the Pottstown Public library, 500 High Street, Pottstown, PA.

Dated at Rockville, Maryland, this 16th day of February 1995.

For the Nuclear Regulatory Commission. Frank Rinaldi,

Project Manager, Project Directorate I-2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation. [FR Doc. 95–4384 Filed 2–22–95; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030–29343; License No. 29– 19310–02 (Expired); EA 94–226]

Environmental Testing Laboratories, Inc., Philadelphia, Pennsylvania; Order Imposing a Civil Monetary Penalty

I

Environmental Testing Laboratories (ETL), Inc. (Licensee), is the holder of expired Byproduct Materials License No. 29–19310–02 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30 on July 31, 1986. The License authorized the possession and use of nickel–63 in plated sources or foils, not to exceed 15 millicuries per foil, in accordance with the conditions specified therein. The License expired on August 31, 1991.

Π

ETL did not submit an application for renewal of the License under 10 CFR 30.37 prior to its expiration on August 31, 1991, nor did ETL notify the Commission, in writing under 10 CFR 30.36, of a decision not to renew the License 30 days prior to its expiration. Although Mr. Walter Holm, Jr., the Radiation Safety Officer, stated ETL's intentions in a letter dated May 15, 1991, to terminate the license, until January 24, 1995, ETL had not transferred the licensed material to an authorized recipient, nor had ETL applied for an NRC license.

Òn January 14, 1993, NRC Region I issued a Notice of Violation (NOV) at Severity Level IV to ETL, mailed to Mr. Walter Holm, for possession of byproduct material without a valid NRC license. The letter forwarding the NOV directed the Licensee to lace the byproduct material in secure storage, not to use the material, and promptly transfer the byproduct material to an authorized recipient. The Licensee did not respond to that NOV. In a June 7, 1994 letter, the NRC again reminded ETL of the need to respond to the NRC Notice of Violation. ETL did not respond. In addition, ETL did not respond to a telephone message left on October 26, 1994. On November 10,

1994, a written Notice of Violation and Proposed Imposition of Civil Penalty (Notice); Notification of Consideration of the Imposition of Daily Civil Penalties; and Order to Cease and Desist Use and Possession of Regulated Byproduct Material were served upon ETL. The Notice categorized the violation at Severity Level III since ETL had not transferred the material nor responded to the NOV issued on January 14, 1993. ETL has not responded in writing to the Notice, even though a response was required by December 10, 1994, and even though the NRC contacted ETL on January 3, 6 and 18, 1995, regarding submittal of a response. ETL has not responded to the Order to Cease and Desist as required. However, NRD, a sub-contractor of Perkin-Elmer (an authorized recipient) received the sealed source from ETL on January 24, 1995.

III

The NRC staff has determined, as set forth in the Appendix to this Order, that the violations occurred as stated in the Notice, and that a penalty of \$3,000 should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that:

ETL pay a penalty in the amount of \$3,000 within 30 days of the date on this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville, MD 20852–2738.

V

ETL may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the Commission's Document Control Desk, Washington, D.C. 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If ETL fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event ETL requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether ETL was in violation of the Commission's requirements as set forth in the Notice referenced in Section II above, and

(b) Whether on the basis of such violations, this Order should be sustained.

Dated at Rockville, Maryland this 15th day of February 1995.

For the Nuclear Regulatory Commission. James Lieberman,

Director, Office of Enforcement.

Appendix—Violations and Conclusion

On November 10, 1994, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued based on a review of communications (and associated documents) conducted between the NRC and Environmental Testing Laboratories, Inc. (ETL) between November 1991 and October 26, 1994. ETL has not responded to the Notice, even though a response was required by December 10, 1994, and even though NRC contacted ETL on January 3, 6 and 18, 1995, to remind them of need to respond. The violations set forth in the Notice, as well as the NRC conclusion on this matter, are as follows:

1. Restatement of Violations

A. 10 CFR 30.3 states, in part, that except for persons exempt as provided in 10 CFR Parts 30 and 150, no person shall possess or use byproduct material except as authorized in a specific or general license issued pursuant to the regulations in this chapter.

Contrary to the above, from January 14, 1993 through October 31, 1994, ETL has been in possession of byproduct material not authorized under a specific or general license, and ETL is not exempt as provided in 10 CFR Parts 30 and 150. (01013)

B. 10 CFR 30.36(b) requires, in part, that each licensee notify the Commission promptly, in writing, and request termination of the license when the licensee decides to terminate all activities involving materials authorized under the license.

10 CFR 30.36(c)(1) requires, in part, that if a licensee does not submit an application for license renewal under 10 CFR 30.37, the licensee shall, on or before the expiration date specified in the license, terminate use of byproduct material; properly dispose of byproduct material; submit a completed form NRC–314, which certifies information concerning the disposition of material; and conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey.

Contrary to the above, as of August 31, 1991, the NRC license issued to ETL expired and the licensee did not submit an application for license renewal nor did it