



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

June 17, 1999

IA 99-011

Mr. John Chmielorz
**HOME ADDRESS DELETED
UNDER 2.790**

Dear Mr. Chmielorz:

SUBJECT: NOTICE OF VIOLATION
(NRC OI Investigation 1-98-034)

Dear Mr. Chmielorz:

This refers to an investigation conducted by the NRC Region I Office of Investigations (OI) which was initiated in July 1998. The investigation determined that you, while in the position of Vice President at Materials Testing Lab, Inc., deliberately allowed at least one former field technician to operate a portable nuclear gauge without proper certification and dosimetry. A synopsis of the OI investigation report was forwarded to you on April 9, 1999.

As noted in the NRC April 9, 1999 letter, your actions were in violation of 10 CFR 30.10, "Deliberate Misconduct," which prohibits licensee employees from engaging in deliberate misconduct which causes the licensee to be in violation of any rule or regulation, or any term, condition or limitation of any license issued by the NRC. In that letter, the NRC provided you an opportunity to respond to the apparent violation in writing, or to request a predecisional enforcement conference. You provided a response, undated, which was received the NRC Region 1 office on May 21, 1999.

During your interview with OI in September 1998, you admitted that you sent an individual to a work site without a TLD and without nuclear gauge certification. Also, in your undated response to the NRC April 9, 1999 letter, you apologized for using bad judgement which caused the violation. Nonetheless, given the deliberate nature of the violation, it is classified at Severity Level III in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600. The violation is described in the enclosed Notice of Violation.

You should be aware that NRC regulations allow the issuance of civil sanctions such as a Notice of Violation, directly against unlicensed persons who engage in deliberate misconduct, causing a violation of NRC requirements. Deliberate misconduct includes an intentional act or omission that the person knows constitutes a violation of a requirement, procedure or training instruction. An Order may also be issued to an individual to prevent his or her engaging in licensed activities at all NRC licensed facilities. The NRC gave serious consideration to the issuance of an Order in this case. However, after consultation with the Director, Office of Enforcement, I have decided to issue the enclosed Notice of Violation, and refrain from issuing such an Order, after considering the circumstances of the case including that you were demoted by the licensee and are no longer

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involved in licensed activities and that you recognized the significance of your actions in your letter to the NRC in response to our April 9, 1999 choice letter. Nonetheless, you should be aware that engagement in any similar wrongdoing in the future may result in more significant enforcement action.

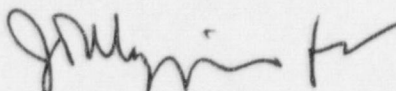
The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved is already adequately addressed in your undated response received by the NRC Region I office on May 21, 1999. 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, DC 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 choose to respond, your response will be placed in the NRC Public Document Room (PDR). Therefore, to the extent possible, the response should not include any personal privacy or proprietary so that it can be placed in the PDR without redaction.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter with your home address deleted, its enclosures, and your response, if any, will be placed in the NRC Public Document Room (PDR).

If you have any questions or comments, please contact Ms. Betsy Ullrich (610) 337-5040.

Sincerely,

A handwritten signature in dark ink, appearing to read 'J. Miller', followed by a horizontal flourish.

Hubert J. Miller
Regional Administrator

Enclosure: Notice of Violation

cc w/encl:
State of Connecticut
State of New York

DCS
PDR

Mr. John Chmielorz

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