



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
2100 RENAISSANCE BOULEVARD, SUITE 100
KING OF PRUSSIA, PENNSYLVANIA 19406-2713

July 10, 2013

Docket No. 03019515

License No. 06-19909-01

William J. Soucy
President & Radiation Safety Officer
Materials Testing, Incorporated
55 Laura Street
New Haven, CT 06512

SUBJECT: NRC INSPECTION REPORT NO. 03019515/2013001, MATERIALS TESTING, INCORPORATED, NEW HAVEN, CONNECTICUT SITE, AND TEMPORARY JOB SITES IN CONNECTICUT, AND NOTICE OF VIOLATION

Dear Mr. Soucy:

On May 1, 2013, and continuing in-office through July 10, 2013, Scott Wilson of this office conducted a safety inspection of your licensed activities. The locations inspected included the above address and your office at 42 Boston Post Road, Willimantic, Connecticut and the storage locations at 5 Bayview Place, West Haven, Connecticut and temporary job sites in North Haven, Mansfield, Wallingford, Monroe, and New Haven, Connecticut. The inspection consisted of observations by the inspector, interviews with personnel, and a selective examination of representative records. The findings of the inspection were discussed with you via telephone at the conclusion of the inspection on July 10, 2013.

Based on the results of this inspection and in accordance with the NRC Enforcement Policy, the NRC has determined that four Severity Level IV violations of NRC requirements occurred. The violations involved the failure to: 1) confine the possession and use of byproduct material to the locations authorized by the license; 2) review the radiation protection program content and implementation at least annually; 3) ensure that HAZMAT employees, who performed functions subject to the requirements of 49 CFR Parts 171 – 177, were trained as required; and 4) demonstrate that the total effective dose equivalent to the individual likely to receive the highest dose from the licensed operation does not exceed the annual dose limits.

The violations are cited in the enclosed Notice of Violation (Notice), because the violations were identified by the NRC.

During our inspection exit meeting on July 10, 2013, you indicated that you agreed with the violations described to you. You stated that you have taken corrective and preventative actions to address each violation and that Materials Testing, Incorporated is committed to radiation safety and to compliance with NRC regulations and licensed conditions. Further, you stated that you have taken the following corrective and preventative actions:

- 1) Materials Testing, Incorporated submitted a license amendment to include the storage location, and subsequently the amended license was issued on June 11, 2013. Also, Materials Testing, Incorporated agreed to, within 30 days, inform all authorized users of the license requirements and to require them to notify you prior to any change of storage address;
- 2) Materials Testing, Incorporated will, within 30 days, conduct a program review and implement a system of reminders to alert the radiation safety officer when future annual program reviews are due. Also, Materials Testing, Incorporated agreed to include program reviews in its annual management review of its quality control program;
- 3) Materials Testing, Incorporated agreed to provide the required refresher training to HAZMAT employees prior to allowing them to perform any functions subject to the requirements of 49 CFR Part 171 – 177. Also, Materials Testing, Incorporated will implement a system of reminders to notify the radiation safety officer when HAZMAT employee training is due in the future, and to include a review of HAZMAT employee training compliance as part of its annual quality control program review; and,
- 4) Materials Testing, Incorporated will, within 30 days, demonstrate by measurement and calculation that the individual likely to receive the highest dose does not exceed the annual dose limit, and will include a review of gauge storage location dose exposures as part of future program reviews.

The NRC has concluded that information regarding the reason for the violation(s), the corrective actions taken and planned to correct the violation and prevent recurrence is already adequately addressed in our records and in this letter. 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(s), 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 and guidance are included on the NRC's website at www.nrc.gov; select **Nuclear Materials; Med, Ind, & Academic Uses**; then **Regulations, Guidance and Communications**. The current Enforcement Policy is included on the NRC's website at www.nrc.gov; select **About NRC, Organizations & Functions; Office of Enforcement; Enforcement documents**; then **Enforcement Policy (Under 'Related Information')**. 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 8:00 a.m. to 5:30 p.m. EST, Monday through Friday (except Federal holidays).

W. Soucy

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The NRC's Safety Culture Policy Statement became effective in June 2011. While a policy statement and not a regulation, it sets forth the agency's *expectations* for individuals and organizations to establish and maintain a positive safety culture. You can access the policy statement and supporting material that may benefit your organization on NRC's safety culture Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/safety-culture.html>. We strongly encourage you to review this material and adapt it to your particular needs in order to develop and maintain a positive safety culture as you engage in NRC-regulated activities.

Please contact Scott Wilson at 610-337-5136 if you have any questions regarding this matter.

Sincerely,

Original signed by Blake D. Welling

Blake Welling, Chief
Materials Security and Industrial Branch
Division of Nuclear Materials Safety

Enclosure:
Notice of Violation

cc:
Bryan Kearns, Manager
State of Connecticut

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Blake Welling, Chief
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Enclosure:
Notice of Violation

cc:
Bryan Kearns, Manager
State of Connecticut

Distribution:
D. J. Holody, RI

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OFFICE	DNMS/RI	E	DNMS/RI	N	DNMS/RI			
NAME	SWilson/sw		BWelling/bw					
DATE	07/10/2013		07/10/2013					

NOTICE OF VIOLATION

Materials Testing, Incorporated
New Haven, CT

Docket No. 03019515
License No. 06-19909-01

During an NRC inspection conducted on May 1, 2013, and continuing in-office until July 10, 2013, four violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 30.34(c) requires, in part, that each licensee confine its possession and use of byproduct material to the locations and purposes authorized by the license.

Contrary to the above, between March 1, 2013 and May 1, 2013, the licensee did not confine its possession and use of byproduct material to the location authorized by the license. Specifically, the licensee possessed and used a Humboldt Model 5001 moisture-density gauge containing sealed sources of cesium-137 (11 millicuries), and americium-241 (44 millicuries), at 75 Ivy Street, Branford, Connecticut, a location not authorized by the license, in violation of 10 CFR 30.34(c).

This is a Severity Level IV violation (Section 6.3.d.9).

- B. 10 CFR 20.1101(c) states that the licensee shall periodically (at least annually) review the radiation protection program content and implementation.

Contrary to the above, between the years 2008 and 2013, the licensee did not review the radiation protection program content and implementation at least annually, a violation of 10 CFR 20.1101(c).

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

- C. 10 CFR Part 71.5 requires, in part, that each licensee who transports licensed material outside the site of usage, as specified in the NRC license, shall comply with the applicable requirements of the United States Department of Transportation regulations in 49 CFR parts 171 through 180, appropriate to the mode of transport.

49 CFR 172.704 requires, in part, that a hazmat employee shall receive training required by the subpart, at least once every three years.

Contrary to the above, from August 4, 2009, to May 12, 2013, the licensee did not ensure that HAZMAT employees, who performed functions subject to the requirements of 49 CFR Parts 171 – 177, were trained as required. Specifically, a HAZMAT employee had not completed refresher training since August 4, 2009, a period greater than three years, and on multiple occasions the employee had transported portable gauges containing licensed material outside the site of usage during this period, a violation of 10 CFR 71.5.

Notice of Violation
Materials Testing, Incorporated

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

- D. 10 CFR 20.1302 requires, in part, that a licensee shall show compliance with the annual dose limit in § 20.1301 by demonstrating by measurement or calculation that the total effective dose equivalent to the individual likely to receive the highest dose from the licensed operation does not exceed the annual dose limit.

Contrary to the above, the licensee did not show compliance with the annual dose limit in 10 CFR 20.1301 by demonstrating by measurement or calculation that the total effective dose equivalent to the individual likely to receive the highest dose from the licensed operation does not exceed the annual dose limit, a violation of 10 CFR 20.1302.

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

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 of receipt.

Dated this 10th day of July, 2013.