATION

HAKS Material Testing Group  
Bridgeport, CT

Docket No. 03038262  
License No. 06-31405-01

During an NRC inspection conducted on November 15-16, 2010, two violations of NRC requirements were identified, as discussed by telephone during an exit meeting on January 19, 2011. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. License Condition 18 of NRC License No. 06-31405-01 requires the licensee to conduct licensed activities in accordance with 10 CFR 71 regarding transportation of licensed materials.

10 CFR 71.5(a) requires, in part, that each licensee who transports licensed material outside 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.

49 CFR 173.461(a) requires, in part, that compliance with the design requirements in 49 CFR Part 173.412 and the test requirements in 49 CFR Parts 173.465 through 173.469 must be shown by any of the methods appropriate for the particular feature being evaluated.

Contrary to the above, HAKS did not reevaluate the performance capability of modified packages (shipping containers) with respect to compliance with the design requirements of 49 CFR 173.412 and the test requirements in 49 CFR 173.465. Specifically, after April 9, 2010, when HAKS became aware that the shipping containers had been modified, records showed that HAKS employees used the modified containers before conducting a performance reevaluation.

This is a Severity Level IV violation (Section 6.3(d)(3)).

- B. License Condition 18 of NRC License No. 06-31405-01 requires the licensee to conduct licensed activities in accordance with 10 CFR 71 regarding transportation of licensed materials.

10 CFR 71.5(a) requires, in part, that each licensee who transports licensed material outside 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.

49 CFR 171.8 defines a hazmat employee, in part, as a person who is employed by a hazmat employer and who in the course of such employment directly affects hazardous materials transportation safety, including individuals who load, unload, or handle hazardous materials; prepare hazardous materials for transportation; are responsible for

Notice of Violation  
HAKS Material Testing Group

safety of transporting hazardous materials; and operate a vehicle used to transport hazardous materials. This regulation defines a hazmat employer, in part, as a person who employs or uses at least one hazmat employee on a full-time, part time, or temporary basis; and who transports hazardous materials in commerce.

49 CFR 172.704(c) requires, in part, that a hazmat employee receive initial training within 90 days after employment or a change in job function, and recurrent training at least once every three years.

Contrary to the above, HAKS did not provide training for its hazmat employees which satisfied the requirements in 49 CFR Part 172 in that, on multiple occasions in 2010, HAKS employees transported licensed material from the storage location in Bridgeport, Connecticut, over public roads to and from temporary jobsites, without having completed the necessary training required by 49 CFR 172.704(c). Specifically, licensee records of the employees that had transported gauges during the time period specified above, indicated that none of the employees had received HAZMAT training since 2006, a period of more than three years.

This is a Severity Level IV violation (Section 6.3(d)(4)).

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when full compliance will be achieved is already adequately addressed on the docket. 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," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator, Region I, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, any response which contests an enforcement action shall be submitted under oath or affirmation.

Your response will be placed in the NRC Public Document Room (PDR) and on the NRC Web site. To the extent possible, it should, therefore, not include any personal privacy, proprietary, or safeguards information so that it can be made publically available without redaction. However, if you find it necessary to include such information, you should clearly indicate the specific information that you desire not to be placed in the PDR, and provide the legal basis to support your request for withholding the information from the public.

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

Dated This 28th day of January 2011