

May 9, 2017
EN 17-015

OFFICE OF ENFORCEMENT
NOTIFICATION OF SIGNIFICANT ENFORCEMENT ACTION

Licensee: Hayre McElroy & Associates, LLC EA-16-258
Redmond, VA

Subject: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF
CIVIL PENALTY - \$7,000

This is to inform the Commission that a Notice of Violation (Notice) and Proposed Imposition of a Civil Penalty of \$7,000 will be issued to Hayre McElroy and Associates (HMA) on or about May 11, 2017. HMA is a company that provides inspection and testing, construction management, and engineering services. HMA has a State of Washington radioactive materials license for its portable gauges. At the time of the violations, HMA was in possession of an NRC general license for possession and use of radioactive material in the Nuclear Regulatory Commission (NRC) jurisdiction, pursuant to 10 CFR §150.20. The Notice documents two Severity Level III (SL III) violations, with one violation identified as willful and assessed the civil penalty.

Based on information gathered by the NRC Office of Investigations, one willful SL III violation is identified involving careless disregard of NRC requirements by HMA employees that resulted in failure to obtain an NRC specific license (10 CFR §30.3(a)) and comply with the requirements in 10 CFR §150.20(b)(4), when HMA possessed portable gauges in Hawaii for more than 180 days in a calendar year. An additional non-willful SL III violation is identified for HMA's failure to file an amended NRC Form 241, or letter with the Regional Administrator, to request approval for changes in work locations pursuant 10 CFR §150.20(b)(2). Further, consistent with the NRC Enforcement Policy, NRC sent HMA a letter, dated March 22, 2017, that offered HMA the opportunity to pursue Alternative Dispute Resolution (ADR), meet in a pre-decisional enforcement conference (PEC), or provide a written response to the letter regarding the apparent violations under consideration and related information. HMA provided a written response on April 21, 2017, that described the licensee corrective actions toward preventing recurrence of the violations, including immediately ceasing portable gauge use and obtaining an NRC specific license.

In accordance with the civil penalty assessment process in Section 2.3.4 of the NRC Enforcement Policy, civil penalty considerations for the willful violation are based on whether credit is warranted for identification of the violation and whether corrective action credit is warranted. Because the violation was identified by the NRC, identification credit is not warranted. However, corrective action credit is warranted for HMA's prompt and comprehensive corrective actions. Therefore, to emphasize the importance of compliance with regulatory requirements and of prompt and comprehensive correction of violations, a base civil penalty of \$7,000 is being proposed for the willful SL III violation. Civil penalty considerations for the non-willful violation considered the corrective action credit identified and assessed that a civil penalty is not warranted. Additionally, consistent with policy, ADR will be offered with the Notice.

The licensee has not been informed of the final enforcement action. The schedule of issuance and notification is on or about the following dates:

Mailing of Notice	May 11, 2017
Telephone notification to the licensee and both individuals	May 11, 2017

The States of Washington and Hawaii will be notified.

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