



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

December 2, 2021

EA-21-045

Nicole Kennedy
Steel City Gamma, LLC
309 Woodland Rd
Daisytown, PA 15427

**SUBJECT: STEEL CITY GAMMA, LLC - NRC OFFICE OF INVESTIGATIONS REPORT
NO. 1-2020-008**

Dear Ms. Kennedy:

This letter refers to an investigation conducted by the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI) between April 21, 2020, and March 1, 2021, to determine whether Steel City Gamma, LLC (SCG) deliberately conducted unauthorized and/or unlicensed radiography activities within NRC jurisdiction. A Factual Summary of OI Investigation Report No. 1-2020-008 is enclosed (Enclosure 1) with this letter.

Based on the evidence developed during the NRC OI investigation, two apparent willful violations were identified and are 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 <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The apparent violations, as described in Enclosure 2, involve SCG's failure to file for reciprocity prior to performing work in NRC jurisdiction and performing licensed activities in NRC jurisdiction without a license. Specifically, on December 18, 2019, and between January 1, 2020, and March 9, 2020, SCG performed industrial radiography work at a facility in Pleasant Valley, West Virginia, a non-Agreement State, without filing for reciprocity prior to performing work. Further, after SCG's Pennsylvania license was modified to possession and storage only on March 10, 2020, SCG performed industrial radiography at the same facility in West Virginia between March 10 and April 9, 2020, without holding a specific or general NRC license authorizing such activities.

Since the NRC has not made a final determination in this matter, a Notice of Violation is not being issued for these apparent violations at this time. In addition, please be advised that the number and characterization of apparent violations may change because of further NRC review.

Before the NRC makes its enforcement decision, we are providing you an opportunity to discuss the apparent violations at a pre-decisional enforcement conference (PEC). This conference will be closed to the public because information related to an Office of Investigations report will be discussed and the report has not been made public. Please contact Christopher Cahill at 610-337-5108 within **10 days** of the date of this letter to schedule the PEC. The PEC should be held in our office in King of Prussia, PA within 30 days of the date of this letter.

The decision to hold a PEC does not mean that the NRC has determined that violations have occurred or that enforcement action will be taken. This conference is being held to obtain information to assist the NRC in making an enforcement decision. This may include information to determine whether a violation occurred, information to determine the significance of a violation, information related to the willfulness of the violation, information related to the identification of a violation, and information related to any corrective actions taken or planned. The conference will include an opportunity for you to provide your perspective on these matters and any other information that you believe the NRC should take into consideration in making an enforcement decision. 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 violations. Following the PEC, you will be advised by separate correspondence of the results of our deliberations on this matter. No response regarding these apparent violations is required at this time.

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 and from the NRC's Agencywide Documents Access and Management 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.

If you have any questions concerning this matter, please contact Christopher Cahill of my staff at 610-337-5108.

Sincerely,

Blake D. Welling, Director
Division of Radiological Safety and Security

Enclosures:

1. Factual Summary of OI Investigation
Report No. 1-2020-008
2. Apparent Violations Being Considered
for Escalated Enforcement

cc w/enclosures:
Commonwealth of Pennsylvania

SUBJECT: STEEL CITY GAMMA, LLC - NRC OFFICE OF INVESTIGATIONS REPORT
NO. 1-2020-008 DATED DECEMBER 2, 2021

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* See previous concurrence page

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ENCLOSURE 1

Factual Summary of NRC Office of Investigations Case No. 1-2020-008

On April 21, 2020, the U.S. Regulatory Commission (NRC), Office of Investigations (OI), Region I field office initiated an investigation to determine whether Steel City Gamma, LLC and/or A&B Testing Services, LLC (ABT) deliberately conducted unauthorized and/or unlicensed radiography activities within NRC jurisdiction. The investigation was completed on March 1, 2021 and was documented in the subject OI report.

Steel City Gamma, LLC (SCG) is a small industrial radiography company that, at the time of the events described below, was licensed by the Commonwealth of Pennsylvania (PA) and authorized under Pennsylvania Radioactive Materials License No. PA-1633, to possess and utilize byproduct material in up to three (3) devices for the purposes of industrial radiography in PA.

On April 2, 2020, the NRC was notified by the Pennsylvania Department of Environmental Protection (PA DEP) that SCG had been conducting licensed activities (industrial radiography) for Mid-Atlantic Fabrication (MAF) in Pleasant Valley, West Virginia under the company name ABT. PA DEP also informed the NRC that on March 10, 2020, PA DEP had issued an Administrative Order to SCG, which amended SCG's PA license to be a possession and storage only license. Accordingly, after March 10, 2020, SCG was no longer authorized under License No. PA-1633 to conduct radiography.

The OI investigation revealed that ABT is a PA business entity formed in early January 2020 by a close associate of SCG's former owner.¹ At the time of these events, ABT was not licensed by PA or the NRC to perform industrial radiography. OI found that, beginning on or about January 1, 2020, and continuing into April 2020, SCG's former owner represented himself to MAF as an employee of ABT, conducted radiography and directed others to conduct radiography at the MAF site in West Virginia, and provided reports of those radiographic operations, using ABT's company name and information, to MAF. Also, vision test results and radiographer certifications dated January 2020 that were provided to MAF designated the former owner of SCG and another individual who performed radiography at the MAF site as employees of ABT. The work in question was performed using SCG's equipment.

From early January 2020 through March 9, 2020, this work by SCG, using the company name ABT, was performed within NRC jurisdiction (West Virginia) without first filing for reciprocity with the NRC or paying the appropriate fees. The OI investigation also revealed that on December 18, 2019, SCG, using its own company name, performed sub-contracted radiography work for Porter Testing Services (PTS) at the MAF site in West Virginia without filing for reciprocity or paying the appropriate fees. The NRC has no record of receiving or approving reciprocity forms for any of the work described above.

During the investigation, OI found that during the 2016-2018 timeframe, prior to forming SCG, SCG's former owner was co-owner of another industrial radiography licensee in PA, and that he served for over two years as radiation safety officer (RSO) and operations manager for that

¹ In June 2020 ownership of SCG was transferred to the owner/founder of ABT. The references to "former owner" refer to the individual who owned the company when the events underlying the apparent violations occurred.

licensee. On several occasions during his tenure as RSO for that company, SCG's former owner filed for reciprocity with the NRC and received the necessary approvals prior to performing work in WV. OI also found that in the fall of 2020, SCG's former RSO recalled a specific discussion with SCG's former owner about the need to file for reciprocity for work performed in WV.

The OI investigation also revealed that after PA DEP issued its March 10, 2020 Administrative Order limiting SCG's license to possession and storage, on numerous occasions between March 10 and April 9, 2020, SCG, using the company name ABT, continued to conduct industrial radiography at the MAF site in West Virginia. SCG did not hold another valid state or NRC license to conduct radiography during this time.

OI found that SCG's former owner was aware of the licensing requirements for industrial radiography based on his prior work experience and interactions with PA DEP. After leaving his position as co-owner and RSO of the other PA licensee, SCG's former owner was cited by PA DEP for using his previous company's equipment without a license. He subsequently formed SCG and applied for and received a PA license for industrial radiography. In addition, the March 10, 2020 Administrative Order modified SCG's license to possession and storage only. After receiving the Administrative Order during an in-person meeting with PA DEP officials, SCG's former owner proceeded to drive to the MAF site and conduct radiography later that day. He continued to conduct radiography at the MAF site, or instruct others to do so, for another month afterwards.

In summary, based on the evidence gathered during the OI investigation, it appears that SCG's former owner (1) caused SCG to violate 10 CFR 150.20(b)(1) by failing to comply with NRC reciprocity requirements prior to performing industrial radiography in NRC jurisdiction, and (2) caused SCG to violate 10 CFR 30.3(a) by performing industrial radiography without a valid license. In addition, these two potential violations appear to involve deliberate misconduct, in violation of 10 CFR 30.10(a)(1), on the part of SCG's former owner.

Enclosure 2

Apparent Violations Being Considered for Escalated Enforcement

- A. 10 CFR 150.20(a)(1) states, in part, that any person who holds a specific license from an Agreement State is granted a general license to conduct the same activity in non-Agreement States subject to the provisions of 10 CFR 150.20(b).

10 CFR 150.20(b)(1) requires, in part, that any person engaging in activities in non-Agreement States shall, at least 3 days before engaging in each activity for the first time in a calendar year, file a submittal containing an NRC Form 241, "Report of Proposed Activities in Non-Agreement States," a copy of its Agreement State specific license, and the appropriate fee with the Regional Administrator of the appropriate NRC regional office.

Contrary to the above, on December 18, 2019, and from January 1, 2020 through March 9, 2020, Steel City Gamma, LLC, an Agreement State licensee, engaged in licensed activities in a non-Agreement State without meeting the requirements in 10 CFR 150.20(b)(1). Specifically, Steel City Gamma, LLC, engaged in industrial radiography at a facility in Pleasant Valley, West Virginia, a non-Agreement State, without first submitting an NRC Form 241, a copy of its Agreement State license, and the appropriate fee to the Regional Office.

- B. 10 C.F.R. 30.3(a) states that except for persons exempt as provided in 10 C.F.R. Parts 30 and 150, no person shall possess or use byproduct material except as authorized in a specific or general license issued in accordance with NRC regulations.

Contrary to the above, on numerous occasions from March 10, 2020, through April 9, 2020, Steel City Gamma, LLC., used byproduct material in NRC jurisdiction without a specific or general license issued by the NRC. Specifically, Steel City Gamma, LLC engaged in industrial radiography in West Virginia, a non-Agreement State, without holding a specific NRC license authorizing such activities, and after its Pennsylvania license was modified to possession and storage only, which precluded SCG from meeting the conditions for a general NRC license under 10 CFR 150.20(a)(1).