



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
2100 RENAISSANCE BLVD., Suite 100
KING OF PRUSSIA, PA 19406-2713

October 25, 2017

Ronald R. Potesta, President
Potesta & Associates, Inc.
7012 MacCorkle Ave, SE
Charleston, WV 25304-1099

SUBJECT: POTESTA & ASSOCIATES, INC. - NRC INSPECTION NO. 03034428/2017001
AND NOTICE OF VIOLATION

Dear Mr. Potesta:

This letter refers to the inspection conducted on September 19, 2017, at your Morgantown and Charleston, WV sites, and the temporary job site location in Morgantown, WV. This inspection examined activities conducted under your license as they relate to public health and safety, and to confirm compliance with the Commission's rules and regulations and with the conditions of your license. Within these areas, the inspection consisted of selected examination of procedures and representative records, observations of activities, and interviews with personnel. On September 27, 2017, Mssrs. Dana Burn and Christopher Grose of your organization and Steven Courtemanche of this office participated in an exit meeting by telephone and discussed the findings of the inspection.

Based on the results of this inspection, the NRC has determined that two Severity Level IV violations of NRC requirements occurred. These violations were evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at (<http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>). The violations are cited in the enclosed Notice of Violation (Notice) because the violation was identified by the NRC.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. If you have additional information that you believe the NRC should consider, you may provide it in your response to the Notice. The NRC review of your response to the Notice will also determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, the Notice, and your response 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 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.

Current NRC regulations and guidance are included on the NRC's Web Site 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 Web Site at www.nrc.gov; select **About NRC, Organizations & Functions; Office of Enforcement; Enforcement documents**; then **Enforcement Policy (Under 'Related Information')**. You

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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).

If you have any questions regarding this matter, please contact Steven Courtemanche of my staff at (610) 337-5075 or via electronic mail at Steven.Courtemanche@nrc.gov.

Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig Z. Gordon". The signature is fluid and cursive, with the first name "Craig" being the most prominent.

Craig Z. Gordon, Chief
Commercial, industrial, R&D,
and Academic Branch
Division of Nuclear Materials Safety
Region I

Docket No. 03034428
License No. 47-25389-01

Enclosure:
Notice of Violation

cc: w/ enclosure: Christopher Grose,
Radiation Safety Officer
State of West Virginia

NOTICE OF VIOLATION

Potesta & Associates, Inc.
Charleston, West Virginia

Docket No. 03034428
License No. 47-25389-01

During an NRC inspection conducted on September 19, 2017, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 20.1101(c) requires that the licensee periodically (at least annually) review the radiation protection program content and implementation.

Contrary to the above, as of September 19, 2017, the licensee did not periodically (at least annually) review the radiation protection program content and implementation. Specifically, since the last inspection conducted in 2012, the licensee did not review the radiation protection program content and implementation, as required.

This is a Severity Level IV violation (Enforcement Policy Section 6.7).

- B. License Condition 13.A. of License No. 47-25389-01 requires, in part, that sealed sources be tested for leakage and/or contamination at intervals specified in the certificate of registration issued by the U. S. Nuclear Regulatory Commission under 10 CFR 32.210 or by an Agreement State.

The Certificate of Registration Number NC-646-D-130-S for Troxler Electronic Laboratories for the 3400 Series gauges requires that the sealed sources be tested for leakage and/or contamination at intervals not to exceed 12 months.

Contrary to the above, as of September 19, 2017, sealed sources were not tested for leakage and/or contamination at intervals specified in the certificate of registration issued by the U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or by an Agreement State. Specifically, four gauges were tested at intervals of greater than 12 months: Gauge Serial Number (S/N) 27565 was tested on June 6, 2012, and October 24, 2013, a period of 16 months; Gauge S/N 33675 was tested on August 13, 2013, and December 15, 2014, a period of 16 months; Gauge S/N 34345 was tested on April 2, 2012, and August 27, 2013, a period of 16 months; and Gauge S/N 34345 was tested on August 27, 2013, and December 1, 2014, a period of 16 months.

This is a Severity Level IV violation (Enforcement Policy Section 6.7).

Pursuant to the provisions of 10 CFR 2.201, Potesta & Associates, Inc. is hereby required to submit a written statement or explanation 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). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the 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. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for

Notice of Violation
Potesta & Associates, Inc.

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Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

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.

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

Dated This 25th day of October 2017