



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
2100 RENAISSANCE BLVD.
KING OF PRUSSIA, PA 19406-2713

July 28, 2016

EA-16-046

Mr. Jim J. Hills
President
Applied Technical Services, Inc.
1049 Triad Court
Marietta, Georgia 30062

SUBJECT: APPLIED TECHNICAL SERVICES, INC., NOTICE OF VIOLATION, AND PROPOSED IMPOSITION OF CIVIL PENALTY - \$7,000 - NRC INSPECTION REPORT NO. 15000010/2015001 AND 15000010/2015002 AND OFFICE OF INVESTIGATION REPORT 1-2016-002

Dear Mr. Hills:

The letter provides you the U.S. Nuclear Regulatory Commission's (NRC's) enforcement decision for the apparent violations identified during an NRC unannounced safety inspection and investigation of Applied Technical Services, Inc. (ATS) activities at the National Aeronautics and Space Administration (NASA) Langley Research Center in Hampton, Virginia. The investigation evaluated, in part, whether a radiographer employed by ATS deliberately failed to follow NRC regulations and ATS procedures while conducting work at NASA.

Based on the evidence gathered during the NRC inspection and investigation, the NRC has concluded that on October 20, 2015, a radiographer deliberately failed to post an area where industrial radiography was being performed with conspicuous radiation or high radiation signs that established a radiological boundary as required by 10 CFR 34.53 and 10 CFR 20.1902. In addition, the radiographer failed to conduct a survey of the camera guide tube after taking an image of a pipe weld in accordance with 10 CFR 34.49 and failed to comply with a condition on the ATS State of Georgia license to ensure continuous direct visual surveillance of the operation to protect against unauthorized entry into a radiation area, as required by the 10 CFR 150.20(b)(5).

The apparent violations were discussed in the NRC inspection report sent to you on May 20, 2016 (ML16141A945).¹ In the letter transmitting the inspection report, we provided ATS the opportunity to accept the apparent violations, address the apparent violations identified in the report by either attending a predecisional enforcement conference (PEC), providing a written response to the apparent violations, or requesting alternative dispute resolution (ADR) before we made our final enforcement decision. In a letter received on June 21, 2016 (ML16181A078), you provided a written response in which you accepted the violations as described in the inspection report and provided the corrective actions taken to address the apparent violations.

¹ Designation in parentheses refers to an Agency-wide Documents Access and Management System (ADAMS) accession number. Unless otherwise noted, documents referenced in this letter are publicly-available using the accession number in ADAMS.

Therefore, based on the information developed during the inspection and investigation, the NRC determined that three violations of NRC requirements occurred. These violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them were described in detail in the subject inspection report. The failure to adhere to the requirements regarding industrial radiography is of significant concern to the NRC because the potential existed for members of the public and the radiographer to receive an unintended exposure. Additionally, the failure to post the area where industrial radiography was being performed was willful.

Because the requirements not met were related to the same event and causal factors, they have been categorized collectively as a single Severity Level (SL) III problem. In accordance with the Enforcement Policy, a base civil penalty in the amount of \$7000 is considered for a SL III problem. Because the NRC determined that one of the violations was willful, the NRC considered whether credit was warranted for both *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the NRC Enforcement Policy. The NRC determined that identification credit was not warranted because the violations were identified during an NRC inspection. The NRC concluded that credit was warranted for ATS's corrective actions taken to address the violation. Specifically, ATS immediately stopped all radiographic work at the site, provided refresher training to the radiographer and the assistant radiographer; informed all the ATS offices of the event; and increased the number of field performance reviews to provide greater oversight of field technicians.

Therefore, to emphasize the importance of procedural compliance and of prompt identification of violations, I have been authorized, after consultation with the Director, Office of Enforcement to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) in the base amount of \$7000 for the SL III problem. In addition, issuance of this Notice constitutes an escalated enforcement action that may subject you to increased inspection effort.

If you disagree with this enforcement sanction, you may deny the violation, as described in the Notice, or you may request an ADR with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflicts using a neutral third party. The technique that the NRC employs is mediation. Mediation is a voluntary, informal process in which a trained neutral (the "mediator") works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC's ADR program can be found at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>.

The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as a neutral third party. If you are interested in pursuing this issue through the ADR program, please contact: (1) the ICR at (877) 733-9415; and (2) Blake Welling, Chief, Commercial, Industrial, R&D, and Academic Branch at 610-337-5205 within **10** days of the date of this letter. You may also contact both ICR and Mr. Welling for additional information. Your submitted signed agreement to mediate using the NRC ADR program would stay the 30-day

time period for payment of the civil penalties and the written response, as identified in the enclosed notice, until the ADR process is completed.

The NRC has concluded that information regarding: (1) the reason for the violations; (2) the actions taken to correct the violations and prevent recurrence; and, (3) the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report Nos. 15000010/2015001 and 15000010/2015002, in your letter received on June 21, 2016, (ML16181A078), and in this letter. 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.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, 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 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.

The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

Sincerely,

/RA/

Daniel H. Dorman
Regional Administrator

Docket No.: 03038879
License No.: 10-35278-01

Enclosures:

1. Notice of Violation and Proposed Imposition of Civil Penalty
2. NUREG/BR-0254, "Payment Methods"

cc w/enclosures: Gary Winkler, Radiation Safety Officer
Technical Services Manager, American
Society for Nondestructive Testing, Inc.
State of Georgia
Commonwealth of Virginia

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/RA/
Daniel H. Dorman
Regional Administrator

Docket No.: 03038879
License No.: 10-35278-01

Enclosures:

1. Notice of Violation and Proposed Imposition of Civil Penalty
2. NUREG/BR-0254, "Payment Methods"

cc w/enclosures: Gary Winkler, Radiation Safety Officer
Technical Services Manager, American
Society for Nondestructive Testing, Inc.
State of Georgia
Commonwealth of Virginia

Distribution: see next page

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DOCUMENT NAME: S:\Enf-allg\Enforcement\Proposed-Actions\Region1\ATS NOV-III-CP EA-16-046.docx

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DATE	7/14/16	7/18/16	7/14/16	7/18/16	7/21/16	7/26/16
OFFICE	NMSS	OGC			RI/DNMS	RA
NAME	M Burgess via email*	M Simon via email*			J Trapp	D Dorman
DATE	7/18/16	7/20/16			7/27/16	7/27/16

* See previous concurrence page

Letter to Jim Hills from Daniel H. Dorman dated July 28, 2016

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ENCLOSURE 1
NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

Applied Technical Services, Inc.
Marietta, Georgia

Docket No. 03038879
License No. 10-35278-01
EA-16-046

During an NRC inspection conducted on October 20, 2015, November 23-24, 2015, and with continued in-office review through April 22, 2016, for which a telephonic exit meeting was conducted on April 22, 2016, and during an NRC investigation conducted between October 30, 2015, and February 2, 2016, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the NRC proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violations and associated civil penalty is set forth below:

1. 10 CFR 34.49(b) requires, in part, that the licensee shall conduct a survey of the radiographic exposure device and the guide tube after each exposure when approaching the device or guide tube.

Contrary to the above, on October 20, 2015, Applied Technical Services, Inc. (ATS) did not conduct a survey of the radiographic exposure device and guide tube after an exposure when approaching the device. Specifically, while conducting industrial radiography at the National Aeronautics Space Administration (NASA) Langley Research Center in Hampton, Virginia, after completing an exposure of a pipe weld, a radiographer approached the camera and the guide tube without a survey meter and did not conduct a survey of the camera to ensure that the source had been retracted.

2. 10 CFR 34.53 requires, in part, that all areas in which industrial radiography is being performed must be conspicuously posted as required by 10 CFR 20.1902(a) and (b).

10 CFR 20.1902(a) requires that licensees post each radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, RADIATION AREA."

10 CFR 20.1902(b) requires that licensees post each high radiation area with a conspicuous sign or signs bearing the radiation symbol and words "CAUTION, HIGH RADIATION AREA" or "DANGER, HIGH RADIATION AREA."

Contrary to the above, on October 20, 2015, ATS did not conspicuously post all areas in which industrial radiography was being performed as required by 10 CFR 20.1902(a) and (b). Specifically, while conducting industrial radiography at NASA Langley Research Center in Hampton, Virginia, a radiographer did not post accessible portions of the radiation area with signs bearing the words "CAUTION, RADIATION AREA" to maintain a restricted perimeter. The high radiation area was

posted with a single "CAUTION, HIGH RADIATION AREA" sign that was not visible from all directions to individuals entering the high radiation area.

3. 10 CFR 150.20(b)(5) requires, in part, that any person engaging in activities in an area of exclusive Federal jurisdiction within an Agreement State shall comply with all terms and conditions of the specific license issued by an Agreement State such terms or conditions as are contrary to the requirements of this section.

Condition 15 of the State of Georgia license No. GA 896-1, requires, in part, that licensees comply with the provisions of the Georgia Department of Natural Resources Rule 391-3-17-.04, "Special Radiation Safety Requirements for Industrial Radiographic Operations, Amended."

Rule 391-3-17-.04(21) requires, in part, that during each radiologic observation, the Radiographer shall ensure continuous direct visual surveillance of the operation to protect against unauthorized entry into a radiation area or high radiation area.

Contrary to the above, on October 20, 2015, ATS did not comply with Condition 15 of its State of Georgia license (GA 896-1) when it engaged in radiography activities in an area of exclusive Federal jurisdiction within an Agreement State. Specifically, the radiographer did not comply with provisions of the Georgia Department of Natural Resources Rule 391-3-17-.04 to ensure continuous direct visual surveillance of the operation to protect against unauthorized entry into a radiation area or high radiation area. The radiographer did not observe an NRC inspector enter the restricted area where industrial radiography was being performed, such that the inspector was allowed to walk unnoticed and unimpeded into the radiation area while radiographic operation were being performed.

This is a Severity Level III problem. (Enforcement Policy Section 6.3)
Civil Penalty - \$7,000 (EA-16-046)

The NRC has concluded that information regarding: (1) the reason for the violation; (2) the actions taken to correct the violation and prevent recurrence; and (3) the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report Nos. 15000010/2015001 and 15000010/2015002, in a letter from ATS received on June 21, 2016 (ML16181A078), and in the letter transmitting this Notice. Therefore, you are not required to respond to the violation unless the description therein does not accurately reflect your corrective actions or your position. If the docketed information does not accurately reflect your corrective actions or your position, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201.

In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation EA-16-046," 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 I, 2100 Renaissance Boulevard, Suite 100, King of Prussia, PA 19406, within 30 days of the date of the letter transmitting this Notice of Violation.

The Licensee may pay the civil penalty proposed above in accordance with NUREG/BR-0254, "Payment Methods," and by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, a statement indicating when and by what method payment was made, or may protest imposition of the civil penalty in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice. Should the Licensee fail to answer within 30 days of the date of this Notice, the NRC will issue an order imposing the civil penalty. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violation listed in this Notice, in whole or in part; (2) demonstrate extenuating circumstances; (3) show error in this Notice; or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the response should address the factors addressed in Section 2.3.4 of the Enforcement Policy. Any written answer addressing these factors pursuant to 10 CFR 2.205 should be set forth separately from the statement or explanation provided pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205 regarding the procedure for imposing civil penalty.

Upon failure to pay any civil penalty which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205 to be due, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The responses noted above, i.e., Reply to Notice of Violation, Statement as to Payment of Civil Penalty, and Answer to a Notice of Violation, should be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region I, 2100 Renaissance Boulevard, King of Prussia, PA, 19106, and the Document Control Center, 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 document 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 or proprietary information so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request that such material is withheld from public disclosure, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim (e.g., explain why

Notice of Violation and
Civil Penalty

-4-

the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

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

Dated this 28th day of July, 2016