



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

May 19, 2011

Docket No. 15000045
EA-11-071
NMED No. 100530

VA License No. 683-298-1

Hassan Tajick
Vice President and Radiation Safety Officer
Construction Testing and Engineering, Inc.
P.O. Box 381
Springfield, VA 22150

SUBJECT: NRC INSPECTION REPORT NO. 15000045/2011006, CONSTRUCTION TESTING AND ENGINEERING, INC., MANASSAS PARK, VIRGINIA SITE

Dear Mr. Tajick:

This letter refers to the inspection conducted on March 15, 2011, at the Manassas Park, Virginia facility. The inspection examined 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 a selective examination of procedures and representative records, observation of activities, and interviews with personnel related to activities within the NRC's jurisdiction. In addition, during the inspection, the NRC conducted a review of circumstances regarding the loss of a portable moisture density gauge (portable gauge) at a temporary job site on October 26, 2010. Additional information regarding your planned and completed corrective actions as provided in your correspondence dated March 22, 2011; April 11, 2011; and April 13, 2011; and during a telephone conversation with you and Nadew Hailu of your organization on March 24, 2011, was also examined as part of the inspection. The findings of the inspection were discussed with Mr. Hailu and you at the conclusion of the on-site inspection and with you via telephone on April 20, 2011, at the conclusion of the inspection. The enclosed report presents the results of this inspection.

Based on the results of this inspection, three apparent violations were identified of which two are being considered for escalated enforcement 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 first apparent violation being considered for escalated enforcement involved the failure of Construction Testing and Engineering, Inc. (CTE), holder of a specific Virginia License, to file NRC Form 241 at least three days prior to engaging in licensed activities in an area of exclusive Federal jurisdiction, as required by 10 CFR 150.20(b). Specifically, from September 14, 2010, through October 26, 2010, CTE stored or used portable gauges at a sewer reconstruction project located in the District of Columbia (DC), an area under NRC jurisdiction, without filing NRC Form 241 or obtaining a specific NRC license. The second apparent violation being considered for escalated enforcement involved the failure to use a minimum of two independent physical controls that form tangible barriers to secure a portable gauge from unauthorized removal, when the portable gauge was not under CTE's direct control and constant surveillance, as required by

10 CFR 30.34(i). Specifically, CTE had a portable gauge stolen from the temporary DC jobsite when the technician left the vehicle, containing the portable gauge, unattended and the vehicle was stolen. The gauge was locked in the trunk without a second tangible barrier in place. The third apparent violation involved the failure to conduct required Department of Transportation three year hazardous material (hazmat) employee refresher training pursuant to 10 CFR 71.5(a).

You should be aware that Section 2.3.4 of the NRC Enforcement Policy states that for violations involving the loss, abandonment, or improper transfer or disposal of a sealed source or device, the NRC should normally exercise discretion when proposing the imposition of a civil penalty of at least the base amount. Since the apparent violation involves the loss of a device containing approximately 8 millicuries (mCi) of Cesium-137 and 44 mCi of Americium-241, in the form of sealed sources, the NRC is considering proposing imposition of a civil monetary penalty. The base civil penalty amount is based on approximately three times the expected average cost of authorized disposal; however, the NRC may consider adjusting the civil penalty amount to a more appropriate base amount if you can demonstrate that three times the actual cost of disposal would be significantly less than the base amount. However, NRC will not normally decrease the civil penalty to an amount below the lowest base civil penalty for such cases (i.e., \$3,500).

Before the NRC makes its enforcement decision, we are providing you an opportunity to either (1) respond to the apparent violations addressed in this inspection report within 30 days of the date of this letter, or (2) request a Pre-decisional Enforcement Conference (PEC). If a PEC is held it will be open for public observation and the NRC will issue a press release to announce the time and date of the conference. A PEC should be held within 30 days of the date of this letter. If you choose to request a PEC, the conference will afford you the opportunity to provide your perspective on the apparent violation and any other information that you believe the NRC should take into consideration before making an enforcement decision. The topics discussed during the conference may include the following: information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned to be taken. In presenting your corrective actions, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violations.

If you choose to provide a written response, it should be clearly marked as a "Response to Apparent Violations in Inspection Report No. 15000045/2011006 and should include for each apparent violation: (1) the reason for the apparent violation, or, if contested, the basis for disputing the apparent violation; (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 previously docketed correspondence, if the correspondence adequately addresses the required response. If an adequate response is not received within 30 days of the date of this letter or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision.

Please contact Judith A. Joustra at (610) 337-5355 within 10 days of the date of this letter with your decision regarding attending a PEC or submitting a written response.

H. Tajick

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In addition, please be advised that the number and characterization of apparent violations described in the enclosed inspection report may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

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 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 you have any questions concerning this matter, please contact Ms. Joustra of my staff at (610) 337-5355.

Sincerely,

/RA/

Raymond K. Lorson, Director
Division of Nuclear Materials Safety

Enclosure: Inspection Report No. 15000045/2011006

cc:
Commonwealth of Virginia

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Raymond K. Lorson, Director
Division of Nuclear Materials Safety

Enclosure: Inspection Report No. 15000045/2011006

cc:
Commonwealth of Virginia

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