

October 10, 2012

EA-12-182

Mr. Daniel E. Tappendorf, P.E.
Radiation Safety Officer
Midwest Engineering and Testing, Inc.
501 Mercury Drive
Champaign, IL 61822

SUBJECT: NRC INSPECTION REPORT NO. 1500012/2012006 (DNMS) NOTICE OF VIOLATION AND EXERCISE OF ENFORCEMENT DISCRETION – MIDWEST ENGINEERING AND TESTING, INC.

Dear Mr. Tappendorf:

On August 21, 2012, the U.S. Nuclear Regulatory Commission (NRC) conducted an inspection at a temporary job site located in Reese, Michigan, with continued NRC in-office review until September 11, 2012. The in-office review was related to an assessment of your security of licensed material. A telephone exit meeting between yourself and Michael G. Herr of my staff was conducted on September 11, 2012, to discuss the inspection findings.

During this inspection, the NRC staff examined activities conducted under your license related to public health and safety. Additionally, the staff examined your compliance with the conditions of your license as well as the Commission's rules and regulations. 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 a Severity Level IV violation of NRC requirements occurred. The violation was evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violation involved the failure to use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal whenever portable gauges are not under your control and constant surveillance, as required by Title 10 of the Code of Federal Regulations (CFR) 30.34(i). The inspector identified this violation during the inspection, and as a result, the NRC is citing this violation in the enclosed Notice of Violation (Notice).

Your staff's oversight of the requirements of 10 CFR 30.34(i) was the root cause of the violation. Specifically, a member of your staff believed that a separate chain on each case handle secured to the truck and one lock on the case lid were adequate barriers when a portable gauge was stored in the open truck pickup bed at his residence parking lot in Michigan. Although this configuration was adequate to secure the gauge case, the gauge itself, was not secured from removal with two tangible barriers due to a broken hasp on the case lid. After the NRC inspector identified the issue, your staff immediately secured the portable gauge by threading one of the chains through the top handle of the case. The RSO shared results of inspection

D. Tappendorf

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with other users, and verified other gauges secured using two independent barriers. These actions were completed by August 28, 2012.

In accordance with the Enforcement Policy, although such violations of 10 CFR 30.34(i) are normally categorized at Severity Level III and considered for escalated enforcement action, because (1) one physical control existed to prevent loss or theft of the portable gauges; (2) you retained possession of the gauges; (3) the violation was isolated; and (4) no indication of programmatic weakness was identified, the NRC is exercising enforcement discretion to categorize this violation as a Severity Level IV.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken to correct the violation and to prevent recurrence, and the dates when full compliance was achieved is already adequately addressed on the docket in this letter. Because of this, you are not required to respond to this letter unless the description herein 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's Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC's 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.

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

Sincerely,

/RA/

Anne T. Boland, Director
Division of Nuclear Materials Safety

Docket No. 150-00012
License No. IL-01673-01

Enclosure:
Notice of Violation

cc w/encl: State of Illinois
State of Michigan

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

Sincerely,

/RA/

Tamara E. Bloomer Chief
Materials Inspection Branch
Division of Nuclear Materials Safety

Docket No. 150-00012
License No. IL-01673-01

Enclosure:
Notice of Violation

cc w/encl: State of Illinois
State of Michigan

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DATE	09/16/12	10/09/12	10/10/12	10/10/12

NOTICE OF VIOLATION

Midwest Engineering and Testing, Inc.
Champaign, Illinois

Docket No. 150-00012
License No. IL-01673-01
EA-12-182

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on August 21, 2012, with continued in-office review until September 11, 2012, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 of the Code of Federal Regulations (CFR) 30.34(i) states that each portable gauge licensee shall use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

Contrary to the above, from approximately August 12 through August 21, 2012, the licensee failed to use a minimum of two independent physical controls that formed tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges were not under the control and constant surveillance of the licensee. Specifically, the licensee secured portable gauges on a pickup truck bed using only one physical control that formed a tangible barrier, and did not maintain control and constant surveillance of the gauges when parked at a residential parking lot.

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

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken on August 28, 2012, and action taken to correct the violation and prevent recurrence, is already adequately addressed on the docket in the letter transmitting this Notice of Violation (Notice). 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, EA-12-182" and send it 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. 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.

If you choose to respond, 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's 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.

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

Dated this 10th day of October 2012.