

Summary of Licensee's Request for Mitigation

The Licensee, in its response disagrees with the NRC statement in the October 17, 1994 letter that the Licensee's corrective actions were not sufficiently prompt and comprehensive to warrant any mitigation of the penalty. The Licensee indicates that the NRC failed to recognize very significant additional actions that had already been taken by the time of the Enforcement Conference. The licensee details the corrective actions, which include the establishment of additional management oversight and monitoring controls. In addition, the Licensee maintains that the measures taken were effective, timely, comprehensive, and pro-active, and demonstrated a serious commitment to a quality and effective radiation safety program.

NRC Evaluation of Licensee's Request for Mitigation

The NRC letter, dated October 17, 1994, transmitting the civil penalty, notes that no credit was provided for the Licensee's corrective actions. As a result, a penalty of \$6,250 was proposed. Upon reconsideration and evaluation of the licensee's corrective actions, after receipt of the Licensee's November 14, 1994 and January 17, 1995 responses, the NRC agrees that the actions taken subsequent to the inspection were prompt and comprehensive and that the full mitigation allowable based on corrective action should be applied. Therefore, 50% mitigation of the base civil penalty amount is being applied in this case based on the corrective actions, which reduces the civil penalty amount by \$1,250. The Licensee did not provide any basis for any further mitigation of the penalty. Accordingly, no further adjustment is warranted.

NRC Conclusion

The NRC has concluded that the violations occurred as stated in the Notice, although an example of Violation B should be withdrawn, as described herein. In addition, the NRC has concluded that the Licensee provided an adequate basis for reduction of the civil penalty based on its corrective actions. Accordingly, a civil penalty in the amount of \$5,000 should be imposed.

[FR Doc. 95-3878 Filed 2-15-95; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 030-12279, License No. 45-17151-01 EA 95-003]

Order Modifying License

In the Matter of Material Testing Laboratories, Inc.

I

Material Testing Laboratories, Inc. (Licensee) is the holder of Byproduct Material License No. 45-17151-01 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR parts 30 and 34. The License authorizes, in part, possession and use of byproduct

material not to exceed 200 curies of Iridium-192 per source in the operation of radiography exposure devices. The License further authorizes the Licensee to perform radiography at temporary job sites in accordance with the conditions specified therein. The License, originally issued on March 17, 1977, was renewed on December 16, 1993, and is due to expire on December 1, 1998.

II

On November 15, 1994, an inspection of NRC-licensed activities was conducted at a temporary job site in Northern Virginia and at the Licensee's office in Norfolk, Virginia. As a result of the inspection, apparent violations of NRC requirements were identified, which are the subject of a Notice of Violation and Proposed Imposition of Civil Penalty issued this date. The violations identified during the NRC inspection include:

1. Use of NRC-licensed material by an unauthorized and unqualified individual, in violation of 10 CFR 34.31(b);
2. Failure to maintain direct surveillance of radiographic operations by an authorized and qualified individual, in violation of 10 CFR 34.41;
3. Failure to perform an adequate survey following a radiographic exposure, in violation of 34.43(b);
4. Failure to post a high radiation area, in violation of 10 CFR 34.42; and
5. Failure to post the Licensee's radiography vehicle as a radioactive material storage area at a temporary job site, in violation of Condition 20 A. of the License.

A transcribed enforcement conference was conducted in the NRC Region II office in Atlanta, Georgia, on December 20, 1994, to discuss the violations, their cause, and the Licensee's corrective actions. During the enforcement conference, the Licensee acknowledged that weaknesses in management and in Radiation Safety Officer oversight of the Lorton, Virginia, field office activities contributed to the violations. These weaknesses included a lack of appreciation by management and the Radiation Safety Officer (RSO) of the effect of excessive overtime work on employees' performance and failure to promptly monitor work practices of the radiographer involved in the November 15, 1994, violations following the indications of his poor performance by a State of Maryland inspection which identified a failure to maintain a radiography exposure device under constant surveillance and control.

III

Based on the above, the NRC has concluded that the Licensee has violated NRC requirements. The performance of NRC-licensed activities requires use of appropriate safety procedures, training of personnel regarding those procedures, meticulous attention to detail by personnel conducting radiography, and proper oversight by Licensee management to ensure these activities are conducted safely and in accordance with NRC requirements. This attention is particularly important during the performance of radiography given the high radiation levels that can result from use of the sources. The failure to properly control the use of the radiography devices could result in significant radiation exposure to individuals, both employees and members of the general public. The radiographer who had primary responsibility for use and control of NRC-licensed material at the temporary job site failed to maintain proper control and surveillance during radiographic operations. The radiographer, as noted above, one month earlier also failed to maintain constant surveillance and control of a radiography exposure device in the State of Maryland. In addition, based on the violations and weaknesses identified above and information and statements obtained during the transcribed enforcement conference, the RSO, who has the responsibility for ensuring that NRC requirements are met, had not adequately controlled or maintained oversight of the Licensee's NRC-licensed activities in the Northern Virginia area to ensure compliance with all NRC requirements including the conditions of the License.

The violations described in Section II of this Order and the concerns set forth above demonstrate a significant lack of attention to required radiation safety requirements by the radiographer and lack of management control and oversight of radiographic operations by the RSO and Licensee management. Specifically, after the incident in Maryland, the RSO did not identify the root causes of the violations, the RSO did not perform a field audit of the radiographer's performance, and the retraining of the involved radiographer was not sufficient to prevent the November 15, 1994 incident which had similar violations. Consequently, I lack the requisite reasonable assurance that the Licensee's current operations can be conducted under License no. 45-17151-01 in compliance with the Commission's requirements and that the

health and safety of the public, including the Licensee's employees, will be protected. Therefore, the public, health, and safety and interest require that the License be modified as described below in Section IV. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of the violations described above is such that the public health, safety and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR parts 30 and 34, it is hereby ordered, effective immediately, that license no. 45-17151-01 is modified as follows:

A. The Licensee shall retain and maintain the services of an RSO approved by Region II to oversee the activities of its radiographers based at the Lorton, Virginia, facility. The RSO duties must take priority over any other duty. The Licensee shall within 30 days submit the name and qualifications of the Lorton RSO for approval to the Regional Administrator, Region II.

B. The Licensee shall retain the services of an independent individual or organization (consultant) to perform an initial assessment of the Licensee's radiation safety program in Lorton, Virginia, and quarterly audits thereafter for a period of one year to determine compliance with all NRC requirements. The consultant shall also provide recommendations for program improvements to ensure effective management oversight and control of radiography operations. Within 30 days of the date of this Order, the Licensee shall submit to the Regional Administrator, NRC Region II, for review and approval, the name and qualifications of the consultant it proposes to conduct the assessment and audits. The consultant shall be independent of the Licensee's staff and have experience in the management and implementation of a radiation safety program, including activities similar to those authorized by the Licensee.

C. Within 60 days of the date of NRC approval of the consultant selection, as described above, the Licensee shall have the consultant submit its assessment report to the Licensee and to the Regional Administrator, NRC Region II. Within 30 days of the end of each quarterly audit period, the Licensee shall have the consultant submit its audit report and any recommendations for improvements to the Licensee and to the Regional Administrator, NRC Region

II. The assessment and audits of the Licensee's radiography program shall include, but not be limited to:

1. A review of the adequacy of the Licensee's management control and oversight in ensuring that radiographer and equipment requirements, personnel monitoring requirements, radiation safety procedures in radiographic operations, and other NRC requirements are followed including:

(a) The Licensee's program for training, retraining, and qualifying all individuals involved in using, supervising, inspecting, and auditing activities involving NRC-licensed material;

(b) The scope, methods, and frequency of the Licensee's program of surveillance and audits to determine compliance by individual users of NRC-licensed materials with NRC requirements, the conditions of the Licensee, and the Licensee's own procedures for the safe use of radioactive materials;

(c) The RSO's functions and oversight activities, including the methods of monitoring the radiation of safety program to ensure that problems or violations are promptly identified and corrected; and

(d) The Licensee's radiation safety program for developing and implementing operating and emergency procedures for the safe use of NRC-licensed material, and record keeping and documentation.

2. On-site reviews at the Licensee's Lorton, Virginia, office of activities and records maintained for users, and interviews and observations of selected authorized users working at various locations.

3. Direct observation during each quarterly audit of, at a minimum, one radiographer employed at the Lorton, Virginia, office performing industrial radiography activities with NRC-licensed material. The audits should ensure that all radiographers at the Lorton, Virginia, office are observed within the year.

D. Within 30 days of the date of the initial assessment report and of each quarterly audit report, the Licensee shall submit to the Regional Administrator, NRC Region II, the Licensee's response to the report either describing the implementation of each of the necessary corrective actions or recommendations from the audit report, or justification for not needing any corrective action or for not adopting one or more of the specific recommendations. Each Licensee response shall include a status report on action items completed or to be completed with appropriate priorities

assigned and any schedules for, or dates of, completion of each specific item.

E. The Licensee shall ensure that the work of the radiographer involved in the November 14, 1994 violations, as a radiographer using NRC-licensed material, is audited by the independent consultant within 30 days of the radiographer's return to unsupervised work and quarterly thereafter for one year. All audits shall include direct observation of the radiographer performing industrial radiography with NRC-licensed material.

F. For a period of one year from the date of this Order, the Licensee shall notify NRC Region II, by 9:00 a.m. (Eastern Time) Monday (or Tuesday, if Monday is a federal Holiday) of each week, of the location in non-Agreement states where the radiographer involved in the November 15, 1994 violations will be conducting radiography operations. This notification shall include the date, time, and specific location where radiography is planned to allow NRC to conduct an unannounced inspection. If unplanned work arises after the Monday notification, the new work can be performed by the involved radiographer in a non-Agreement state provided that the NRC has been given prior notice. Notification shall be made by telephone to Mr. Douglas M. Collins, Chief, Nuclear Materials Safety and Safeguards Branch, or his designated representative, at (404) 331-5586 or by facsimile at (404) 331-5559.

The Regional Administrator, Region II, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

V

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Services Section, Washington, D.C. 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory

Commission, Washington, D.C. 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region II, 101 Marietta Street, Suite 2900, Atlanta, Georgia 30323, and to the Licensee if the answer or hearing request is by a person other than the Licensee. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d). If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 9th day of February 1995.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

[FR Doc. 95-3877 Filed 2-15-95; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-423]

Northeast Nuclear Energy Co.; Notice of Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 103 to Facility Operating License No. NPF-49 issued to Northeast Nuclear Energy Company (the licensee), which revised the Technical Specifications (TS) for operation of the Millstone Nuclear Power Station, Unit No. 3 located in New London County,

Connecticut. The amendment is effective as of the date of issuance.

The amendment modified TS 3.5.2.a to allow a one-time extension of the allowable Residual Heat Removal (RHR) pump outage time for the purpose of mechanical seal replacement and its related modifications. The allowable outage time is extended from 72 hours to 120 hours, may only be used one time per pump, and is not valid after April 30, 1995. The amendment clearly defines the times in which each RHR pump and associated RHR heat exchanger must be restored to an operable state.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on October 14, 1994 (59 FR 52200). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (60 FR 7800).

For further details with respect to the action see (1) the application for amendment dated August 16, 1994, and supplemented January 10, 1995, (2) Amendment No. 103 to License No. NPF-49, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at the Learning Resource Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, CT 06360.

Dated at Rockville, Maryland, this 9th day of February 1995.

For the Nuclear Regulatory Commission.

Vernon L. Rooney, Sr.

Project Manager, Project Directorate I-4, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95-3875 Filed 2-15-95; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

The National Partnership Council; Strategic Action Plan for 1995

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The National Partnership Council (the NPC; the Council) is announcing the approval of its strategic action plan for 1995.

DATES: The Council approved its strategic action plan for 1995 at its January 10, 1995, meeting in Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Douglas K. Walker, National Partnership Council, Executive Secretariat, Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street, NW., Room 5315, Washington, DC 20415-0001, (202) 606-0001.

SUPPLEMENTARY INFORMATION: The strategic action plan outlines a number of actions the Council plans to take in 1995 to support and promote partnership efforts throughout the Federal Government, as it is mandated to do under Executive Order 12871, Labor-Management Partnerships. Additionally, the actions help the Council meet its responsibilities to change the culture of Federal labor-management relations so that managers, employees, and employees' elected union representatives work together as partners in designing and implementing comprehensive changes in support of the Government reform objectives of the National Performance Review.

Office of Personnel Management.

James B. King,

Director.

Accordingly, the 1995 strategic action plan for the Council is as follows:

Executive Summary—National Partnership Council 1995 Strategic Action Plan; National Partnership Council Charter: Executive Order 12871; NPC Strategic Goal

To institutionalize labor-management partnerships in Federal agencies for the purpose of achieving the National Performance Review goal of creating a