

August 15, 2013

EA-13-169

Mr. Larry Crittenden, President/CEO
High Energy Devices, LLC
26 Hollenberg Court
Bridgeton, MO 63044

SUBJECT: NRC ROUTINE INSPECTION REPORT NOS. 03032563/2013001 (DNMS) AND 03033623/2013001 (DNMS) AND NOTICE OF VIOLATION – HIGH ENERGY DEVICES, LLC

Dear Mr. Crittenden:

On July 10, 2013, an inspector from the U.S. Nuclear Regulatory Commission (NRC) conducted a routine inspection at your Bridgeton, Missouri, facility, with continued in-office review through July 18, 2013. The purpose of the inspection was to review activities performed under your NRC licenses to ensure that activities were being performed in accordance with NRC requirements. The in-office review included receipt and review of the license amendment submitted on July 10, 2013, to change the Radiation Safety Officer (RSO) and information regarding exempt distribution transfer reports that was not immediately available during the onsite inspection. A final exit meeting was held between Ms. Wellinghoff of my staff and you by telephone on July 18, 2013.

During this inspection, the NRC staff examined activities conducted under your licenses related to public health and safety. Additionally, the staff examined your compliance with the Commission's rules and regulations as well as the conditions of your licenses. Within these areas, the inspection consisted of selected examination of procedures and representative records, observations of activities, and interviews with personnel.

Based on the results of this inspection, the NRC has determined that three Severity Level IV violations of NRC requirements occurred. The violations were evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violations involved: (1) the failure to have an RSO as required by License Condition 11 of NRC License 24-26366-01; (2) the failure to perform monthly surveys and wipe tests as required by License Condition 18 of NRC License 24-26366-01; and (3) the failure to file byproduct material transfer reports for calendar year 2008 through 2012 as required by Title 10 of the *Code of Federal Regulations* (CFR) Part 32.16(a). The violations are cited in the enclosed Notice of Violation (Notice). The NRC is citing the violations in the Notice because the inspector identified the violations.

Violations for failure to have an RSO are normally characterized in the Enforcement Policy at Severity Level III and considered for escalated enforcement action; however, the NRC determined that a Severity Level IV violation was more appropriate because of the overall minimal safety impact of the violation given the facts of the case. Specifically, the RSO duties at High Energy Devices, LLC, are important; however, the consequences of not having an RSO

were minimal due to the type and quantity of radioactive material used and the infrequency of use. In addition, the duration of the violation was relatively short, and upon identification of the issue, you took immediate corrective action and appointed a qualified individual as the RSO for the license.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. Specifically, your response should address the specific long-term corrective actions that you plan to take to prevent recurrence of the violations. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be useful in preparing your response. You can find the Information Notice on the NRC's website at: <http://www.nrc.gov/reading-rm/doc-collections/gen-comm/info-notices/1996/in96028.html>. The NRC will use your response, in part, to 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, its enclosure, and your response, will be made available electronically for public inspection in the NRC's Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC's website 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 publicly available without redaction.

Please feel free to contact Claire Wellinghoff of my staff if you have any questions regarding this inspection. Ms. Wellinghoff can be reached at (630) 829-9571.

Sincerely,

/RA by Robert G. Gattone, Jr., Acting For/

Aaron T. McCraw, Chief
Materials Inspection Branch
Division of Nuclear Materials Safety

Docket Nos. 030-32563, 030-33623
License Nos. 24-26366-01, 24-26366-02E

Enclosure:
Notice of Violation

cc w/encl: State of Missouri

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Docket Nos. 030-32563, 030-33623
License Nos. 24-26366-01, 24-26366-02E

Enclosure:
Notice of Violation

cc w/encl: State of Missouri

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DATE	8/15/2013	8/15/2013	8/15/2013	

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NOTICE OF VIOLATION

High Energy Devices, LLC
Bridgeton, MO

License Nos. 24-26366-01, 24-26366-02E
Docket Nos. 030-32563, 030-33623
EA-13-169

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on July 10, 2013, with continued in-office review through July 18, 2013, three violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. Condition 11 of NRC License No. 24-26366-01, Amendment No. 6, authorizes a specifically named individual to fulfill the duties of the Radiation Safety Officer (RSO) for the license.

Contrary to the above, between March 1 and July 10, 2013, the named individual, specifically authorized by Condition 11 of the license to fulfill the duties and responsibilities as RSO, was no longer employed by the licensee and did not fulfill the duties and responsibilities of the RSO. Specifically, the RSO had been laid off on February 28, 2013; since that time, the licensee had not notified the NRC or submitted an amendment request to appoint a new RSO.

This is a Severity Level IV violation (Section 6.3).

- B. Condition 18 of NRC License No. 24-26366-01 requires, in part, that the licensee conduct its program in accordance with the statements, representations, and procedures contained in specified documents, including the facsimile dated November 1, 2012. Item 10 of the facsimile states that a survey is conducted on a monthly basis throughout the entire production area.

Contrary to the above, between February 28 and July 10, 2013, the licensee failed to perform monthly surveys throughout the entire production area. Specifically, the last survey and wipe test of the entire production area was conducted on February 27, 2013.

This is a Severity Level IV violation (Section 6.3).

- C. Title 10 of the *Code of Federal Regulations* (CFR) Part 32.16 (a) requires, in part, that each person licensed under 10 CFR 32.14 maintain records of all transfers of byproduct material and file a report with the Director of the Office of Federal and State Materials and Environment Management Programs (FSME).

Title 10 CFR 32.16(c)(1) requires, in part, that the licensee shall file the report, covering the preceding calendar year, on or before January 31 of each year. In its first report after December 17, 2007, the licensee shall separately include data for transfers in prior years not previously reported to the Commission.

Contrary to the above, from February 1, 2009, until July 10, 2013, the licensee failed to file a report, covering the preceding calendar year, on or before January 31 of each year to the Director of FSME. Specifically, the last byproduct material transfer report was submitted on May 8, 2008, which covered the 2007 transfers; therefore,

Enclosure

the licensee failed to file a byproduct material transfer report for calendar years 2008 through 2012.

This is a Severity Level IV violation (Section 6.9).

Pursuant to the provisions of CFR 2.201, High Energy Devices, LLC is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator, Region III, 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: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level, (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. Your response may reference or include previously 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 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, with the basis for your denial, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

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

Dated this 15th day of August 2013.