



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

July 11, 2014

Docket No. 99999001

General License  
Recipient Code 721111

J. T. Spaulding  
Supervisor  
Argus Energy, LLC  
Kiah Creek Coal Prep Plant  
RR1 McComas Road  
Dunlow, WV 25511

**SUBJECT: NRC INSPECTION REPORT NO. 99999001/2014004, ARGUS ENERGY, LLC,  
DUNLOW, WEST VIRGINIA SITE AND NOTICE OF VIOLATION**

Dear Mr. Spaulding:

On May 22, 2014, Todd Jackson of this office conducted a safety inspection at the above address of activities authorized by NRC General Licenses under 10 CFR 31.5. The inspection was an examination of your licensed activities as they relate to radiation safety and to compliance with the Commission's regulations and the license conditions. The inspection consisted of observations by the inspector, interviews with personnel, and a selective examination of representative records. Additional information provided in the July 7, 2014, telephone conversation between your survey contractor and this office and in the telephone conversation on July 10, 2014, between you and this office was also examined as part of the inspection. The findings of the inspection were discussed with you at the conclusion of the inspection.

Based on the results of this inspection and in accordance with the NRC Enforcement Policy, the NRC has determined that one Severity Level IV violation of NRC requirements occurred. The violation involved the failure to lock in the closed position a generally licensed device that was not being used and was in standby for future use. The device was found to be open at the time of the inspection, and immediate corrective action was taken to close the device at the time of the inspection.

The violation is cited in the enclosed Notice of Violation (Notice) because the violation was identified by the NRC.

During our inspection exit telephone meeting on July 10, 2014, you stated that you have taken corrective and preventative actions to address the violation and that Argus Energy, LLC is committed to radiation safety and to compliance with NRC regulations and licensed conditions. Further, you stated that you have taken or will take the following corrective and preventative actions:

- 1) The two generally licensed devices possessed have been maintained in the closed position and will be locked in the closed position as soon as possible and not later than July 18, 2014. The devices will be maintained locked in the closed position while the plant is in standby for future use;
- 2) Quarterly physical inventories of the devices will be performed and documented while the plant is in standby for future use; and
- 3) Testing specified in 10 CFR 31.5(c)(2) will be performed when the devices are put back into service or transferred to another person [testing required by 10 CFR 31.5(c)(2) is not required while the devices are locked closed in standby for future use].

In addition, note that if the plant status is changed from standby, then the generally licensed devices are subject to the limitation in 10 CFR 31.5(c)(15), which specifies that devices that are not in use may not be held for longer than 2 years.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure(s), 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 document system (ADAMS), accessible from the NRC 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 available to the Public without redaction.

Current NRC regulations and guidance are included on the NRC's website at [www.nrc.gov](http://www.nrc.gov); select **Nuclear Materials; Med, Ind, & Academic Uses**; then **Regulations, Guidance and Communications**. The current Enforcement Policy is included on the NRC's website at [www.nrc.gov](http://www.nrc.gov); select **About NRC, Organizations & Functions; Office of Enforcement; Enforcement documents**; then **Enforcement Policy (Under 'Related Information')**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 8:00 a.m. to 5:30 p.m. EST, Monday through Friday (except Federal holidays).

The NRC's Safety Culture Policy Statement became effective in June 2011. While a policy statement and not a regulation, it sets forth the agency's *expectations* for individuals and organizations to establish and maintain a positive safety culture. You can access the policy statement and supporting material that may benefit your organization on NRC's safety culture Web site at <http://www.nrc.gov/about-nrc/safety-culture.html>. We strongly encourage you to review this material and adapt it to your particular needs in order to develop and maintain a positive safety culture as you engage in NRC-regulated activities

J. Spaulding

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Please contact Todd Jackson at 610-337-5308 if you have any questions regarding this matter.

Sincerely,

***Original signed by Blake Welling***

Blake Welling, Chief  
Commercial, Industrial, R&D and Academic  
Branch  
Division of Nuclear Materials Safety

Enclosure:  
Notice of Violation

cc: State of West Virginia

J. Spaulding

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Please contact Todd Jackson at 610-337-5308 if you have any questions regarding this matter.

Sincerely,

***Original signed by Blake Welling***

Blake Welling, Chief  
Commercial, Industrial, R&D and Academic  
Branch  
Division of Nuclear Materials Safety

Enclosure:  
Notice of Violation

cc: State of West Virginia

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B. Bickett, RI

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**SUNSI Review Complete: TJackson**

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NAME	TJackson\tj		BWelling\bw				
DATE	7/11/14		7/11/14				

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## **NOTICE OF VIOLATION**

Argus Energy, LLC  
Dunlow, WV

Docket No. 99999001  
General Licensee  
Recipient Code 721111

During an NRC inspection conducted on May 22, 2014, and continuing in-office through July 10, 2014, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 31.5(c)(15) requires that if generally licensed devices with shutters are not being used, the shutter must be locked in the closed position.

Contrary to the above, the generally licensed device with NRC Device Key 788305 was not being used and the shutter was not locked in the closed position. Specifically, the device was in standby for future use and the shutter was found open on May 22, 2014.

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

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 will be achieved is already adequately addressed on the docket. 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," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 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 to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, any response which contests an enforcement action shall be submitted under oath or affirmation.

Your response will be placed in the NRC Public Document Room (PDR) and on the NRC Web site. To the extent possible, it should, therefore, not include any personal privacy, proprietary, or safeguards information so that it can be made publically available without redaction. However, if you find it necessary to include such information, you should clearly indicate the specific information that you desire not to be placed in the PDR, and provide the legal basis to support your request for withholding the information from the public.

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

Dated This 11th day of July 2014