



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV

611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064

APR 21 1997

Mark M. Mattingly
President and Radiation Safety Officer
Mattingly Testing Services, Inc.
P.O. Box 3126
Great Falls, Montana 59403

SUBJECT: NOTICE OF VIOLATION

Dear Mr. Mattingly:

This refers to your letters dated January 8 and March 12, 1997, submitted in response to our letter and Notice of Violation (Notice) dated December 12, 1996, and our request for additional information dated February 25, 1997. We have reviewed the information in your letters, as well as information provided by you during a telephone conversation with Mr. William Radcliffe and Ms. Linda Howell of this office on February 6, 1997, and have determined that Mattingly Testing Services, Inc. (MTS) has not provided information to support its request for withdrawal of Violation A. For reasons discussed below, the violation will remain as stated in the Notice.

MTS has requested that Violation A be withdrawn because: (1) the radiographer used a safe and effective alternative for securing the area, (2) the radiographer posted and secured the radiation area using barrier tape, and (3) the radiographer maintained direct surveillance of the area. Further, you noted that the high radiation area at the temporary jobsite was inaccessible and that the radiographer had controlled access to that area.

As noted in our previous correspondence and in conversations with you, we found that the radiation area was posted and controlled in accordance with 10 CFR Parts 20 and 34. However, the high radiation area was not properly posted. 10 CFR 34.42 specifically states that notwithstanding any provisions in 10 CFR 20.1903, areas in which radiography is being performed shall be conspicuously posted as required by 10 CFR 20.1902(a) and (b). 10 CFR 20.1902(a) requires that each radiation area be posted with a sign or signs bearing the radiation caution symbol and the words "CAUTION, RADIATION AREA," and 10 CFR 20.1902(b) requires that each high radiation area be posted with a sign or signs bearing the radiation caution symbol and the words "CAUTION, HIGH RADIATION AREA" or "DANGER, HIGH RADIATION AREA." The exceptions to posting caution signs in areas containing radioactive materials provided in 10 CFR 20.1903 does not apply in this case. 10 CFR Part 34 requires that radiography personnel maintain direct surveillance and conspicuously post areas in which radiography is being performed as required by 10 CFR 20.1902(a) and (b); therefore, both posting and surveillance are required. You and your staff cannot use the fact that an area is secured and under constant surveillance as a basis for not posting both the radiation and high radiation areas.

To speak to the specific situation discussed in your letters and observed during the inspection, our response is the same as in our letter dated February 25, 1997. The

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inspector found that the type of sign used by Mattingly personnel could easily have been placed at the base of the ladder or, as you suggested during the exit briefing, the sign could have been hung on one of the bottom rungs of the ladder. It could have been moved whenever the radiographer needed to climb up the tower to reposition the source guide tube and rehung when he returned to the base of the tower. This should not have placed your radiographer at any risk and would have met the regulations.

If you wish to post a high radiation area in any manner other than as stated in 10 CFR 34.42, your only recourse would be to submit a request for exemption from the posting requirements specified in the regulation. Such a request must be accompanied by a request to amend your license, describing an alternate posting strategy you would use. Before you implement any alternate posting strategy, the exemption request and license amendment would have to be approved by the NRC.

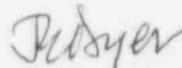
In conclusion, unless you receive approval for an amendment to your license giving you relief from the posting requirements of 10 CFR 34.42, you and your staff must post both radiation and high radiation areas whenever you conduct radiographic operations. Compliance with the requirements of 10 CFR 34.42 will be reviewed during future inspections. Failure to post both the radiation and high radiation areas may be viewed as willful and could result in a finding of deliberate misconduct against the individual or individuals involved.

As for your request for specific instructions for your next training session or a generic "safe alternative," the NRC is unable to provide such guidance. We note that each of your temporary job sites is unique and strategies would have to be modified for each location.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter will be placed in the NRC Public Document Room (PDR).

Should you have any questions concerning this letter please contact Mr. Ross Scarano at (817) 860-8106 or Ms. Linda Howell at (817) 860-8213.

Sincerely,



James E. Dyer
Deputy Regional Administrator

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