



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**  
REGION IV  
1600 EAST LAMAR BOULEVARD  
ARLINGTON, TEXAS 76011-4511

January 14, 2020

IA-19-059

Mr. Mark Ficek  
[NOTE: HOME ADDRESS DELETED  
UNDER 10 CFR 2.390]

SUBJECT: ATOMIC SAFETY AND LICENSING BOARD PANEL ORDER 10-905-02-EA-BD01

Dear Mr. Ficek:

This letter refers to the February 3, 2011, Settlement Agreement between the U.S. Nuclear Regulatory Commission (NRC) and Mattingly Testing Services, Inc., approved in the NRC's Atomic Safety and Licensing Board's Memorandum and Order (Accepting Proposed Settlement and Dismissing Proceeding) (Order) issued on February 22, 2011 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML110530327).

Pursuant to Condition 38 of the Order, on March 14, 2018 (ADAMS Accession No. 18079A730), you provided formal notification to the NRC of your intent to begin employment involving NRC-licensed activities with Metals Testing Services, located in Coeur d'Alene, Idaho. On July 10, 2019, the NRC conducted a routine inspection of Metals Testing Services, Inc., NRC License No. 37-29406-02, Docket No. 030-38893. During the inspection, the NRC identified that on December 4, 2018, you became the majority owner of Metals Testing Services, Inc.

The NRC inspector discussed with you your understanding of Condition 34 of the Order, which states, in part, that you may not own a controlling share and/or interest of an NRC licensee. Because the period of applicability of Order Condition 34 was not clear at the time of the inspection, the inspector informed you that the issue would be discussed with NRC senior managers for final resolution. In response to a potential non-compliance with Order Condition 34, you took an immediate action to transfer a majority of shares of Metals Testing Services, Inc., to another individual, resulting in you no longer owning a controlling share and/or interest of an NRC licensee.

Following the inspection, the NRC re-evaluated the requirements of the Order. Based on an extensive review, the NRC staff determined that both the prohibition from engaging in NRC licensed activities in Condition 36 of the Order expired and the prohibition from having a controlling share and/or interest of an NRC licensee in Condition 34 of the Order also expired. As a result, after September 2, 2017, you were allowed to own a controlling share and/or interest of an NRC licensee.

Please note that Condition 38 of the Order requires, in part, that until September 2, 2020, you shall, at least 10 days prior to beginning employment involving NRC-licensed activities as defined in Conditions 36.a. through 36.e. of the Order, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, with the name,

address, and telephone number of the employer or the entity where you will be involved in the NRC-licensed activities. The NRC staff determined that all remaining conditions of the Order have expired or have been satisfied.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's ADAMS, accessible from the Web site at <http://www.nrc.gov/reading-rm/adams.html>.

In addition, this letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, Enforcement Actions Against Individuals. This system, which is not publicly-accessible, includes all records pertaining to individuals who are being or have been considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>. If you have any questions regarding this matter, you may contact Mr. John Kramer, Senior Enforcement Specialist, at 817-200-1121.

Sincerely,

/RA/

Mary C. Muessle, Director  
Division of Nuclear Materials Safety

ATOMIC SAFETY AND LICENSING BOARD PANEL ORDER 10-905-02-EA-BD01 – DATED  
January 14, 2020

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