



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION III
2443 WARRENVILLE RD. SUITE 210
LISLE, IL 60532-4352

October 9, 2015

EA-15-117

Mr. Larry Kondrat, President
Cal Testing Services, Inc.
1945 North Griffith Boulevard
Griffith, IN 46319

SUBJECT: NOTICE OF VIOLATION – CAL TESTING SERVICES, INC.; NRC INSPECTION
REPORT NO. 03010856/2015001(DNMS)

Dear Mr. Kondrat:

On March 30, 2015, and April 23, 2015, inspectors from the U.S. Nuclear Regulatory Commission (NRC) conducted a routine inspection at your Griffith, Indiana office, with continued in-office review through June 11, 2015. During the inspection, an apparent violation (AV) of NRC requirements was identified. The significance of the issue and the need for lasting and effective corrective actions were discussed with you during the exit meeting on June 11, 2015. Details regarding the AV was provided in NRC Inspection Report No. 03010856/2015001 (DNMS) dated July 7, 2015.

In the letter transmitting the inspection report, we provided you with the opportunity to address the AV identified in the report by either providing a written response or requesting a predecisional enforcement conference. In a letter dated July 31, 2015, you provided a response to the AV. You disagreed with the AV against Title 10 *Code of Federal Regulations* (CFR) 34.47(a), stating that although the alarm ratemeter was inoperable at the time of the inspection, the point in time when the device failed was unknown, the alarm ratemeter had been checked and operational before the assignment began and that there was no reason to doubt the wearer's words. You also indicated that it was not unreasonable to surmise that the device failed at some point in time after it had been checked, and that Cal Testing Services had not permitted the wearer to participate in radiography without an operating alarm ratemeter and that all reasonable steps had been taken to ensure that the individual was wearing an operable device.

We reviewed your disagreement with the AV and noted that you indicated that the alarm ratemeter was checked and operable before the assignment began. The NRC requirement in 10 CFR 34.47 requires, in part, that at all times during radiographic operations each individual wears an operating alarm ratemeter. While the regulation also requires a check to be performed to ensure that the alarm functions properly (sounds) before use at the start of each shift, it does not prevent the licensee from implementing additional checks of the alarm ratemeter throughout the day to ensure the alarm ratemeter's alarm is functioning at all times during radiographic operations.

Based on the information developed during the inspection, and the information that you provided in your response dated July 31, 2015, the NRC determined that a violation of NRC requirements occurred. The violation is cited in the Notice of Violation (Notice) and the circumstances surrounding it are also described in detail in our inspection report dated July 7, 2015. The failure to wear an operating alarm ratemeter during radiographic operations is a significant safety issue. The ratemeter's alarm function is to inform the wearer of elevated radiation levels so that personnel can take appropriate actions including moving themselves to a lower radiation area. Therefore, the violation has been categorized, in accordance with the NRC Enforcement Policy, as a Severity Level III violation.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$7,000 is normally considered for a Severity Level III violation. Because your facility has not been the subject of escalated enforcement actions within the last 2 years or two inspections, the NRC considered whether credit was warranted for Corrective Action in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. In NRC Inspection Report No. 03010856/2015001(DNMS), the NRC described its understanding of the corrective actions taken to correct the violation. Your corrective actions included immediately removing the inoperable alarm ratemeter from service and providing the individual with an operable unit. In your response dated July 31, 2015, your staff described the corrective actions taken to correct the violation and to prevent recurrence. For example, you reviewed the incident with all radiography personnel and instituting a program that instructs the calibrator to replace the ratemeter batteries. Based on these corrective actions, the NRC has determined that Corrective Action credit is warranted.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III violation constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation, and the date when full compliance was achieved, was adequately addressed on the docket in NRC Inspection Report No. 03010856/2015001(DNMS) dated July 7, 2015, and in your response dated July 31, 2015. Therefore, you are not required to respond to this letter unless the description therein 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.

L. Kondrat

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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 any, 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>.

Sincerely,

/RA Darrell Roberts for/

Cynthia D. Pederson
Regional Administrator

Docket No. 030-10856
License No. 13-16347-01

Enclosure:
Notice of Violation

cc w/encl: Mr. John A. Korienek,
Radiation Safety Officer

cc w/o encl: State of Indiana

NOTICE OF VIOLATION

Cal Testing Services, Inc.
Griffith, Indiana

Docket No. 030-10856
License No. 13-16347-01
EA-15-117

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on March 30, 2015, and April 23, 2015, with continued in-office review through June 11, 2015, a violation of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 CFR 34.47(a) requires, in part, that the licensee not permit any individual to act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, each individual wears, on the trunk of the body, a direct reading dosimeter, an operating alarm ratemeter, and a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor.

Contrary to the above, on March 30, 2015, the licensee permitted an individual to act as a radiographer's assistant, during radiographic operations without wearing on the body an operating alarm ratemeter. Specifically, the radiographer's assistant wore an inoperable alarm ratemeter.

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

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 03010856/2015001(DNMS) dated July 7, 2015, and in your response dated July 31, 2015. 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-15-117," 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 of Violation (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, United States 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 in 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>. Therefore, 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.

Enclosure

Notice of Violation

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

Dated this 9th day of October, 2015.

L. Kondrat

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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 any, 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>.

Sincerely,

/RA Darrell Roberts for/

Cynthia D. Pederson
Regional Administrator

Docket No. 030-10856
License No. 13-16347-01

Enclosure:
Notice of Violation

cc w/encl: Mr. John A. Korienek,
Radiation Safety Officer

cc w/o encl: State of Indiana

DISTRIBUTION:
See next page

ADAMS ACCESSION NO. ML15282A444

OFFICE	RIII	RIII	RIII	D:OE	RIII	RIII
NAME	Lambert	McCraw	Lara for Giessner	Holahan ¹	Skokowski	Roberts for Pederson
DATE	09/30/15	09/30/15	10/06/15	10/07/15	10/08/15	10/09/15

OFFICIAL RECORD COPY

¹ OE concurrence provided via e-mail from K. Norman on October 7, 2015.

Letter to Mr. Larry Kondrat from Ms. Cynthia D. Pederson dated October 9, 2015

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REPORT NO. 03010856/2015001(DNMS)

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