



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION III
2443 WARRENVILLE RD. SUITE 210
LISLE, ILLINOIS 60532-4352

July 18, 2014

EA-14-060

Mr. James T. Sherer, President
Patriot Engineering and Environmental, Inc.
6330 E. 75th Street, Suite 216
Indianapolis, IN 46250

**SUBJECT: NOTICE OF VIOLATION – PATRIOT ENGINEERING AND ENVIRONMENTAL,
INC.; NRC ROUTINE INSPECTION REPORT NO. 03037878/2014001(DNMS)**

Dear Mr. Sherer:

This letter refers to the routine inspection conducted at your facilities located in Indianapolis, Fort Wayne, and Lafayette, Indiana, on March 27 and 28, 2014, with continuing in-office review through April 21, 2014. The purpose of the inspection was to review activities performed under your NRC license to ensure that activities were being performed in accordance with NRC requirements. 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 your staff during the telephonic exit meeting that was held on April 21, 2014. Details regarding the apparent violation were provided in NRC Inspection Report No. 03037878/2014001(DNMS) dated May 19, 2014.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violation 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 June 13, 2014, you provided a response to the apparent violation.

Based on the information developed during the inspection and the information that you provided in your response dated June 13, 2014, 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. Specifically, the NRC identified that portable gauges were secured overnight with only one barrier and, on multiple occasions, gauges were transported using only one barrier. The root cause of the violation was a lack of full understanding of NRC's security requirements for portable gauges when not in the licensee's direct control or under constant surveillance. This is of significant concern to the NRC because it increases the chance for the gauges to be lost, stolen, or improperly handled and controlled which could result in adverse impacts to the health and safety of the general public. 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 \$3,500 is considered for a Severity Level III violation.

Because your facility has not been the subject of escalated enforcement actions within the last two years or two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. The NRC considered the information you provided in your June 13, 2014, letter. Your staff's immediate corrective actions were to remove the excess construction material from the normal storage location so that the gauges could be stored behind two barriers whenever they were not under constant surveillance. Additionally, the local radiation safety officers ensured that the authorized users had sufficient chains and padlocks to secure the gauges while transporting them and the radiation safety officers retrained all authorized users on the correct way to secure the gauges so that there would be two physical controls that constituted tangible barriers whenever the gauges were not under constant surveillance. For long-term actions to prevent recurrence, your staff will continue to carry out routine inspections of gauges being transported to ensure that they are using two barriers. You also committed that if gauges need to be moved from their normal storage spot, that you will ensure that secondary storage and/or constant surveillance will be arranged in order to maintain the two barriers. On the basis of these corrective actions, the NRC determined that *Corrective Action* credit was warranted.

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, not to 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: (1) the reason for the violation; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in the inspection report, in your letter dated May 19, 2014. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

We also acknowledge receipt of your response, dated June 13, 2014, to the Severity Level IV Notice of Violation in NRC Inspection Report No. 03037878/2014001(DNMS). The NRC has no further questions on your responses to these issues. Your corrective actions will be examined during future inspections.

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 and in the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the

J. Sherer

-3-

NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

Sincerely,

/RA/

Cynthia D. Pederson
Regional Administrator

Docket No. 030-37878
License No. 13-32725-01

Enclosure:
Notice of Violation

cc: State of Indiana
John R. Phillips, Radiation
Safety Officer

NOTICE OF VIOLATION

Patriot Engineering and Environmental, Inc.
Indianapolis, IN 46250

Docket No. 03037878
License No.13-32725-01
EA-14-060

During an NRC inspection conducted on March 27 and 28, 2014, with continued review through April 21, 2014, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Condition 17 of NRC License No. 13-32725-01 states, in part, that a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal whenever the portable gauge is not under the control and constant surveillance of the licensee are required.

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 March 27 and 28, 2014, the licensee failed to use a minimum of two independent physical controls that formed tangible barriers to secure portable gauges from unauthorized removal whenever the portable gauges were not under the control and constant surveillance of the licensee. Specifically, the licensee stored seven portable gauges containing radium-226 and two portable gauges each containing cesium-137 and americium-241 in the warehouse section of its Fort Wayne location, and the gauges were only secured from unauthorized removal by one physical control: the locked building exterior door. Additionally, individuals at the licensee's Fort Wayne and Indianapolis locations stated that on multiple occasions since 2009 they had left portable gauges containing radium-226 on open, flat-bed pickup trucks that were not under their control or constant surveillance, and had only secured the gauges from unauthorized removal by one physical control: a chain securing the gauge transportation case to the vehicle.

This is a Severity Level III violation (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 was achieved, is already adequately addressed on the docket in Inspection Report No. 03037878/2014001(DNMS) dated May 19, 2014, and your response dated June 13, 2014. 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-14-060," 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, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

Enclosure

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, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or in 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, proprietary, or safeguards 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 within two working days of receipt.

Dated this 18th day of July, 2014

NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

Sincerely,

/RA/

Cynthia D. Pederson
Regional Administrator

Docket No. 030-37878
License No. 13-32725-01

Enclosure:
Notice of Violation

cc: State of Indiana
John R. Phillips, Radiation
Safety Officer

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See previous concurrences

FILE NAME: EA-14-060 Patriot Engineering Final Action.docx

OFFICE	RIII	RIII	RIII	D:OE	RIII	RIII
NAME	Lougheed	McCraw	Louden J Giessner for	Holahan ¹ K Norman for	Orth J Heck for	Pederson
DATE	07/08/14	07/08/14	07/10/14	07/17/14	07/10/14	07/18/14

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¹ OE concurrence provided via email from K. Norman on July 17, 2014