



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

REGION IV  
612 EAST LAMAR BLVD, SUITE 400  
ARLINGTON, TEXAS 76011-4125

March 20, 2009

EA-09-020

Mr. Charles Johnson  
President  
Allwest Geoscience, Inc.  
1751 Jenks Drive  
Corona, California 92880

SUBJECT: NRC INSPECTION REPORT 150-00004/09-001

Dear Mr. Johnson:

This letter refers to the in-office inspection conducted between January 15, 2009, and February 20, 2009, regarding Allwest Geoscience, Inc's, portable gauge operations conducted in NRC jurisdiction under the provisions of 10 CFR 150.20, "Recognition of Agreement State Licenses," during calendar years 2008 and 2009. The inspection was an examination of activities conducted under California State Radioactive Materials License 5173-33 and compliance with the Commission's rules and regulations. Within these areas, the inspection consisted of telephonic interviews with personnel and reviews of submitted electronic documents. A final exit meeting was conducted telephonically on February 20, 2009, between you and members of your staff and Mr. Jack Whitten, Chief, Nuclear Materials Safety Branch B, and Ms. Rachel Browder, Health Physicist, Nuclear Materials Safety Branch B, of my staff. The enclosed report presents the results of this in-office inspection.

Based on the results of this inspection an apparent violation was identified as is being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at [www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html](http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html).

The apparent violation involved the failure to file a submittal to engage in licensed activities in NRC jurisdiction as required by 10 CFR 150.20(b). A general license is granted in accordance with 10 CFR 150.20(a), to any person who holds a specific license from an Agreement State, provided that, in part, the provisions in 10 CFR 150.20(b) are met. Specifically, it appears you did not file a submittal containing an initial NRC Form 241, a copy of your State of California Radioactive Materials License, and the appropriate reciprocity fee prior to conducting portable gauge operations in NRC jurisdiction during calendar years 2008 and 2009. The circumstances surrounding this apparent violation, the significance of the issue, and the need for lasting and effective corrective action were discussed with you and members of your staff during the telephonic inspection exit meeting on February 20, 2009. As a result, it may not be necessary to conduct a predecisional enforcement conference in order to enable the NRC to make an enforcement decision.

In addition, since you initially identified the violation and your facility has not been the subject of escalated enforcement actions within the last 2 years, and based on our understanding of your corrective action, a civil penalty may not be warranted in accordance with Section VI.C.2 of the

Enforcement Policy. The final decision will be based on your confirming on the license docket that the corrective actions previously described to the staff have been or are being taken.

Before the NRC makes its enforcement decision, we are providing you an opportunity to either: (1) respond to the apparent violation addressed in the enclosed inspection report within 30 days of the date of this letter or (2) request a predecisional enforcement conference. If a conference is held, it will be open for public observation. The NRC will also issue a press release to announce the conference. Please contact Ms. Rachel Browder at (817) 276-6552 within 7 days of the date of this letter to notify the NRC of your intended response.

If you choose to provide a written response, it should be clearly marked as a "Response to An Apparent Violation in Inspection Report 150-00004/09-001; EA-09-020" and should include for each apparent violation: (1) the reason for the apparent violation, or, if contested, the basis for disputing the apparent violation; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken to avoid further violations; and (4) the date when full compliance will be achieved. In presenting your corrective actions, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violation. The guidance in the enclosed excerpt from NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a predecisional enforcement conference.

Since the NRC has not made a final determination in this matter, no Notice of Violation is being issued for the inspection finding at this time. In addition, please be advised that the number and characterization of apparent violations described in the enclosed inspection report may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

In accordance with 10 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 made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC's 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/

Arthur T. Howell III, Director  
Division of Nuclear Materials Safety

Docket: 150-00004  
License: General License Pursuant to  
10 CFR 150.20 (CA License 5173-33)

Allwest Geoscience, Inc.  
EA-09-020

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Enclosures:

1. Inspection Report 150-00004/09-001
2. Excerpt from NRC Information Notice 96-28

cc:

California Radiation Control Program Director

Distribution via e-mail:

[Elmo.Collins@nrc.gov](mailto:Elmo.Collins@nrc.gov)  
[Art.Howell@nrc.gov](mailto:Art.Howell@nrc.gov)  
[Karla.Fuller@nrc.gov](mailto:Karla.Fuller@nrc.gov)  
[William.Jones@nrc.gov](mailto:William.Jones@nrc.gov)  
[Mark.Haire@nrc.gov](mailto:Mark.Haire@nrc.gov)  
[Christi.Maier@nrc.gov](mailto:Christi.Maier@nrc.gov)  
[Bill.Maier@nrc.gov](mailto:Bill.Maier@nrc.gov)  
[Victor.Dricks@nrc.gov](mailto:Victor.Dricks@nrc.gov)  
[Marisa.Herrera@nrc.gov](mailto:Marisa.Herrera@nrc.gov)  
RidsOEMailCenter Resource

[Chuck.Casto@nrc.gov](mailto:Chuck.Casto@nrc.gov)  
[Chuck.Cain@nrc.gov](mailto:Chuck.Cain@nrc.gov)  
[Vivian.Campbell@nrc.gov](mailto:Vivian.Campbell@nrc.gov)  
[Michael.Vasquez@nrc.gov](mailto:Michael.Vasquez@nrc.gov)  
[Jack.Whitten@nrc.gov](mailto:Jack.Whitten@nrc.gov)  
[Blair.Spitzberg@nrc.gov](mailto:Blair.Spitzberg@nrc.gov)  
[Randy.Erickson@nrc.gov](mailto:Randy.Erickson@nrc.gov)  
[Linda.Mclean@nrc.gov](mailto:Linda.Mclean@nrc.gov)  
[Christian.Einberg@nrc.gov](mailto:Christian.Einberg@nrc.gov)  
OEWEB Resource

[Nick.Hilton@nrc.gov](mailto:Nick.Hilton@nrc.gov)  
[S.Woods@nrc.gov](mailto:S.Woods@nrc.gov)  
[Leelavathi.Sreenivas@nrc.gov](mailto:Leelavathi.Sreenivas@nrc.gov)  
[Sally.Merchant@nrc.gov](mailto:Sally.Merchant@nrc.gov)  
[Nicole.Coleman@nrc.gov](mailto:Nicole.Coleman@nrc.gov)  
[Michele.Burgess@nrc.gov](mailto:Michele.Burgess@nrc.gov)  
[Angela.McIntosh@nrc.gov](mailto:Angela.McIntosh@nrc.gov)  
[Glenda.Villamar@nrc.gov](mailto:Glenda.Villamar@nrc.gov)  
[Kerstun.Day@nrc.gov](mailto:Kerstun.Day@nrc.gov)  
[Rachel.Browder@nrc.gov](mailto:Rachel.Browder@nrc.gov)

Hard Copy:  
RIV Materials Docket File - 5<sup>th</sup> floor

SUNSI Review Completed: RSB ADAMS:  Yes  No Initials: RSB  
 Publicly Available  Non-Publicly Available  Sensitive  Non-Sensitive

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RIV:DNMS/NMSBB	BC: NMSBB	ACES:ES	D:DNMS
RSBrowder	JEWhitten	MCMaier	ATHowell
<i>/RA/</i>	<i>/RA/</i>	<i>/RA VIA EMAIL/</i>	<i>/RA/</i>
03/18/2009	03/19/2009	03/19/2009	03/20/2009

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U.S. NUCLEAR REGULATORY COMMISSION  
REGION IV

Docket: 150-00004

Report: 150-00004/09-001

General Licensee: Allwest Geoscience, Inc.

EA: EA-09-020

Location: Corona, California

Inspection Dates: January 15, 2009 - February 20, 2009

Inspectors: Rachel S. Browder, Health Physicist  
Region IV

Approved By: Jack E. Whitten, Chief  
Nuclear Materials Safety Branch B  
Division of Nuclear Materials Safety  
Region IV

Attachment 1: Supplemental Inspection Information

## **EXECUTIVE SUMMARY**

Allwest Geoscience, Inc.  
NRC Inspection Report 150-00004/09-001

Allwest Geoscience, Inc. is a small business in the state of California. Allwest Geoscience, Inc. rented a portable density gauge from a company in the state of Nevada and performed work activities at the Department of Veterans Affairs in Las Vegas, Nevada, under its California State Radioactive Materials License. The Department of Veterans Affairs in Las Vegas, Nevada, is an area of exclusive Federal jurisdiction in an Agreement State. Allwest Geoscience, Inc. previously had not worked in areas of exclusive Federal jurisdiction or in non-Agreement States and therefore, did not have a history of working in areas of NRC jurisdiction under the provisions of a general license issued pursuant to the provisions of 10 CFR 150.20, "Recognition of Agreement State licenses."

Allwest Geoscience, Inc. contacted the NRC on December 22, 2008, to request reciprocity for portable gauge activities being conducted at the Department of Veterans Affairs in Las Vegas, Nevada, since November 13, 2008. Allwest Geoscience, Inc. indicated that the Department of Veterans Affairs had informed them that the area where the gauge was being used was considered exclusive Federal jurisdiction and reciprocity was required for the use of radioactive materials on the property. The NRC subsequently contacted Allwest Geoscience, Inc. on January 15 and 16, 2009, regarding the initial notification and fee requirement for calendar years 2008 and 2009. Allwest Geoscience, Inc. submitted the initial notification and the required fee on January 15, 2009. The NRC Region IV office conducted an in-office inspection between January 15 and February 20, 2009. An apparent violation of 10 CFR 150.20(b)(1) was identified which requires, in part, that any person engaging in activities in non-Agreement States shall, at least 3 days prior to engaging in each activity for the first time in a calendar year file a submittal containing an NRC Form 241, a copy of its Agreement State license, and the appropriate fee. An exit meeting was held on February 20, 2009, to discuss the circumstances surrounding the one apparent violation, the significance of the issue, the need for lasting and effective corrective actions, and the extent of circumstances.

## Report Details

Allwest Geoscience, Inc. is a state of California portable gauge licensee who was performing portable gauge work activities at the Department of Veterans Affairs in Las Vegas, Nevada. The location of work activities is an area of exclusive Federal jurisdiction in an Agreement State. Allwest Geoscience, Inc. contacted the NRC regarding reciprocity requirements when they determined that the Department of Veterans Affairs was an area of exclusive Federal jurisdiction.

### 1.1 Inspection Scope

The NRC evaluated the state of California licensee's activities under reciprocity as authorized by 10 CFR 150.20, "Recognition of Agreement State Licenses."

### 1.2 Observations and Findings

Allwest Geoscience, Inc. is a small business located in the state of California. Allwest Geoscience, Inc. rented a portable density gauge from a company in the state of Nevada and performed work activities at the Department of Veterans Affairs in Las Vegas, Nevada, under its state of California radioactive materials license. The Department of Veterans Affairs in Las Vegas, Nevada, is considered an area of exclusive Federal jurisdiction in an Agreement State. Allwest Geoscience, Inc. had not previously worked in areas of exclusive Federal jurisdiction or in non-Agreement States and therefore did not have a history of working in areas of NRC jurisdiction under the provisions of a general license issued pursuant to 10 CFR 150.20, "Recognition of Agreement State Licenses."

On December 22, 2008, Allwest Geoscience, Inc. notified the NRC that they had recently become aware that the company's work activity at the Department of Veterans Affairs in Las Vegas, Nevada, was in an area of exclusive Federal jurisdiction. In addition, Allwest Geoscience, Inc. informed the NRC that they had been conducting portable density gauge activities since November 13, 2008. A general license that authorizes reciprocity under the provisions of 10 CFR 150.20 is required for an Agreement State licensee to conduct portable density gauge work activities in areas of exclusive Federal jurisdiction. Allwest Geoscience, Inc. submitted an NRC Form 241; however, the submittal did not contain a copy of its Agreement State license and the appropriate reciprocity fee.

On January 15, 2009, Mr. Jack Whitten, Chief, Nuclear Materials Safety Branch B, and Ms. Rachel Browder, Health Physicist, Nuclear Materials Safety Branch B, spoke with an Allwest Geoscience, Inc. representative. During the teleconference, the NRC staff explained the requirement to provide a complete reciprocity submittal. A complete reciprocity submittal would include a copy of their Agreement State radioactive materials license, the appropriate reciprocity fee, and the requisite NRC Form 241. It was also determined by the NRC staff during the teleconference that Allwest Geoscience, Inc. was continuing to perform work activities during calendar year 2009 at the Department of Veterans Affairs in Las Vegas, Nevada, and had not filed for reciprocity or paid the requisite fee. Based on the telephone call, the NRC learned that Allwest Geoscience, Inc. intended to submit a new license application in 2009. However, since Allwest Geoscience, Inc. was continuing work activities in an area of exclusive Federal

jurisdiction, the NRC staff informed Allwest Geoscience, Inc. that they needed to immediately file reciprocity for calendar year 2009 and should stop work until they had satisfied the provisions of 10 CFR 150.20. In addition, Allwest Geoscience was informed that if work activities in NRC jurisdiction continued beyond 180 days, then they would be required to submit a new license application and they should allow 90 days for the NRC to process the new license application.

On January 16, 2009, and again during the exit meeting on February 20, 2009, a telephone conference was held with Allwest Geoscience, Inc. to discuss the circumstances surrounding this apparent violation, the significance of the issue, the need for lasting and effective corrective actions, and the extent of circumstances. Allwest Geoscience, Inc. provided a complete reciprocity submittal package for calendar years 2008 and 2009 as required by 10 CFR 150.20. The general licensee indicated that a contributing factor for failing to submit the initial reciprocity notification and fee assessment was an unclear understanding of the regulatory requirements for conducting work activities in areas of exclusive Federal jurisdiction. The NRC will consider all information provided to the staff as part of the final decision regarding the apparent violation.

### 1.3 Conclusion

Based on the information developed from the in-office inspection, the NRC identified an apparent violation of 10 CFR 150.20(b)(1) for failing to notify the NRC at least 3 days prior to engaging in activities for calendar years 2008 and 2009 at the Department of Veterans Affairs, Las Vegas, Nevada, an area in NRC jurisdiction, and failing to file a submittal containing an NRC Form 241, a copy of its Agreement State license, and the appropriate reciprocity fee.

## 2 Exit Meeting Summary

An exit meeting was conducted with Allwest Geoscience, Inc. representatives on February 20, 2009. The overall scope and findings of the in-office inspection were discussed. The licensee representatives acknowledged the inspector's findings. No proprietary information was identified.

Supplemental Inspection Information

**PARTIAL LIST OF PERSONS CONTACTED**

Charles Johnson, President  
Romeo Balbas, Radiation Safety Officer

**ITEMS OPENED, CLOSED, OR DISCUSSED**

Opened

15000004/09-001	APV	Failure to notify the NRC at least 3 days prior to engaging in each activity for the first time in calendar years 2008 and 2009, file a submittal containing an NRC Form 241, a copy of its Agreement State license, and the appropriate reciprocity fee.
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Closed

None

Discussed

None

**LIST OF ACRONYMS USED**

APV	Apparent Violation
CFR	<i>Code of Federal Regulations</i>
NRC	Nuclear Regulatory Commission