

August 24, 2010

EA-10-113

Mr. Jay Miller, Vice President
Chicago Testing Laboratory, Inc.
30W114 Butterfield Road
Warrenville, IL 60555

SUBJECT: NOTICE OF VIOLATION – CHICAGO TESTING LABORATORY, INC.
NRC INSPECTION REPORT NO. 150-00012/2010-001(DNMS)

Dear Mr. Miller:

This letter refers to the inspection conducted on May 24, 2010, with continued U.S. Nuclear Regulatory Commission (NRC) in-office review through June 7, 2010, of Chicago Testing Laboratory, Inc. (CTL) located in Thornton, Illinois. The inspection was an examination of activities associated with reciprocity for the calendar years of 2006, 2007, 2008, and 2009 as they relate to safety and compliance with the Commission's rules and regulations. During the inspection, an apparent violation was identified, associated with the failure to file for reciprocity when performing work within NRC jurisdiction. The circumstances surrounding the violation, the significance of the issues, and the need for lasting and effective corrective action were discussed with you and your staff during a telephone exit meeting on June 7, 2010, and in NRC Inspection Report No. 150-00012/2010-001(DNMS), dated July 1, 2010.

In the letter transmitting the inspection report, we informed you that we had sufficient information regarding the apparent violation and your corrective actions for the NRC to make an enforcement decision without the need for a Predecisional Enforcement Conference or a written response from you. In a telephone conversation on July 16, 2010, with Andrew Bramnik, NRC Health Physicist, a member of your staff indicated that CTL agreed with the violation and would not be providing any additional information.

Based on the information developed during the inspection, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice), and the circumstances surrounding it are described in detail in the subject inspection report. The violation involved CTL's failure, as an Agreement State licensee, to obtain either a specific or general NRC license prior to conducting licensed activities in a non-Agreement State where the NRC maintains jurisdiction. Specifically, in 2006, 2007, 2008, and 2009, CTL personnel possessed and used devices containing sealed sources of cesium-137 and americium-241 in Indiana, a non-Agreement State, without filing NRC Form 241 or paying the appropriate fee as required by Title 10 of the Code of Federal Regulations (10 CFR) 150.20(b)(1).

In addition, in 2007, 2008, and prior to August 31, 2009, CTL personnel did not restrict the possession and use of the devices in Indiana to 180 days or less in any calendar year as required by 10 CFR 150.20(b)(4) or obtain a specific NRC license pursuant to 10 CFR 30.3(a).

The NRC determined that the root cause of the violation was that CTL personnel were not fully aware of the requirements of 10 CFR 150.20 and 10 CFR 30.3. The violation is of concern to the NRC because the failure to inform the NRC of work being performed within the NRC's jurisdiction prevented the NRC from conducting inspections to ensure that licensed material was used safely and in accordance with NRC requirements. Therefore, the violation has been categorized, in accordance with the NRC Enforcement Policy, as a Severity Level III violation.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$3500 is normally considered for a Severity Level III violation. Because your facility has not been the subject of escalated enforcement actions within the last two years, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process described in Section VI.C.2 of the Enforcement Policy. As immediate corrective action, CTL retroactively submitted NRC Form 241 for calendar years 2006, 2007, 2008, and 2009, paying a total of \$7,000 in reciprocity fees. As long-term corrective action, you indicated that the company will use licensed material under an NRC license through a sister company when performing licensed activities in areas where the NRC maintains jurisdiction. Consequently, the NRC concluded that credit was warranted for your corrective actions.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and to prevent recurrence, and the date when full compliance was achieved have already been adequately addressed on the docket in the inspection report dated July 1, 2010. 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 enclosure, 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

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Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at www.nrc.gov/about-nrc/regulatory/enforcement.html.

Sincerely,

/RA by Steven A. Reynolds Acting for/

Mark A. Satorius
Regional Administrator

Docket No. 150-00012 (State of Illinois licensee)
Illinois License No. IL-02065-01

Enclosure:
Notice of Violation

cc w/encl: Steven Richter, RSO
State of Illinois
State of Indiana

Letter to Jay Miller from Mark A. Satorius dated August 24, 2010

SUBJECT: NOTICE OF VIOLATION – CHICAGO TESTING LABORATORY, INC.
NRC INSPECTION REPORT NO. 150-00012/2010-001(DNMS)

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NOTICE OF VIOLATION

Chicago Testing Laboratory, Inc.
Thornton, Illinois

Docket No. 150-00012 (State of Illinois)
License No. IL-02065-01
EA-10-113

During a U.S. Nuclear Regulatory Commission (NRC) inspection of Chicago Testing Laboratory, Inc. (CTL), located in Thornton, Illinois, conducted on May 24, 2010, with continued NRC in-office review through June 7, 2010, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 of the Code of Federal Regulations (10 CFR) 30.3(a) requires, in part, that except for persons exempt as provided in Part 30 or Part 150, no person shall possess, or use byproduct material except as authorized in a specific or general license.

Title 10 CFR 150.20(a) states, in part, that, provided that the provisions of 10 CFR 150.20(b) have been met, any person who holds a specific license from an Agreement State is granted an NRC general license to conduct the same activity in non-Agreement States.

Contrary to the above, on multiple occasions between July 6, 2006, and August 30, 2009, CTL, a licensee of the State of Illinois (Illinois License No. IL-02065-01), possessed and used devices containing sealed sources of cesium-137 and americium-241 at a storage facility in Indianapolis, Indiana, and at temporary job sites throughout Indiana, a non-Agreement State, and was not authorized in either a specific or general license. Specifically:

- In 2006, 2007, 2008, and 2009, the licensee possessed and used the devices in Indiana, a non-Agreement State, without filing an NRC Form 241 or paying the appropriate fee as required by 10 CFR 150.20(b)(1).
- For 227 days in 2007, 335 days in 2008, and 204 days in 2009 prior to August 31, 2009, the licensee failed to restrict their possession and use of the devices in Indiana, a non-Agreement State, to 180 days or less as required by 10 CFR 150.20(b)(4) or obtain an NRC specific license as required by 10 CFR 30.3(a).

This is a Severity Level III violation (Supplement VI).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to be taken to correct the violation and to prevent recurrence, and the date when full compliance was achieved, have already been adequately addressed on the docket in Inspection Report No. 150-00012/2010-001(DNMS) dated July 1, 2010. 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 EA-10-113,"

ENCLOSURE

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, 2443 Warrenville Road, Suite 210, Lisle, IL 60532, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

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, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738.

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 Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public 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 24th day of August 2010

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J. Miller

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Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at www.nrc.gov/about-nrc/regulatory/enforcement.html.

Sincerely,

/RA by Steven A. Reynolds Acting for/

Mark A. Satorius
Regional Administrator

Docket No. 150-00012 (State of Illinois licensee)
Illinois license No. IL-02065-01

Enclosure:
Notice of Violation

cc w/encl: Steven Richter, RSO
State of Illinois
State of Indiana

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See next page

FILE NAME: G:\EICS\ENFORCEMENT\Enforcement Cases 2010\EA-10-113 Chicago Testing Laboratory\EA-10-113 Chicago Testing Final Action.docx

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DATE	08/23/10	08/23/10	08/23/10	08/20/10	08/24/10	08/24/10

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1. OE concurrence received via e-mail from K. Day on August 20, 2010.