

July 15, 2010

Mr. Gary Putt
Radiation Safety Officer
Testing Engineers & Consultants, Inc.
1343 Rochester Road
Troy, Michigan 48099-0249

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 030-14016/10-01(DNMS) AND
NOTICE OF VIOLATION – TESTING ENGINEERS & CONSULTANTS, INC

Dear Mr. Putt:

On June 7, 2010, the U.S. Nuclear Regulatory Commission (NRC) conducted a routine inspection of your facility located in Troy, Michigan with in-office-review until June 28, 2010. The purpose for the in-office review was to discuss the violation and its corrective actions with the Radiation Safety Officer who was not available during the original inspection. The enclosed report presents the results of this inspection.

This inspection was an examination of activities conducted under your license as they relate to safety and compliance with the Commission's rules and regulations and with 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 a Severity Level IV violation of NRC requirements occurred. The violation was evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violation involved failure to have an approved Radiation Safety Officer (RSO). On March 22, 2010, the licensee filed an amendment to request a change in RSO. However, the licensee subsequently changed RSO prior to receiving NRC approval.

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 is being cited in the Notice because it was identified by the NRC.

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 is already adequately addressed on the docket in the Inspection Report No. 030-140016/10-01. Therefore, you are not required to respond to this letter unless the description herein 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.

G. Putt

-2-

In accordance with Title 10 Code of Federal Regulations (CFR) 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response if you choose to provide one, will be 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>. 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.

Sincerely,

/RA/

Tamara E. Bloomer, Chief
Materials Inspection Branch

Docket No.: 030-14016
License No.: 21-18668-01

Enclosure(s):

1. Notice of Violation
2. Inspection Report No. 030-14016/10-01(DNMS)

cc w/encl: State of MI

G. Putt

-2-

In accordance with Title 10 Code of Federal Regulations (CFR) 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response if you choose to provide one, will be 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>. 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.

Sincerely,

/RA/

Tamara E. Bloomer, Chief
Materials Inspection Branch

Docket No.: 030-14016
License No.: 21-18668-01

Enclosure(s):

1. Notice of Violation
2. Inspection Report No. 030-14016/10-01(DNMS)

cc w/encl: State of MI

DISTRIBUTION:

Cynthia Pederson
 Steven Reynolds
 Patrick Loudon
 Steven Orth
 Carole Ariano
 Paul Pelke
 Patricia Buckley
 Tammy Tomczak
 MIB Inspectors

DOCUMENT NAME: G:\Work in progress\IR- Testing Engineers doc rev 1.doc

Publicly Available
 Non-Publicly Available
 Sensitive
 Non-Sensitive

To receive a copy of this document, indicate in the concurrence box "C" = Copy without attach/encl "E" = Copy with attach/encl "N" = No copy

OFFICE	RIII DNMS		RIII DNMS		RIII		RIII	
NAME	ELK: jm		TEBloomer					
DATE	07/15/10		07/15/10					

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Testing Engineers & Consultants, Inc.
Troy, Michigan

Docket No. 030-14016
License No. 21-18668-01

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on June 7, 2010, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

License Condition 11 of NRC License No. 21-18668-01 named a specific individual as Radiation Safety Officer.

Contrary to the above, between June 1, and June 7, 2010, the licensee failed to name a specific individual as Radiation Safety Officer. Specifically, the named individual had retired from the company as of June 1, 2010, and the licensee did not have NRC review and approve both their request for license amendment and qualifications of the new Radiation Safety Officer.

This is a Severity Level IV 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 prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 030-14016/10-01(DNMS). However, you are required to submit a written statement or explanation pursuant to Title 10 Code of Federal Regulations (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 20555-0001, with a copy to the Regional Administrator, Region III, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

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.

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.

Dated this 15th day of July 2010.

U.S. NUCLEAR REGULATORY COMMISSION
REGION III

Docket No.: 030-14016

License No.: 21-18668-01

Report No.: 30-14016/10-01(DNMS)

Licensee: Testing Engineers & Consultants, Inc.

Location: Troy, Michigan

Inspection Dates: June 7, 2010 through
June 28, 2010

Inspector: Edward L. Kulzer, Health Physicist

Approved By: Tamara E. Bloomer, Chief
Materials Inspection Branch
Division of Nuclear Materials Safety

Enclosure

EXECUTIVE SUMMARY

Testing Engineers & Consultants, Inc., Troy, Michigan NRC Inspection Report 030-14016/10-01(DNMS)

On June 7, 2010, the U.S. Nuclear Regulatory Commission (NRC) conducted a routine inspection of your facility located in Troy, Michigan with in-office-review until June 28, 2010. This was a routine inspection of licensed activities involving the use of byproduct material (cesium-137 and americium-241) for measuring physical properties of materials with portable nuclear gauge devices. Inspection items identified include one violation.

Testing Engineers & Consultants, Inc. (licensee) is an engineering company located in Ann Arbor and Troy, Michigan. Their NRC License 21-18668-01 authorized the use of Troxler Model No. 3400 Series portable density gauges for measuring physical properties of materials. The Licensee has 53 Troxler Model moisture density gauges used to evaluate soil compaction on construction sites in and around the Detroit, Michigan area.

Between June 1 and June 7, 2010 the licensee failed to comply with Condition 11, of NRC License 21-18668-01, which states that a specific individual is the Radiation Safety Officer (RSO) for the licensee. The final exit was on June 28, 2010, with NRC. The root cause of the violation was the licensee believed that they could appoint a new RSO once they had requested a licensee amendment from the NRC, without waiting for the NRC's review and approval.

As corrective action for the violation, the licensee has worked with the NRC Materials Licensing Branch to provide the additional paperwork required to review and approve the replacement Radiation Safety Officer. Additional corrective action will be to phone NRC if amendment requests need to be expedited in the future.

Report Details

1 Program Scope and Inspection History

Testing Engineers & Consultant, Inc. is authorized under Materials License 21-18668-01 to use licensed material for measuring physical properties of materials with nuclear gauge devices. Licensed material is authorized to be used anywhere in the United States in areas of U.S. Nuclear Regulatory Commission (NRC) jurisdiction. The licensee uses the gauges on a daily basis for construction engineering projects throughout the Michigan area. The licensee RSO manages the radiation safety program for the Troy and Ann Arbor, Michigan locations. The licensee uses a total of 53 Troxler gauges, each containing cesium-137 and americium-241.

2.0 Radiation Safety Program

2.1 Inspection Scope

This was a routine inspection of the radiation safety program for NRC License 21-18668-01 conducted on June 7, 2010. The inspector requested to meet with the individual listed as the RSO to review selected records, storage of the gauges, transportation issues, and interview selected licensee staff.

2.2 Observations and Findings

Radiation Safety Office

Upon arriving at the facility, the inspector was informed that the individual listed on the license as the RSO had retired on June 1, 2010. The inspector was told that the proposed RSO in charge of the program was not in the office at the time of the inspection. The licensee directed the inspector to work with a field supervisor to assist in the routine inspection. The inspector informed the licensee that the failure to have a RSO was a violation of License Condition 11 of NRC License No. 21-18668-01, which named a specific individual as the RSO. The field supervisor provided the inspector with a letter from the licensee to NRC Region III requesting a license amendment to replace the RSO. The letter was dated March 22, 2010. The field supervisor stated that the former RSO had retired the previous week. The root cause of this violation was the licensee believed that they could appoint a new RSO once they had requested a license amendment from the NRC, without waiting for NRC's review and approval.

The licensee's immediate corrective action included the licensee worked with the NRC Materials Licensing Branch to provide the additional paperwork required to review and approve the replacement RSO. The licensee identified a long term corrective action to prevent this from happening in the future will be to phone NRC if amendment requests need to be expedited in the future. The inspector reviewed training records and found that the proposed RSO received training from Troxler as an authorized user. The licensee's failure to have a RSO is an example of a violation of license commitments.

Physical Inventories

The inspector found that the licensee had maintained operational logs for the 53 usable gauges during construction season, and had physical inventory records for all of the gauges. The inspector had no findings in this area.

Leak Tests

On June 7, 2010, the inspector reviewed the elements of licensee's radiation safety program including the following: records of the physical inventories, leak tests, and dosimetry records. The inspector determined that the licensee had completed the required leak tests on the portable gauges every six months. The inspector had no findings in this area.

Dosimetry

NRC License No. 21-18668-01 requires all nuclear gauge operators to wear a personnel monitoring device (dosimeter) to measure radiation exposure when using or transporting gauges. The dosimeter badges shall be exchanged at intervals not exceeding 3 months. The inspector determined that the licensee had all dosimeter records since the RSO left the company. The inspector identified no overexposures.

2.3 Conclusions

The inspector identified a violation for not having a RSO on the NRC License. The inspector identified no findings in these other areas.

3 Security of Portable Gauges

3.1 Inspection Scope

The inspector reviewed the licensee's method of securing portable gauges both in storage, in use, and in transport by observation and by interviewing the authorized users and requesting these authorized users to demonstrate how they used and transported the gauges, and observing these selected licensed activities.

3.2 Observations and Findings

Two Lock/Two Chains

During the routine inspection on June 7, 2010, the inspector observed an authorized user demonstrate how the gauge and transport case were secured in the trunk of the authorized user's vehicle with an additional chain and lock.

Gauge Storage

During the inspection of the facility, the inspector observed that the gauges containing cesium-137 and americium-241:beryllium sealed sources were stored in a locked storage room with an additional lock securing the gauges to the shelves. The inspector

was able to observe that the gauges that were in their gauge cases and the cases were locked.

3.3 Conclusions

The inspector identified no findings in this area.

4 **Exit Meeting Summary**

The NRC inspector presented preliminary inspection findings following the on-site inspection on June 7, 2010. A telephonic exit was conducted with the RSO on June 28, 2010. The licensee did not identify any documents or processes reviewed by the inspectors as proprietary. The licensee acknowledged the findings presented.

PARTIAL LIST OF PERSONNEL CONTACTED

M. McGuckin, Field Supervisor
*G. Putt, Radiation Safety Officer

* Attended telephonic exit meeting on June 28, 2010

INSPECTION PROCEDURES USED

IP 87124	Fixed and Portable Gauges
IP 86740	Transportation