



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
2056 WESTINGS AVENUE, SUITE 400
NAPERVILLE, IL 60563-2657

February 13, 2025

EA-24-097
EA-R3-2024-0029
EN 57157
NMED No. 240194 (closed)

Steven Elliott, P.E.
President
Materials Testing Consultants, Inc.
693 Plymouth Avenue, NE
Grand Rapids, MI 49505

SUBJECT: NOTICE OF VIOLATION, EXERCISE OF ENFORCEMENT DISCRETION, AND PROPOSED IMPOSITION OF CIVIL PENALTY - \$9,000, NRC REACTIVE INSPECTION REPORT NO. 03013918/2024001 (DRSS) – MATERIALS TESTING CONSULTANTS, INC.

Dear Steven Elliott:

This letter refers to the reactive inspection conducted on August 9, 2024, at your Dexter, Michigan, facility, with in-office review through September 17, 2024. The purpose of the inspection was to review the circumstances, root and contributing causes, and corrective actions for the loss of a device containing regulated material which you reported to the NRC on May 31, 2024. The purpose of the in-office review was to evaluate the significance of the inspection findings. The inspector, Ryan Craffey, discussed the preliminary inspection findings with Timothy Lautenbach, your Radiation Safety Officer, and Dan Elliott of your staff at the conclusion of the onsite portion of the inspection. Ryan conducted a final exit briefing with Timothy on September 25, 2024. The inspection report was issued on October 17, 2024, and can be found in the NRC's Agencywide Documents Access and Management System (ADAMS) at accession number ML24274A016. ADAMS is accessible from the NRC website at <https://www.nrc.gov/reading-rm/adams.html>.

In the October 17, 2024, letter transmitting the inspection report, we informed you that two apparent violations were being considered for escalated enforcement action, including a civil penalty. In the letter, we provided you the opportunity to address the apparent violations identified in the report by either attending a predecisional enforcement conference (PEC), engaging the NRC in Alternative Dispute Resolution (ADR) mediation, or by providing a written response before we made our final enforcement decision. In a letter dated November 14, 2024 (ML24325A544), and email dated December 10, 2024 (ML24347A073), you provided your response to the apparent violations.

Based on the information developed during the inspection and the information that you provided in your response to the inspection report, the NRC has determined that two escalated violations of NRC requirements occurred and is proceeding with enforcement action. These violations are cited in the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) and

the circumstances surrounding them are described in detail in the subject inspection report. The violations concerned your failure to: (1) control and maintain constant surveillance of licensed material not in storage and (2) conduct physical inventories every six months to account for all sealed sources and devices received and possessed under your license. These violations were related to the loss of a portable gauge sometime between November 16, 2023, when it was last used at a temporary job site in Saline, Michigan, and May 31, 2024, when you identified that the gauge was missing and notified the NRC in accordance with 10 CFR 20.2201(a)(1)(ii) (Event Notification 57157, Nuclear Materials Event Database No. 240194). In your November 14, 2024, response to the apparent violations, you stated that the root cause for the violations was inadequate oversight and material accountability practices.

In your responses, you identified the following actions to correct and prevent recurrence of the failures identified above: (1) adding video surveillance at each office storage location; (2) notifying gauge manufacturers of the lost gauge; (3) ensuring Bluetooth location trackers are installed on all gauges; (4) revising the policy for storage of gauges overnight in a truck to require the gauge to be secured in a permanently mounted secondary locking container; (5) ensuring the same utilization log at all storage locations; (6) recurring calendar reminders and follow up meetings for 6-month physical inventories of all gauges; and (7) developing a "Nuclear Gauge Security Guidance Document" to help implement lessons learned from this event.

The NRC considers the loss of NRC-regulated material a significant regulatory and security concern because a portable gauge poses an undue risk to the public. The regulated material is still missing, and a member of the public could receive a dose exceeding regulatory limits. Therefore, these violations are categorized collectively in accordance with the NRC Enforcement Policy as a Severity Level (SL) III problem. The current Enforcement Policy is included on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

In accordance with Section 2.3.4 of the Enforcement Policy, the NRC is exercising discretion to propose imposition of a civil penalty of at least the base amount for the violations involving the loss of a device. The base civil penalty amount for the violation discussed above and included in the enclosed Notice is \$9,000.

Therefore, to emphasize the importance of maintaining security and control of sealed sources and devices, 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 \$9,000 for the SL III problem. In addition, issuance of this Notice constitutes escalated enforcement action that may subject you to increased inspection effort.

In addition, you may pay the proposed civil penalty in accordance with NUREG/BR-0254 which can be found on the NRC's website at <https://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures/br0254/index.html>. When using NUREG/BR-0254 to pay the civil penalty, the invoice number should be used as the "enforcement action identifier" when submitting your payment through one of the approved methods listed in the brochure. The NRC may consider a request for additional time to pay the proposed civil penalty, including the option to enter into an installment agreement, if payment of the civil penalty as a lump sum in the required timeframe would pose a financial hardship. To request additional time to pay, you must submit a written request, with appropriate justification explaining your financial hardship, to NRCCollections.Resource@nrc.gov. All requests should be submitted in sufficient time to allow

the NRC the ability to review your request for additional time to pay before the 30-day payment period expires.

If you disagree with this enforcement sanction, you may deny the violation, as described in the Notice, or you may request 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 has decided to employ 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) Diana Betancourt-Roldan, Enforcement Officer at 630-810-4373 within 10 days of the date of this letter.** You may also contact both ICR and Diana Betancourt-Roldan for additional information. Your submitted signed agreement to mediate using the NRC ADR program will stay the 30-day time period for payment of the civil penalties and the required 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 corrective steps that have been taken and the results achieved; and (3) the corrective steps that will be taken; and (4) the date when full compliance was achieved is already adequately addressed on the docket in Inspection Report No. 03013918/2024001 (DRSS) and in your letter dated November 14, 2024, and email dated December 10, 2024. 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 "Agency Rules of Practice and Procedure," 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 and from the NRC's 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 website at <https://www.nrc.gov/about-nrc/regulatory/enforcement/current.html>.

S. Elliott

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If you have any questions concerning this matter, please contact Diana Betancourt-Roldan, Enforcement Officer, at 630-810-4373.

Sincerely,



Signed by Giessner, Jack
on 02/13/25

John B. Giessner
Regional Administrator

Docket No. 030-13918
License No. 21-15281-02

Enclosure: Notice of Violation and Proposed
Imposition of Civil Penalty
Civil Penalty Invoice No. EA-24-097

cc w/encl: Timothy Lautenbach,
Radiation Safety Officer
State of Michigan

Letter to S. Elliott from J. Giessner dated February 13, 2025.

SUBJECT: NOTICE OF VIOLATION, EXERCISE OF ENFORCEMENT DISCRETION, AND PROPOSED IMPOSITION OF CIVIL PENALTY - \$9,000, NRC REACTIVE INSPECTION REPORT NO. 03013918/2024001 (DRSS) – MATERIALS TESTING CONSULTANTS, INC.

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NAME	JDraper:bw		REdwards		DCurtis		Carmen Rivera Diaz for JPeralta	
DATE	1/22/2025		1/23/2025		1/23/2025		1/31/2025	
OFFICE	OGC-NLO		RIII-EICS		RIII-ORA			
NAME	RCarpenter		DBetancourt-Roldan		JGiessner			
DATE	2/7/2025		2/13/2025		2/13/2025			

OFFICIAL RECORD COPY

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

Materials Testing Consultants, Inc.
Grand Rapids, Michigan

Docket No. 030-13918
License No. 21-15281-02
EA-24-097
EA-R3-2024-0029

During an NRC inspection conducted on August 9, 2024, with in-office review through September 17, 2024, 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 are set forth below:

- A. Title 10 CFR 20.1802 states that licensees shall control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage.

Contrary to the above, between November 16, 2023, and May 31, 2024, Materials Testing Consultants failed to control and maintain constant surveillance of an InstroTek 3500 series portable moisture density gauge (serial number 5130) nominally containing 10 millicuries of cesium-137 and 40 millicuries of americium-241 that was not in storage and last used at a temporary job site in Saline, Michigan. Specifically, the licensee notified the NRC on May 31, 2024, that the gauge was missing and remains lost.

- B. Condition 15 of Amendments 11 through 14 to NRC Materials License No. 21-15281-02 states, in part, that the licensee shall conduct a physical inventory every 6 months, or at other intervals approved by the U.S. Nuclear Regulatory Commission, to account for all sealed sources and/or devices received and possessed under the license.

Contrary to the above, between July 2023 and June 2024, Materials Testing Consultants failed to conduct a physical inventory every 6 months, and no other interval was approved by the U.S. Nuclear Regulatory Commission.

This is a Severity Level III problem (Section 2.3.4).
Civil Penalty - \$9,000. (EA-24-097) (EA-R3-2024-0029)

The NRC has concluded that information regarding the reason for the violations, 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. 03013918/2024001 (DRSS) and in your letter dated November 14, 2024, and email dated December 10, 2024. However, if the description therein does not accurately reflect your position or your corrective actions, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 within 30 days of the date of the letter transmitting this Notice of Violation. 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 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 III and the Document Control Desk, Washington, DC 20555-0001.

Enclosure

The licensee may pay the civil penalty proposed above by submitting the payment in accordance with [NUREG/BR-0254](#).

The licensee may protest the 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(s) 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 a 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 III 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 in the NRC's Agencywide Documents Access and Management 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, classified or safeguards 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 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 may be required to post this Notice within two working days of receipt.

Dated this 13th day of February 2025.



Materials Testing Consultants, Inc.
693 PLYMOUTH AVE NE
GRAND RAPIDS, MI 49505



02/12/2025

Address/Customer Information

Materials Testing Consultants, Inc.
693 PLYMOUTH AVE NE
GRAND RAPIDS, MI 49505

Customer Codes

Account Code: L00001166/1

Bill Information

Bill Number: EA-24-097
Amount Due: \$9,000.00
Due Date: 03/14/2025

Contact Us

Phone Number: 301-415-7554
Fax Number: 301-415-4135
Email Address: Fees.Resource@nrc.gov

Remit Payment Online at:

www.pay.gov
(see NUREG/BR-0254,
Payment Methods brochure for
other electronic payment options)

Bill Summary

Initial Charges	\$9,000.00
Discount	0.00
Surcharge	0.00
Interest Charges	0.00
Penalty Charges	0.00
Admin Charges	0.00
Bill Amount	\$9,000.00
Collected	0.00
Applied Credit	0.00
Adjustments	0.00
Amount Due	\$9,000.00

Credit Summary

Applied Credit	\$0.00
Unapplied Credit	0.00
Credit Total	\$0.00

Comments:

For questions, contact the NRC Financial Services and Operations Branch at (301) 415-7554 or by email at Fees.Resource@nrc.gov. For NRC debt collection procedures, including interest and penalty provisions, see 31 U.S.C. 3717, 4 CFR 101-105 and 10 CFR 15.

If this invoice is related to an Order Imposing a Civil Penalty,

Paramount Builders, Inc. is required to pay the Civil Penalty within 30 days of the Order date. If payment is in response to a Notice of Violation and Proposed Imposition of a Civil Penalty, please follow the instructions in the Notice. The NRC may consider a request for additional time to pay the Civil Penalty, including the option to enter into an installment agreement, if appropriate. All requests for additional time to pay an invoice must be submitted in writing, with appropriate justification, to NRCCollections.Resource@nrc.gov, and should be submitted sufficiently ahead of time to allow the NRC time to review the request for additional time to pay within the 30-day payment period. This Invoice is related to the Civil Penalty proposed or imposed under EA-24-097 issued to Materials Testing Consultants, Inc. Please include this reference number on your payment method (see attached Payments Methods Brochure).

Please see the NUREG/BR-0254, Payment Methods brochure for instructions on how to make domestic and international payments. EFFECTIVE OCTOBER 1, 2024, THE NRC WILL ONLY ACCEPT ELECTRONIC PAYMENT METHODS. PAPER METHODS OF PAYMENT, INCLUDING CHECKS, WILL NO LONGER BE ACCEPTED. Please refer to the terms and conditions brochure for information on interest, penalties, and administrative fees associated with delinquent payments. Please reference the invoice number on the remittance.

Customer Information

L00001166/1
Materials Testing Consultants, Inc.
693 PLYMOUTH AVE NE
GRAND RAPIDS, MI 49505

Change of Address:

Phone: _____

Remit Payment Online at:

www.pay.gov
(see NUREG/BR-0254,
Payment Methods brochure for
other electronic payment options)

This Payment References the following Bill:

EA-24-097

Outstanding Amount Due:

\$9,000.00

Amount Enclosed:
