



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

May 13, 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 NRC INSPECTION REPORT NO.
03028692/2020002 AND APPARENT VIOLATION

Dear Mr. O'Connor:

On March 11 and 12, 2020, Steve Shaffer of this office conducted a limited, unannounced on-site inspection of your activities performed under your Nuclear Regulatory Commission (NRC) license at your facility in Huntington, West Virginia. The inspection was an examination of your licensed activities as they relate to radiation safety, compliance with the Commission's regulations, and the conditions in your license. Based on the results of this inspection, the NRC determined that one apparent violation of NRC requirements occurred related to the improper wiring of the safety shutters on fixed nuclear gauges to hold the shutters in the open position.

Additionally, the Region I Field Office, NRC Office of Investigations (OI), initiated an investigation (Case No. 1-2020-006) to determine whether staff at your facility deliberately wired the shutters open in violation of the NRC license. Based upon documentary and testimonial evidence developed during the OI investigation, the NRC did not substantiate that the actions of your employees were deliberate. Therefore, the NRC was able to process the apparent violation through our enforcement process. The apparent violation is 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 <https://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

The circumstances surrounding an apparent violation were discussed with you and your staff during a preliminary exit meeting on March 11, 2020, and during the final exit meeting on May 6, 2021. The enclosed inspection report presents the findings of this inspection.

Since the NRC has not made a final determination in this matter, a Notice of Violation is not being issued at this time. Please be advised that the number and characterization of the apparent violations described in the enclosed inspection report may change as a result of further review. You will be advised by separate correspondence of the results of our deliberations on this matter.

Before the NRC makes its enforcement decision, we request that you provide additional information regarding your corrective actions for this issue. Although we noted your immediate corrective action to remove wires from the gauges and conduct training of your workers, it is not

clear if adequate long-term actions to prevent reoccurrence have been developed and/or implemented. Therefore, we request information related to actions such as placement of signs or visual warnings, initial training of new employees and recurring training for existing employees, equipment replacement or improvement, or other actions to prevent future occurrence of this violation.

The written response should be sent to the NRC within 30 days of the date of this letter. The NRC recognizes that many licensees have been impacted by the public health emergency caused by the Coronavirus Disease 2019 (COVID-19). Consequently, you may request an extension of time to submit the response by contacting Christopher Cahill, Chief, Commercial, Industrial, R&D, and Academic Branch, NRC Region I, at 610-337-5108 or christopher.cahill@nrc.gov. An extension request should explain the basis for the request and should specify the amount of additional time being requested. An extension request must be submitted no later than 20 days from the date of this letter.

Your response should include: (1) the reasons for the apparent violation or, if contested, the basis for disputing the apparent violation; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken; and (4) the date when full compliance will be achieved. You should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalties for the apparent violations. The guidance in the enclosed excerpt from NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action", may be helpful. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. You should clearly mark the response as a "Response to Apparent Violations in NRC Inspection Report No. 03028692/2020002; 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, NRC Region I, 2100 Renaissance Boulevard, Suite 100, King of Prussia, PA 19406.

In lieu of providing this written response, you may choose to provide your perspective on this matter, including the significance, cause, and corrective actions, as well as any other information that you believe the NRC should take into consideration by: (1) requesting a Preliminary Enforcement Conference (PEC) to meet with the NRC and provide your views in person; or (2) requesting Alternative Dispute Resolution (ADR).

If you choose to request a PEC, the meeting will be held within 30 days of the date of this letter; although this timeframe may be extended due to impacts from COVID-19. 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 before making an enforcement decision. The topics discussed during the PEC may include information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned. The PEC would be open for public observation, and the NRC would issue a press release to announce the conference time and date.

In lieu of a PEC or written response, you may request ADR with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflicts using a neutral third party. The technique that the NRC has decided to employ is mediation, a voluntary, informal process in which a trained neutral mediator works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable

neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC ADR program can be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC program as a neutral third party. Please contact ICR at 877-733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR. The ADR mediation session should be held within 45 days of the date of this letter, although this timeframe may be extended due to impacts from COVID-19. The mediation session would be closed to public observation, but the time and date would be publicly announced.

Please contact Christopher Cahill, Chief, Commercial, Industrial, R&D, and Academic Branch, NRC Region I, at 610-337-5108 or christopher.cahill@nrc.gov within **10 days** of the date of this letter to notify the NRC which of the above options you choose. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision.

Please note that final NRC investigation documents, such as the OI report described above, may be made available to the public under the Freedom of Information Act (FOIA) subject to redaction of information appropriate under the FOIA. Requests under the FOIA should be made in accordance with 10 CFR 9.23, Requests for Records. Additional information is available on the NRC website at <http://www.nrc.gov/reading-rm/foia/foia-privacy.html>.

In accordance with 10 CFR 2.390 of the NRC's Rules of Practice, a copy of this letter, its enclosure, 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'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 Steve Shaffer of my staff at steve.shaffer@nrc.gov.

Sincerely,

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

Enclosures:

1. NRC Inspection Report No. 03028692/2020002
2. NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action"

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

cc w/Encls: Bradlee Jones, RSO

cc w/o Encl 2: State of West Virginia

STEEL OF WEST VIRGINIA NRC INSPECTION REPORT NO. 03028692/2020002 DATED
MAY 13,2021

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DOCUMENT NAME: [https://usnrc.sharepoint.com/teams/Region-I-CIRDA/Inspection Documentation/Inspection Documentation - Draft/R47-16310-02.2020002 Rev 3.docx](https://usnrc.sharepoint.com/teams/Region-I-CIRDA/Inspection%20Documentation/Inspection%20Documentation%20-%20Draft/R47-16310-02.2020002%20Rev%203.docx)

SUNSI Review Complete: SSchaffer

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U.S. NUCLEAR REGULATORY COMMISSION
REGION I

INSPECTION REPORT

Inspection No. 03028692/2020002

Docket No. 03028692

License No. 47-16310-02

EA No. EA-21-033

Licensee: Steel of West Virginia
P.O. Box 2547
Huntington, WV 25726

Location: Steel of West Virginia
17TH Street and 2nd Avenue
Huntington, West Virginia 25726

Inspector: _____ date _____
Steve Shaffer
Senior Health Physicist
Commercial, Industrial, R&D, and Academic Branch
Division of Radiological Safety and Security

Approved By: _____ date _____
Christopher Cahill, Chief
Commercial, Industrial, R&D, and Academic Branch
Division of Radiological Safety and Security

EXECUTIVE SUMMARY

Steel of West Virginia
NRC Inspection Report No. 03028692/2020002

This was a limited, unannounced inspection of Steel of West Virginia's radioactive materials program. The inspection was conducted with regard to NRC radioactive materials License Number 47-16310-02 and in accordance with NRC inspection procedure 87124, "Fixed and Portable Gauge Programs." The inspection was conducted on March 11 & 12, 2020. The inspection focused on the performance of the licensee's program through interviews with licensee workers, demonstrations by workers performing licensed activities, independent measurements of radiation conditions at the licensee's facilities, and review of selected records.

During the inspection, an apparent violation of NRC requirements was identified. The apparent violation involved improperly wiring of the safety shutter on your fixed nuclear gauges in the open position. The apparent violation is being considered for escalated enforcement action in accordance with the NRC's Enforcement Policy.

REPORT DETAILS

1. Organization and Scope of the Program

a. Inspection Scope

The inspector reviewed the organization and scope of the licensee's programs through direct observation of work activities, interviews with licensee workers, and review of selected records.

b. Observations and Findings

Steel of West Virginia (SWVA) operates a steel foundry using recycled steel to fabricate the steel frames for trailers used in commercial shipping. The licensee uses three Cs-137 fixed gauges to measure the density of the liquid steel during the pouring operations in the fabrication process.

The radiation safety officer (RSO) is not involved with the day to day use of the gauges. The RSO oversees the radiation safety program including the leak testing, inventories, audits and record keeping.

2. Review of Licensed Activities

a. Inspection Scope

The inspectors performed an unannounced routine inspection utilizing NRC Inspection Procedure 87124, "Fixed and Portable Gauge Programs" to conduct the inspection. Information was gathered through interviews with cognizant personnel, direct observation of licensed activities, review of records, tours of the facilities, and through the performance of independent radiation surveys.

b. Direct Observations/Interviews and Record Review

The inspector reviewed the use of the gauges and the environmental conditions in which the gauges were being used. The inspector interviewed the shift foreman and other workers working in the vicinity of the gauges to ascertain their level of knowledge of the gauges and radiation safety protocols.

Independent Radiation Measurements

The inspector performed independent radiation surveys at the facility. The radiological surveys were taken of the accessible areas around the gauges while they were in use and all results were within applicable regulatory limits.

Instrument type: Ludlum Model # 2401-S
calibration expiration date: December 6, 2020

c. Conclusions

During this inspection, an apparent violation of NRC requirements was identified. The apparent violation is being considered for escalated enforcement action in accordance with the NRC's Enforcement Policy. The apparent violation is as follows:

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, 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, for an unspecified period of time prior to March 11, 2020, the licensee maintained/repared the following components related to the radiological safety of devices: the on-off mechanism (shutter) and shutter control. Specifically, the licensee wired, in the open position, the shutter mechanism for the three fixed gauges in use during pouring of molten steel into the frame molds and was not authorized to perform these functions by specific license condition.

3. Exit Meeting

On the evening of March 11, 2020, the inspector conducted an onsite preliminary exit meeting with the licensee. The apparent violation was discussed during the meeting and the licensee acknowledged the inspection finding. The licensee committed to remove the wiring from the gauges when the pour was completed. The inspector returned on March 12, 2020 and confirmed the gauges safety shutters were no longer wired in the open position. On May 6, 2021, the region conducted a telephone exit meeting. The apparent violation being considered for enforcement and the results of the Office of Investigations investigation were discussed.

ATTACHMENT

PARTIAL LIST OF PERSONS CONTACTED

John O'Connor, Vice President of Administration*+
Charles Lucas, Foreman
Josh Tony, Laborer
Phil Wolfe, Melt Shop Superintendent*
Tyler Perry, Environmental Health and Safety Manager*+
Bradlee Jones, RSO+
Eric Kimball, Counsel+

* Denotes presence at exit meeting March 11, 2020

+ Denotes presence at exit meeting May 6, 2021

INSPECTION PROCEDURES USED

IP 87124, Fixed and Portable Gauge Programs

LIST OF ACRONYMS USED

RSO: Radiation Safety Officer
SWVA: Steel of West Virginia