



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION I
2100 RENAISSANCE BOULEVARD, SUITE 100
KING OF PRUSSIA, PA 19406-2713

September 17, 2015

Docket No. 03038757
EA-15-128

License No. 37-35160-01

John B. Stipes, III
Director of Geosciences
Rettew Associates, Inc.
One Robinson Plaza, Suite 200
Pittsburgh, PA 15205

SUBJECT: NRC INSPECTION REPORT NO. 03038757/2015001, RETTEW ASSOCIATES, INC., BRIDGEPORT, WEST VIRGINIA, NOTICE OF VIOLATION AND EXERCISE OF ENFORCEMENT DISCRETION

Dear Mr. Stipes:

On June 2, 2015, and continuing in-office review through September 3, 2015, Sattar Lodhi of this office conducted a safety inspection at your facilities located at 27 Trovato Street, Suite 1, Bridgeport, West Virginia, and at a temporary job site in Harrison County, West Virginia, of activities authorized by the above listed NRC license. The inspection was an examination of your licensed activities as they relate to radiation safety and to compliance with the Commission's regulations and the license conditions. The inspection consisted of observations by the inspector, interviews with personnel, and a selective examination of representative records. Additional information provided in your correspondence dated June 3, 2015, was also examined as part of the inspection. The findings of the inspection were discussed via telephone with you and Mark D. Mayle of your organization at the conclusion of the inspection on September 3, 2015.

Based on the results of this inspection and in accordance with the NRC Enforcement Policy, the NRC has determined that three Severity Level IV violations of NRC requirements occurred. The violations involved:

1. the failure to use two independent physical controls that form tangible barriers to secure a portable gauge from unauthorized removal, whenever the portable gauge was not under Rettew Associates, Inc.'s control and constant surveillance as required by 10 CFR 30.34(i);
2. the failure to ensure that the individual designated as the Radiation Safety Officer (RSO) had received the required training as required by Condition 19 of the license; and
3. the failure of the RSO to ensure that all terms and conditions of the license were being complied with, as required by Condition 19 of the license.

The above stated violations were identified by the inspector and are described in the enclosed Notice of Violation.

The inspector determined that the violation of 10 CFR 30.34(i) discussed above was the result of the actions of one authorized user who was not fully aware of the regulatory requirement and

how to comply with the requirement. During discussions with other authorized users regarding gauge security, the inspector determined that they conducted licensed activities in a manner compliant with regulatory requirements and were aware of the requirements. Therefore, this violation was characterized as isolated in nature.

At the end of the on-site inspection on June 2, 2015, you indicated that the violations were the result of employees not having a full understanding of the requirements. You also stated that you have taken corrective and preventative actions to address each violation and that Rettew Associates, Inc., is committed to radiation safety and to compliance with NRC regulations and licensed conditions. In a letter dated June 3, 2015, you confirmed that you have taken the following corrective and preventative actions:

1. Immediately designated another qualified individual as the RSO to address the second violation listed above;
2. committed to conducting weekly inspections of the storage facility by the RSO to ensure that all gauges are properly secured and that the sign in/sign out utilization logs are up to date;
3. scheduled a refresher training in the security and operating and emergency procedures for all users; and
4. requested an amendment to your license to include a new RSO.

In accordance with the NRC's Enforcement Policy, violations of 10 CFR 30.34(i) are normally categorized at Severity Level III and are considered for escalated enforcement action. However, the NRC is exercising enforcement discretion to categorize this violation as Severity Level IV because: 1) one physical control existed to prevent loss or theft of the portable gauge; 2) you retained possession of the gauge; 3) the violation was isolated in nature; and 4) no indication of programmatic weakness was identified.

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence are already adequately addressed in our records. Therefore, you are not required to respond to this letter unless the description of your corrective actions in this letter and the enclosed inspection report does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

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 document system (ADAMS), accessible from the NRC website 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.

Current NRC regulations and guidance are included on the NRC's website at www.nrc.gov; select **Nuclear Materials; Med, Ind, & Academic Uses**; then **Regulations, Guidance and Communications**. The current Enforcement Policy is included on the NRC's website at www.nrc.gov; select **About NRC, Organizations & Functions; Office of Enforcement; Enforcement documents**; then **Enforcement Policy (Under 'Related Information')**. You

J. Stipes

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may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 8:00 a.m. to 5:30 p.m. EST, Monday through Friday (except Federal holidays).

The NRC's Safety Culture Policy Statement became effective in June 2011. While a policy statement and not a regulation, it sets forth the agency's *expectations* for individuals and organizations to establish and maintain a positive safety culture. You can access the policy statement and supporting material that may benefit your organization on NRC's safety culture Web site at <http://www.nrc.gov/about-nrc/safety-culture.html>. We strongly encourage you to review this material and adapt it to your particular needs in order to develop and maintain a positive safety culture as you engage in NRC-regulated activities.

Please contact Sattar Lodhi at (610) 337-5364 if you have any questions regarding this matter.

Sincerely,

/RA/

Daniel S. Collins, Director
Division of Nuclear Materials Safety

Enclosures:

1. Notice of Violation
2. Inspection Report No. 03038757/2015001

cc w/encls: Peter Debari, Radiation Safety Officer
Mark D. Mayle, Project Manager
Commonwealth of Pennsylvania
State of West Virginia

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Mark D. Mayle, Project Manager
Commonwealth of Pennsylvania
State of West Virginia

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*see previous concurrence

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NOTICE OF VIOLATION

Rettew Associates, Inc.
Pittsburgh, PA

Docket No. 03038757
License No. 37-35160-01
EA-15-128

During an NRC inspection conducted on June 2, 2015, with continuing in-office review through September 3, 2015, three violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 30.34(i) requires, in part, that each portable gauge licensee use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

Contrary to the above, on June 2, 2015, the licensee did not use a minimum of two independent physical controls that form tangible barriers to secure a portable gauge from unauthorized removal, while the gauge was not under the control and constant surveillance of the licensee. Specifically, on June 2, 2015, the licensee stored a Troxler Model 3411 portable gauge at its facility in Bridgeport, WV and the gauge was secured by only one independent control that formed a tangible barrier to secure the gauge from unauthorized removal. Although the gauge was stored in its transport container and the container was stored in a steel cabinet that was locked, the cabinet was in a detached garage and one of the doors of the garage was not locked.

This is a Severity Level IV violation (EGM 11-004).

- B. Condition 19 of License No. 37-35160-01 requires, in part, that the licensee conduct its program in accordance with procedures in the licensee's application dated August 8, 2014.
- (i) Item 7 of the licensee's application dated August 8, 2014, stated that before obtaining licensed material the proposed RSO will have successfully completed one of the training courses described in criteria to the section entitled "Individual(s) Responsible for Radiation Safety Program and Their Training and Experience – Radiation Safety Officer" in NUREG-1556 Vol. 1, Rev. 1, dated November 2001.

The criteria referenced above state that RSOs must have adequate training and experience. This may be demonstrated by successful completion of portable gauge manufacturer's course for users or for RSOs; or an equivalent course that meets the criteria described in Appendix D of NUREG-1556, Vol. 1, Rev. 1.

The criteria in Appendix D state that the training also include regulatory requirements, practical subjects important to safe use of the gauge, location of sealed sources within the portable gauge, and field training in the use of gauges.

Contrary to the above, as of June 2, 2015, the licensee did not conduct its program in accordance with procedures in the licensee's application dated August 8, 2014. Specifically, before obtaining licensed material, the licensee did not ensure that the proposed RSO had completed either the gauge manufacturer's training for users or for RSOs, or the training in practical subjects important to safe use of the gauges, location of sources within the portable gauges, and field training in the use of gauges.

This is a Severity Level IV violation (Enforcement Policy Section 6.3).

- (ii) The licensee's application dated August 8, 2014, included the licensee's Radiation Safety Plan that requires, in part, that the Radiation Safety Officer ensure that all terms and conditions of the license are being complied with and that the information contained is up-to-date and accurate.

Contrary to the above, as of June 2, 2015, the licensee did not implement its Radiation Safety Plan that requires that the Radiation Safety Officer ensure that all terms and conditions of the license are being complied with. Specifically, the Radiation Safety Officer did not review the sign-in/sign-out utilization logs for the gauges to verify that the logs were complete.

This is a Severity Level IV violation (Enforcement Policy Section 6.3).

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when full compliance will be achieved is already adequately addressed on the docket. Therefore, you are not required to respond to the Notice of Violation. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator, Region I, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, any response which contests an enforcement action shall be submitted under oath or affirmation.

Your response will be placed in the NRC Public Document Room (PDR) and on the NRC Web site. To the extent possible, it should, therefore, not include any personal privacy, proprietary, or safeguards information so that it can be made publically available without redaction. However, if you find it necessary to include such information, you should clearly indicate the specific information that you desire not to be placed in the PDR, and provide the legal basis to support your request for withholding the information from the public.

Notice of Violation
Rettew Associates, Inc.

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

Dated this 17 day of September 2015