



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

February 1, 2020

Mr. Michael Price  
General Manager  
Metals Testing Services, Inc.  
P.O. Box 3606  
Williamsport, PA 17701

SUBJECT: NRC INSPECTION REPORT 030-38893/2019-001; AND NOTICE OF VIOLATION

Dear Mr. Price:

This letter refers to the announced routine inspection conducted on July 10, 2019, at your facility in Coeur d'Alene, Idaho and unannounced temporary job site inspection conducted on July 10, 2019, in Rawlins, Wyoming. The inspection was an examination of activities conducted under your license as they relate to public health and safety, and security of licensed materials, to confirm compliance with the U.S. Nuclear Regulatory Commission's (NRC) rules, regulations, and with the conditions of your license.

Within these areas, the inspection consisted of a selected examination of procedures and representative records, observations of facilities, independent radiation measurements, and interviews with personnel. The inspector discussed the preliminary inspection findings with you and Mr. Mark Ficek, President, at the conclusion of the onsite portion of the inspection. A final exit briefing was conducted telephonically with you and Mr. Ficek on January 16, 2020.

Based on the results of this inspection, the NRC has determined that one Severity Level IV violation of NRC requirements occurred. The violation was evaluated in accordance with the NRC Enforcement Policy which can be found at the NRC's Web site at <https://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violation is cited in the enclosed Notice of Violation (Notice) because it was identified by the NRC during the inspection. The violation involved the transfer of control of the Metals Testing Services, Inc., NRC license without NRC finding that the transfer was in accordance with the provisions of the Atomic Energy Act of 1954, including any amendments, and giving its consent in writing.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful in preparing your response. You can find the Information Notice on the NRC website at: <https://www.nrc.gov/reading-rm/doc-collections/gen-comm/info-notices/1996/in96028.html>. 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 will be (was) achieved should be addressed. The NRC review of your response to the Notice will also determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

To the extent possible, your response should not include any personal privacy or proprietary 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, 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 withholding of such information, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by Title 10 of the *Code of Federal Regulations* (CFR) 2.390(b) to support a request for withholding confidential commercial or financial information).

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter, its enclosure, and 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>.

Should you have any questions regarding this letter or the enclosed Notice, please contact Janine F. Katanic, PhD, CHP, at (817) 200-1151, or the undersigned at (817) 200-1455.

Sincerely,

/RA/

Patricia A. Silva, Chief  
Materials Inspection Branch  
Division of Nuclear Materials Safety

License No.: 37-29406-02  
Docket No.: 030-38893

Enclosure:  
Notice of Violation (Notice)

Cc w/Enclosure:  
Mark Dietrich  
Radiation Control Program Director  
Idaho Department of Environmental Quality  
1410 North Hilton Drive  
Boise, ID 83706

Doug Gumm  
Radiological Services Manager  
Wyoming Office of Homeland Security  
5500 Bishop Blvd.  
Cheyenne, WY 82009

David Allard  
Director  
Pennsylvania DEP - Bureau of Radiation Protection  
Rachel Carson State Office Bldg.  
P.O. Box 8469  
Harrisburg, PA 17105-8469

NRC INSPECTION 030-06392/2019-001 - DATED February 1, 2020

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ADAMS ACCESSION NUMBER: **ML20035E000**☒ SUNSI Review:

ADAMS:

By: JFK

☒ Yes ☐ No☒ Publicly Available and non-sensitive (letter and NOV)

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NAME	JFKatanic	PASilva				
SIGNATURE	/RA/	/RA/				
DATE	1/21/2020	2/1/2020				

**OFFICAL RECORD COPY**

## NOTICE OF VIOLATION

Metals Testing Services, Inc.  
Williamsport, Pennsylvania

Docket No.: 030-38893  
License No.: 37-29406-02

During an NRC inspection conducted on July 10, 2019, at your facility in Coeur d'Alene, Idaho, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 30.34(b)(1) requires, in part, that no license issued or granted pursuant to the regulations in 10 CFR Part 30 and Parts 31 through 36, and 39 nor any right under a license shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Nuclear Regulatory Commission shall, after securing full information, find that the transfer is in accordance with the provisions of the Atomic Energy Act of 1954, including any amendments, and shall give its consent in writing.

Contrary to the above, from December 4, 2018, to July 10, 2019, a license issued pursuant to 10 CFR Part 34 was transferred, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to another person, without the Nuclear Regulatory Commission finding that the transfer was in accordance with the provisions of the Atomic Energy Act of 1954, including any amendments, and giving its consent in writing. Specifically, on December 4, 2018, Metals Testing Services, Inc., NRC Byproduct Materials License No. 37-29406-02, Docket No. 030-38893, was voluntarily transferred, directly, through transfer of control of the license from Mr. Dennis Ficek to Mr. Mark Ficek, without the Nuclear Regulatory Commission finding that the transfer was in accordance with the provisions of the Atomic Energy Act of 1954, including any amendments, and giving its consent in writing.

This is a Severity Level IV violation (NRC Enforcement Policy Section 6.12.d).

Pursuant to the provisions of 10 CFR 2.201, Metals Testing Services, Inc., is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator, Region IV, 1600 E. Lamar Blvd., Arlington, Texas 76011, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

This reply should be clearly marked as a "Reply to a Notice of Violation" and should include, for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken; and (4) the date when full compliance will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued requiring information as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

Enclosure

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, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

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 Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy or proprietary 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 withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (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).

In accordance with 10 CFR 19.11, you may be required to post this Notice within 2 working days of receipt.

Dated this 1<sup>st</sup> day of February 2020