



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
2443 WARRENVILLE ROAD, SUITE 210
LISLE, ILLINOIS 60532-4352

September 25, 2018

Mr. Timothy J. Reams,
Radiation Safety Officer
Materials Inspection and Testing, Inc
3807 Goshen Road
Fort Wayne, IN 46818

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 03018173/2018001(DNMS) AND
NOTICE OF VIOLATION – MATERIALS INSPECTION AND TESTING, INC.

Dear Mr. Reams:

On August 29, 2018, an inspector from the U.S. Nuclear Regulatory Commission (NRC) conducted a routine inspection at your Fort Wayne, Indiana, location with continued in-office review through September 14, 2018. The purpose of the inspection was to review activities performed under your NRC license to ensure that activities were being performed in accordance with NRC requirements. The in-office review included a review of sealed source leak test results and licensee training records. Mr. Jason Draper of my staff conducted a final exit meeting by telephone with you on September 14, 2018, 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 Commission's rules and regulations as well as the conditions of your license. 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 two Severity Level IV violations of NRC requirements occurred. The violations were 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 violations concerned: (1) the licensee's use of a CPN Model MC-1 portable gauge, containing a 10-millicurie (mCi) cesium-137 sealed source and a 50-mCi americium-241/beryllium sealed source, without having verified the sources were not leaking within the required period, as required by License Condition 13.A. of NRC License 13-16961-02; and (2) the licensee's transport of hazardous material (CPN Model MC Series portable gauges) without the employees having received hazardous material refresher training, as required by Title 10 of the *Code of Federal Regulations* (CFR) Part 71.5(a)(1)(vi). The second violation was previously identified during a routine NRC inspection in 2013 (Inspection Report 03018173/2013001(DNMS)) but was not corrected by the licensee. The violations are cited in the enclosed Notice of Violation (Notice). The NRC is citing the violations in the enclosed Notice because the inspector identified the violations.

The inspector determined that the root cause of the first violation was an oversight by the licensee. As corrective actions to restore compliance and to prevent recurrence, the licensee leak tested the sources in the portable gauge that did not have a current leak test and plans to coordinate all leak tests at the same time at an increased frequency to prevent missing a gauge. The inspector determined that the root cause of the second violation was a lack of adequate corrective action in response to a previously cited violation. As corrective actions to restore compliance and to prevent recurrence, the licensee has facilitated refresher training for all gauge users, completed on September 6, 2018, and plans to provide refresher training for all gauge users in coordination with the annual radiation safety program review to ensure all gauge users have current refresher training.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be useful in preparing your response. You can find the Information Notice on the NRC's website at: <http://www.nrc.gov/reading-rm/doc-collections/gen-comm/info-notices/1996/in96028.html>. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements. Specifically, we ask that you address how your corrective actions to address the second violation will be more effective in achieving and sustaining compliance going forward than the previous corrective actions for a similar violation.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response 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 publicly available without redaction.

Please feel free to contact Mr. Draper if you have any questions regarding this inspection. Mr. Draper can be reached at 630-829-9839.

Sincerely,

/RA/

Aaron T. McCraw, Chief
Materials Inspection Branch
Division of Nuclear Materials Safety

Docket No. 030-18173
License No. 13-16961-02

Enclosure:
Notice of Violation

cc w/encl: State of Indiana

Letter to Mr. Timothy J. Reams from Aaron T. McCraw, dated September 25, 2018.

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 03018173/2018001(DNMS) AND NOTICE OF VIOLATION – MATERIALS INSPECTION AND TESTING, INC.

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NOTICE OF VIOLATION

Materials Inspection and Testing, Inc.
Fort Wayne, Indiana

License No. 13-16961-02
Docket No. 030-18173

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on August 29, 2018, with continued in-office review through September 14, 2018, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. License Condition 13.A. of NRC License 13-16961-02, Amendment No. 10, requires that sealed sources be tested for leakage and/or contamination at intervals not to exceed the intervals specified in the certificate of registration. The California certificate of registration CA0208D102S, dated May 16, 2012, section labeled "Limitations and/or Other Considerations of Use," states that the device shall be leak tested at intervals not to exceed 1 year.

Contrary to the above, from October 15, 2017, to August 28, 2018, the licensee exceeded the leak test interval specified in the certificate of registration. Specifically, the licensee used a CPN Model MC-1 portable gauge, containing a 10-millicurie (mCi) cesium-137 (Cs-137) and a 50-mCi americium-241/beryllium (Am-241/Be) sealed sources, approximately 50 times without having performed a leak test within the previous year.

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

Title 10 of the *Code of Federal Regulations* (CFR) Part 71.5(a)(vi) requires that each licensee who transported licensed material outside the site of usage shall comply with the applicable requirements of the DOT regulations, including 49 CFR Part 172, Subpart H.

Title 49 CFR 172.704(c)(2) requires, in part, that a hazmat employee must receive the training required by subpart H at least once every three years.

Contrary to the above, from approximately May 2, 2006, through August 28, 2018, the licensee failed to ensure that its hazmat employees (gauge users) had received hazmat training within three years prior to transporting licensed material outside the site of usage. Specifically, multiple licensee employees transported CPN Model MC Series portable gauges, containing 10 mCi of Cs-137 and 50 mCi of Am-241/Be, to and from temporary jobsites numerous times without having received hazmat training within the prior three year period.

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

Pursuant to the provisions of 10 CFR 2.201, Materials Inspection and Testing, Inc., is hereby required to submit a written statement or explanation 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). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include: (1) the reason for the violation, or, if contested, the basis for disputing the violation or its severity level, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken, and (4) the date when full compliance was

Enclosure

or will be achieved. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

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.

Your response 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, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made publicly available 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 25th day of September, 2018.