



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

July 12, 2021

EA-21-033

John P. O'Connor,
Vice President of Administration
Steel of West Virginia
P.O. Box 2547
Huntington, WV 25726

**SUBJECT: STEEL OF WEST VIRGINIA - NOTICE OF VIOLATION - NRC INSPECTION
REPORT NO. 03028692/2020002**

Dear Mr. O'Connor:

This letter refers to the routine inspection conducted on March 11 and 12, 2020, at the Steel of West Virginia (SWVA) facility in Huntington, West Virginia, with continued in-office review through May 6, 2021. The purpose of the inspection was to examine SWVA's activities as they relate to radiation safety, compliance with the Commission's regulations, and the conditions in SWVA's license. Based on the results of the inspection, the NRC identified an apparent violation (AV) of NRC requirements. The AV involved SWVA staff improperly wiring safety shutters on fixed nuclear gauges to hold the shutters in the open position. NRC staff discussed the AV with you during a telephonic exit meeting on May 6, 2021, and described the AV in the NRC inspection report sent to you with a letter dated May 13, 2021 (ML21133A280)¹.

In the letter transmitting the inspection report, we informed you that the AV identified in the report was being considered for escalated enforcement action and requested that you provide information about corrective actions by either providing a written response or attending a predecisional enforcement conference before we made our final enforcement decision. In a letter dated June 11, 2021 (ML21168A169), Ericson P. Kimbel of your staff provided a response to the AV and described the actions taken and planned by SWVA to address the issue, as further described below.

Based on the information developed during the inspection and the information that your staff provided in SWVA's letter dated June 11, 2021, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the subject inspection report. As described above, the violation involved the improper wiring of safety shutters on fixed nuclear gauges to hold the shutters open, in violation of License Condition 19 B of SWVA's NRC license, which prohibits SWVA from performing maintenance on gauge components, including the on-off mechanism (shutter), shutter control, or any other component related to the radiological safety of the device.

¹ Designation in parentheses refers to an Agency-wide Documents Access and Management System (ADAMS) accession number. Documents referenced in this letter are publicly-available using the accession number in ADAMS.

The NRC considered the violation to be significant because it involved bypassing the primary safety feature of the gauges and could have resulted in individuals exceeding regulatory dose limits during cleaning of the area around the gauges or during movement of the gauges. Therefore, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III (SL III).

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$7500 is considered for a SL III violation. Because your facility has not been the subject of escalated enforcement actions within the last two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. The NRC staff determined that credit for corrective action is warranted. Namely, SWVA management immediately removed all wiring devices from the gauges and briefed site employees about the issue. SWVA management also developed a Policy Statement related to the use of the gauges and distributed the statement to all employees and also increased radiological safety training for employees who work around the gauges. SWVA also purchased and installed replacement gauges that do not utilize radioactive material. Upon completing testing of the new gauges, SWVA intends to remove the nuclear gauges and request termination of the NRC license.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this SL III violation constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding: (1) the reason for the violation; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in Inspection Report No. 03028692/2020002, and the letter from SWVA dated June 11, 2021. Therefore, you are not required to respond to this letter unless the description therein 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 will be made available electronically for public inspection in the NRC Public Document Room and in the NRC's 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. If personal privacy or proprietary information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such information, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of

J. O'Connor

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information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

Sincerely,

David C. Lew
Regional Administrator

Docket No. 03028692
License No. 47-16310-02

Enclosure: Notice of Violation

SUBJECT: STEEL OF WEST VIRGINIA - NOTICE OF VIOLATION - NRC INSPECTION
 REPORT NO. 03028692/2020002 DATED July 12, 2021

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ML21180A044

DOCUMENT NAME: [https://usnrc-my.sharepoint.com/personal/mmm3_nrc_gov/Documents/MMM3/Shared Enforcement/Final Actions/SWVA NOV-III EA-21-033.docx](https://usnrc-my.sharepoint.com/personal/mmm3_nrc_gov/Documents/MMM3/Shared%20Enforcement/Final%20Actions/SWVA%20NOV-III%20EA-21-033.docx)

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NOTICE OF VIOLATION

Steel of West Virginia
Huntington, West Virginia

Docket No. 03028692
License No. 47-16310-02
EA-21-033

During an NRC inspection conducted on March 11 and 12, 2020, with continued in-office review through May 6, 2021, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 30.34(c) requires, in part, that each person licensed by the commission pursuant to the regulations in Part 30 shall confine his possession and use of the byproduct material to the locations and purposes authorized in the license.

License Condition 19 B of NRC license 47-16310-02 states that the licensee may not maintain, repair, or replace any of the following device components: the sealed source, the source holder, source drive mechanism, on-off mechanism (shutter), shutter control, shielding or any other component related to the radiological safety of the device, except as provided otherwise by specific condition of this license.

Contrary to the above, the licensee maintained/repared the following components: the on-off mechanism (shutter) and shutter control and no exception was provided by specific condition of this license. Specifically, the licensee wired, in the open position, the shutter mechanism for their fixed gauges and was not authorized to perform these functions by specific license condition.

This is a Severity Level III violation (Enforcement Policy 6.3.c.1, 6.3.c.11, or 6.7.c.9)

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 03028692/2020002 (ML21133A280)¹, and the letter from SWVA dated June 11, 2021 (ML21168A169). 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, (EA-21-033)," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 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, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or in the NRC's Agencywide Documents Access

¹ Designation in parentheses refers to an Agency-wide Documents Access and Management System (ADAMS) accession number. Documents referenced in this letter are publicly-available using the accession number in ADAMS.

and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

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

Dated this 12th day of July, 2021.