



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

Region III
2443 Warrenville Road, Suite 210
Lisle IL 60532-4352

January 22, 2013

EA-12-237
NMED 120632 (closed)

Mr. Steven Brady, CEO
Anderson Engineering, Inc.
2045 W. Woodland St.
Springfield, Missouri 65807

SUBJECT: NOTICE OF VIOLATION – ANDERSON ENGINEERING, INC.;
NRC REACTIVE INSPECTION REPORT NO. 03017919/2012001(DNMS)

This refers to a U.S. Nuclear Regulatory Commission (NRC) reactive inspection conducted on October 25, 2012, at your facilities located in Springfield and Joplin, Missouri, with continued in-office review through November 6, 2012. During the inspection, an apparent violation of NRC requirements was identified. The significance of the issue and the need for lasting and effective corrective actions were discussed with representatives of Anderson Engineering, Inc., during an exit meeting on November 7, 2012. Details regarding the apparent violation were provided in NRC Inspection Report No. 03017919/2012001(DNMS) dated November 26, 2012.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violations identified in the report by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In a letter dated December 20, 2012, you provided a response to the apparent violations. We also considered the information you provided in your 30-day written report, dated November 14, 2012.

Based on the information developed during the inspection, the information that you provided in your 30-day report, dated November 14, 2012, and in your response to the inspection report dated December 20, 2012, 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. The violation involved the failure to maintain constant surveillance of the gauge and failure to use two independent physical controls that formed tangible barriers to secure a portable gauge containing licensed material when it was not under your control or constant surveillance. As a result, the portable gauge was run over by a piece of construction equipment and damaged. The cause of the violation was human error on the part of the gauge operator. Your staff immediately reported the event in event notification (EN) 48432, and as indicated above, followed up the initial notification with a 30-day written report.

The failure to maintain constant surveillance of the gauge and failure to use two independent physical controls that formed tangible barriers to secure the portable gauge when it was not under your control or constant surveillance is of concern to the NRC because of the potential for

the gauge to be stolen or become damaged in such a way that the sealed sources are breached and radioactive material is released. In this case, your 30-day written response showed that, although the gauge was damaged, the sources remained intact and no contamination occurred. Therefore, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$3500 is normally considered for a Severity Level III violation. Because your facility has not been the subject of escalated enforcement actions within the last two years, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process described in Section 2.3.4 of the Enforcement Policy. The NRC determined that credit was warranted for the corrective actions taken. Your corrective actions included, but were not limited to: (1) counseling the gauge user on required nuclear density gauge procedures; (2) conducting training for all of your authorized nuclear density gauge users, including a review of the incident and lessons learned; and (3) conducting "tool box" safety meetings at your Joplin and Springfield, Missouri laboratories. You also committed to continue to hold safety meetings every month during 2013 to emphasize control of nuclear gauges.

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, to not propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III violation constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation, and the date when full compliance was achieved, was adequately addressed on the docket in NRC Inspection Report No. 03017919/2012001(DNMS) dated November 26, 2012, in your 30-day report, dated November 14, 2012, and in your response to the inspection report dated December 20, 2012. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective action 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 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>. Therefore, to the extent possible, your response should not include any personal privacy, or proprietary, 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

S. Brady

-3-

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,

/RA by Cynthia D. Pederson/

Charles A. Casto
Regional Administrator

Docket No. 030-17919
License No. 24-20063-01

Enclosure:
Notice of Violation

cc w/encl: State of Missouri
John T. Snider, Vice President/
Engineering Manager

NOTICE OF VIOLATION

Anderson Engineering, Inc.
Springfield, Missouri

Docket No. 030-17919
License No. 24-20063-01
EA-12-237

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on October 25, 2012, with continued in-office review through November 6, 2012, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 of the Code of Federal Regulations (10 CFR) 20.1802 requires that the licensee control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage.

10 CFR 30.34(i) requires that each portable gauge licensee use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

Contrary to the above, on October 22, 2012, the licensee failed to control and maintain constant surveillance of a portable gauge that was in an unrestricted area and was not in storage, and failed to use a minimum of two independent physical controls that formed tangible barriers to secure the portable gauge. Specifically, the gauge operator left the gauge unattended, and there were no physical controls to secure the gauge while it was unattended, resulting in the gauge being run over by construction equipment.

This is a Severity Level III violation (Sections 6.3 and 6.7).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to be taken to correct the violation, and the date when full compliance was achieved, is already adequately addressed on the docket in NRC Inspection Report No. 03017919/2012001 (DNMS) dated November 26, 2012, in your 30-day report, dated November 4, 2012, and in your response to the inspection report dated December 20, 2012. 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-12-237," 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 III, 2443 Warrenville Road, Suite 210, Lisle, IL 60532, 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, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Enclosure

If you choose to respond, your response 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>. Therefore, to the extent possible, the response should not include any personal privacy, or proprietary 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 of Violation within two working days of receipt.

Dated this 22 day of January, 2013

S. Brady

-3-

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,

/RA by Cynthia D. Pederson/

Charles A. Casto
Regional Administrator

Docket No. 030-17919
License No. 24-20063-01

Enclosure:
Notice of Violation

cc w/encl: State of Missouri
John T. Snider, Vice President/
Engineering Manager

DISTRIBUTION:
See next page

SEE PREVIOUS CONCURRENCE

FILE NAME: G:\ORAI\IICS\ENFORCEMENT\Cases\Enforcement Cases 2012\EA-12-237 Anderson Engineering\EA-12-237 Anderson Engineering draft final action.docx

OFFICE	RIII	RIII	RIII	D:OE	RIII	RIII
NAME	Lougheed	Bloomer RGattone for	Boland JHeck for	Zimmerman ¹ KDay for	Orth	/CPederson for/ Casto
DATE	01/03/13	01/4/13	01/7/13	01/18/13	01/22/13	01/22/13

OFFICIAL RECORD COPY

1 OE concurrence received via e-mail from K. Day on January 18, 2013.

Letter to Steven Brady from Charles A. Casto dated January 22, 2013

SUBJECT: NOTICE OF VIOLATION – ANDERSON ENGINEERING, INC.;
NRC INSPECTION REPORT NO. 03017919/2012001(DNMS)

DISTRIBUTION:

RidsSecyMailCenter Resource
OCADistribution
Bill Borchardt
Michael Weber
Roy Zimmerman
Nick Hilton
Kerstun Day
Chuck Casto
Cynthia Pederson
Marvin Itzkowitz
Mary Spencer
Mark Satorius
Brian McDermott
Michele Burgess
Daniel Holody
James Baptist
Heather Gepford
Holly Harrington
Hubert Bell
Cheryl McCrary

Seth Coplin
Anne Boland
Jared Heck
Tamara Bloomer
MIB Inspectors
Steven Orth
Allan Barker
Harral Logaras
James Lynch
Viktoria Mitlyng
Prema Chandrathil
Patricia Lougheed
Paul Pelke
Magdalena Gryglak
Sarah Bakhsh
Patricia Buckley
Tammy Tomczak
OEMAIL Resource
OEWEB Resource