



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

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

July 21, 2016

EA-16-140

Mr. Ken Ideker, Vice President
IDEKER, Inc.
P.O. Box 7140
St. Joseph, MO 64507

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 03035163/2016001(DNMS) –
IDEKER, INC.

Dear Mr. Ideker:

On May 31, 2016, an inspector from the U.S. Nuclear Regulatory Commission (NRC) conducted a routine inspection at your St. Joseph, Missouri location and at a temporary jobsite in St. Joseph, Missouri, with continued in-office review through June 21, 2016. The in-office review included information that was unavailable during the onsite inspection, including, in part, dosimetry badge records and authorized user training records. 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. Mr. Robert Gattone of my staff conducted a final exit meeting by telephone with Russell Thielmann of your staff on June 21, 2016, to discuss the inspection findings.

During this inspection, the NRC staff examined activities conducted under your license 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 license. 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, one apparent violation of NRC requirements was identified and is being considered for escalated enforcement action 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 apparent violation concerned the failure to 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 by your staff, as required by Title 10 of the *Code of Federal Regulations* (CFR) Part 30.34(i).

Because the NRC has not made a final determination in this matter, the NRC is not issuing a Notice of Violation for this inspection finding at this time. The circumstances surrounding this apparent violation, the significance of the issue, and the need for lasting and effective corrective action were discussed with Mr. Thielmann during the inspection exit meeting on June 21, 2016.

Before the NRC makes its enforcement decision, we are providing you an opportunity to either: (1) respond in writing to the apparent violation addressed in this inspection report within 30 days of the date of this letter; or (2) request a Predecisional Enforcement Conference (PEC).

Please contact Deborah Piskura at 630-829-9867 within ten days of the date of this letter to notify the NRC of your intended response.

If you choose to provide a written response, it should be clearly marked as "Response to the Apparent Violation in NRC Inspection Report No. 03035163/2016001(DNMS); EA-16-140," and should include, for the apparent violation: (1) the reason 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 to avoid further violations; and (4) the date when full compliance was or will be achieved. In presenting your corrective actions, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violation. 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>. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. 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 or schedule a PEC.

If you choose to request a PEC, the conference will afford you the opportunity to provide your perspective on the apparent violation and any other information that you believe the NRC should take into consideration before making an enforcement decision. The topics discussed during the conference may include the following: 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 to be taken. If a PEC is held, it will be open for public observation, and the NRC will issue a press release to announce the time and date of the conference.

Because your facility has not been the subject of escalated enforcement action within the last two inspections, a civil penalty may not be warranted in accordance with Section 2.3.4 of the Enforcement Policy. In addition, based upon NRC's understanding of the facts and your corrective actions, it may not be necessary to conduct a PEC in order to enable the NRC to make a final enforcement decision. Our final decision will be based on your confirming on the license docket that the corrective actions previously described to the staff have been or are being taken.

In addition, 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 NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

Based on the results of this inspection, the NRC has also determined that 2 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 concerned the failures to periodically (at least annually) review the radiation protection program content and implementation as required by 10 CFR 20.1101(c), and to possess and use, or have access to and use, a radiation survey meter that meets specific criteria as required by Condition 21 of NRC License No. 24-32199-01. The violations are cited in the enclosed

Notice of Violation (Notice). The NRC is citing the violations in the enclosed Notice because the inspector identified them.

The inspector determined that the root cause of the Severity Level IV violations was that your Radiation Safety Officer was unaware of the requirements. As corrective actions to restore compliance and to prevent recurrence you committed to: (1) complete a review of your radiation protection program content and implementation by July 1, 2016; (2) conduct future reviews of your radiation protection program content and implementation in June of each year; and (3) possess and use, or have access to and use, a radiation survey meter that meets the required criteria.

The NRC has concluded that information regarding the reason for the Severity Level IV violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance will be achieved is already adequately addressed on the docket in the enclosed inspection report. Therefore, you are not required to respond to these violations unless the description in the enclosed Inspection Report 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.

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'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 Robert Gattone of my staff if you have any questions regarding this inspection. Mr. Gattone can be reached at 630-829-9823.

Sincerely,

/RA/

John Giessner, Director
Division of Nuclear Materials Safety

Docket No. 030-35163
License No. 24-32199-01

Enclosures:

1. Notice of Violation
2. IR 03035163/2016001(DNMS)

cc w/encl: Russell Thielmann, Radiation
Safety Officer
State of Missouri

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Sincerely,

/RA/
 John Giessner, Director
 Division of Nuclear Materials Safety

Docket No. 030-35163
 License No. 24-32199-01

- Enclosures:
 1. Notice of Violation
 2. IR 03035163/2016001(DNMS)

cc w/encl: Russell Thielmann, Radiation
 Safety Officer
 State of Missouri

Distribution w/encl:
 See next page

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DATE	7/14/2016		7/14/2016		7/21/2016		7/21/2016	

OFFICIAL RECORD COPY

Letter to Ken Ideker from John Giessner dated July 21, 2016.

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 03035163/2016001(DNMS) –
IDEKER, INC.

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NOTICE OF VIOLATION

IDEKER, Inc.
St. Joseph, Missouri

License No. 24-32199-01
Docket No. 030-35163

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on May 31, 2016, with continued in-office review through June 21, 2016, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 20.1101(c) states that the licensee shall periodically (at least annually) review the radiation protection program content and implementation.

Contrary to the above, from 2010 through 2015, the licensee did not periodically (at least annually) review its radiation protection program content and implementation.

This is a Severity Level IV violation (Section 6.7).

- B. Condition 21 of NRC License No. 24-32199-01, Amendment Number 05 states, in part, that the licensee shall conduct its program in accordance with the statements, representations, and procedures contained in application dated January 18, 2010. Item 10. of application dated January 18, 2010, states, in part, that the licensee "will either possess and use, or have access to and use, a radiation survey meter that meets the Criteria in the section titled, "Radiation Safety Program – Instruments" in NUREG-1556, Vol. 1, dated November 2001."

Contrary to the above, as of May 31, 2016, the licensee did not possess or have access to a radiation survey meter.

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

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in the subject inspection report. 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, Inspection Report No. 03035163/2016001 (DNMS)" 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.

If you choose to respond, 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>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

Notice of Violation

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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 21st day of July 2016.

**U.S. Nuclear Regulatory Commission
Region III**

Docket No. 030-35163

License No. 24-32199-01

Report No. 03035163/2016001(DNMS)

EA No. EA-16-140

Licensee: IDEKER, Inc.

Facility: 4614 South 40th Street, St. Joseph, Missouri

Inspection Date: May 31, 2016, with continuing in-office review
through June 21, 2016

Exit Meeting Date: June 21, 2016

Inspector: Robert G. Gattone, Jr.
Senior Health Physicist

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

EXECUTIVE SUMMARY

IDEKER, Inc. NRC Inspection Report No. 03035163/2016001(DNMS)

IDEKER, Inc. (licensee) is authorized under U.S. Nuclear Regulatory Commission (NRC) Materials License No. 24-32199-01 to use licensed material for measuring physical properties of materials with nuclear gauging devices. The licensee possessed and used two Troxler portable gauges (gauges) and two Humboldt portable gauges at temporary job sites in NRC jurisdiction.

During this inspection, the inspector identified an apparent violation of 10 CFR 30.34(i) involving the licensee's failure to 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. The inspector determined that the root cause of the apparent violation was licensee oversight. Specifically, the licensee did not recognize that the transportation case containing the portable gauge had only one physical barrier to prevent removal during periods of storage in an open bed truck. As corrective action on June 1, 2016, the licensee placed two locked cables on the transportation case to prevent removal of the case and the gauge from an open bed truck. In addition, the licensee placed two locked hasps on the door of a metal container bolted to the bed of one of its trucks to prevent removal of the case containing the gauge from the truck. The licensee also committed to stock extra cables and other security equipment for continued compliance with 10 CFR 30.34(i). In addition, the licensee committed to use stickers to remind the authorized users of the requirements in Section 30.34(i) specifically for storage of its gauges in its trucks.

The inspector identified a violation of 10 CFR 20.1101(c) involving the licensee's failure to periodically (at least annually) review the radiation protection program content and implementation. The inspector determined that the cause of the violation was that the RSO was unaware of the requirement. As corrective action, the licensee committed to complete its review of its radiation protection program content and implementation by July 1, 2016. In addition, the licensee committed to conduct future reviews of its radiation protection program content and implementation in June of each year.

The inspector also identified a violation of Condition 21 of NRC License No. 24-32199-01 involving the licensee's failure to possess and use, or have access to and use, a radiation survey meter that meets specific criteria. The inspector determined that the cause of the violation was that the RSO was unaware of the requirement. As corrective action, the licensee committed to possess and use, or have access to and use, a radiation survey meter that meets the required criteria.

REPORT DETAILS

1 Program Overview and Inspection History

IDEKER, Inc. (licensee) is authorized under U.S. Nuclear Regulatory Commission (NRC) Materials License No. 24-32199-01 to use licensed material for measuring physical properties of materials with nuclear gauging devices. Licensed material is authorized to be used at the licensee's facility in St. Joseph, Missouri and at temporary job sites of the licensee anywhere in the United States where the NRC maintains jurisdiction for regulating the use of licensed material. The licensee possessed and used two Troxler portable gauges (gauges) and two Humboldt portable gauges as authorized for measuring physical properties of materials at temporary job sites in NRC jurisdiction. The gauges contained cesium-137 and americium-241 sealed sources. The licensee had 8 authorized users (AUs), including the Radiation Safety Officer (RSO).

The licensee was last inspected by the NRC on July 8, 2010. As a result of that inspection, no violations of NRC regulatory requirements were identified. The licensee was previously inspected by the NRC on March 31, 2005, and no violations of NRC regulatory requirements were identified.

2 Portable Gauge Security

2.1 Inspection Scope

The inspector assessed how the licensee secured portable gauges at temporary job sites and at the licensee's St. Joseph facility by touring the licensee's facility, interviewing selected licensee personnel, and observing an AU demonstrate how he had secured a portable gauge at temporary job sites.

2.2 Observations and Findings

a. Gauge Security at the Licensee's St. Joseph Facility

The licensee's St. Joseph facility did not contain any gauges during the onsite inspection because the gauges were in use at temporary job sites. The inspector observed the RSO demonstrate how a gauge was secured at the licensee's St. Joseph facility. The inspector noted that the gauge was stored in a locked room, limited to authorized persons. Within the locked room, the gauge was stored in its transportation case (case) with a locked cable running through the case handles and through a steel mesh or eye bolt to prevent removal of the case containing the gauge. The gauge case lid had a padlock to prevent removal of the gauge from the case. As such, the combination of the locked room, the locked cable, and the padlocked case lid, there were two independent physical controls that formed tangible barriers to secure the portable gauge from unauthorized removal whenever portable gauges were not under the control and constant surveillance of the licensee.

b. Gauge Security at Temporary Job Sites

The inspector went to a temporary jobsite at Rosecrans Airport in St. Joseph, Missouri where a gauge was stored. The inspector observed that an authorized gauge unit was stored in a trailer. Within the trailer, the gauge was stored in a locked closet limited to authorized persons. Within the closet, the inspector observed that the case containing the gauge was secured to a closet wall using a locked cable affixed to a hasp attached to a closet wall. In addition, the inspector observed that the case lid was padlocked. As such, the combination of the locked closet, the locked cable, and the padlocked case lid, there were two independent physical controls that formed tangible barriers to secure the portable gauge from unauthorized removal whenever the gauge was not under the control and constant surveillance of the licensee.

On several occasions as of May 31, 2016, including May 4, 5, 10, 11, and 12, 2016, and the month of June 2015, the licensee padlocked both portable gauge case hasps and used only one locked cable to prevent removal of the case containing the gauge from an open bed truck at a temporary job site. In addition, the licensee padlocked both portable gauge case hasps and used a metal container that was bolted to an open bed truck to prevent removal of the case containing the gauge from the metal container; however, the door of the metal container had only one hasp that was padlocked at a temporary job site. For both situations there were times when the portable gauges were not under the control and constant surveillance of the licensee. As such, there apparently was only one physical control that formed a tangible barrier to secure the case containing the portable gauge from unauthorized removal whenever the gauge was not under the control and constant surveillance of the licensee.

10 CFR 30.34(i) states that each portable gauge licensee shall 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. The licensee's apparent failure to 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 is an apparent violation of 10 CFR 30.34(i).

The inspector determined that the root cause of the apparent violation was licensee oversight. Specifically, the licensee did not realize that the transportation case containing the portable gauge only provided one physical barrier to prevent removal from the open bed truck.

As corrective action on June 1, 2016, the licensee placed two locked cables to prevent removal of the case containing the gauge from an open bed truck. In addition, the licensee placed two locked hasps on the door of the metal container to prevent removal of the case containing the gauge from an open bed truck. The licensee also committed to stock extra cables and other security equipment for continued compliance with 10 CFR 30.34(i). In addition, the licensee committed to

use stickers to remind the AUs about using two independent physical controls that form tangible barriers to prevent removal of the case containing the gauge from an open bed truck.

2.3 Conclusions

The inspector identified an apparent violation of 10 CFR 30.34(i) involving licensee failure to secure from unauthorized removal or access licensed materials that were stored in controlled or unrestricted areas and failure to use a minimum of two independent physical controls that form tangible barriers to secure gauges from unauthorized removal when the gauges were not under the control and constant surveillance of the licensee at a temporary job site. The licensee implemented immediate and long-term corrective actions to prevent violations of 10 CFR 30.34(i).

3 **Other Areas Inspected**

3.1 Inspection Scope

The inspector reviewed other areas of the licensee's radiation protection program by reviewing selected records, interviewing selected licensee employees, and observing an AU demonstrate how he had used a portable gauge at temporary jobsites.

3.2 Observations and Findings

a. Radiation Protection Program

1. Program Review

As of the onsite inspection, the licensee had not periodically (at least annually) reviewed its radiation protection program content and implementation.

Title 10 CFR 20.1101(c) states that the licensee shall periodically (at least annually) review the radiation protection program content and implementation. The licensee's failure to periodically (at least annually) review the radiation protection program content and implementation is a violation of 10 CFR 20.1101(c).

The inspector determined that the cause of the violation was that the RSO was unaware of the requirement. As corrective action, the licensee committed to complete its review of its radiation protection program content and implementation by July 1, 2016. In addition, the licensee committed to conduct future reviews of its radiation protection program content and implementation in June of each year.

2. Survey Instrument

As of the onsite inspection, the licensee had not possessed or had access to a radiation safety meter.

Condition 21 of NRC License No. 24-32199-01, states, in part, that licensed material be possessed and used in accordance with statements, representations, and procedures contained in application dated January 18, 2010. Item 10. of application dated January 18, 2010, states, in part, that the licensee “will either possess and use, or have access to and use, a radiation survey meter that meets the Criteria in the section titled, “Radiation Safety Program – Instruments” in NUREG-1556, Vol. 1, dated November 2001.” The license’s failure to possess and use, or have access to and use, a radiation survey meter that meets the Criteria in the section titled, “Radiation Safety Program – Instruments” in NUREG-1556, Vol. 1, dated November 2001” Condition 21 of NRC License No. 24-32199-01.

The inspector determined that the cause of the violation was that the RSO was unaware of the requirement. As corrective action, the licensee committed to possess and use, or have access to and use, a radiation survey meter that meets the Criteria in the section titled, “Radiation Safety Program – Instruments” in NUREG-1556, Vol. 1, dated November 2001, by July 1, 2016. In addition, the inspector informed the RSO about the requirements in 10 CFR 20.1501(c) that requires licensees to ensure that instruments and equipment used for quantitative radiation measurements (e.g., dose rate) are calibrated periodically for the radiation measured. In addition, the inspector informed the RSO of NRC requirements for maintaining records of surveys and calibrations

The inspector used an NRC-issued, calibrated radiation survey meter to measure a maximum of 7 milliroentgens per hour at selected surfaces of a Troxler gauge. The inspector noted that his survey result was commensurate with the applicable exposure rates referenced in the Sealed Source and Device Registry document.

3. Physical Inventories

Based on a review of pertinent records and discussions with the RSO, the inspector noted that the licensee conducted physical inventories of licensed material as required.

4. Leak Tests

Based on a review of pertinent records and discussions with the RSO, the inspector noted that the licensee conducted sealed source leak tests as required.

5. Authorized User Training

Based on a review of pertinent records and observation of an AU demonstrate how he had used the gauge at temporary jobsites, the inspector noted that the AU was trained as required, including HAZMAT training.

6. Dosimetry

Based on a review of dosimeter badge records, the licensee complied with NRC regulatory requirements for occupational dose limits.

3.3 Conclusions

The inspector identified two violations involving licensee failure to: (1) periodically (at least annually) review the radiation protection program content and implementation as required by 10 CFR 20.1101(c); and (2) possess and use, or have access to and use, a radiation survey meter as required by Condition 21 of NRC License No. 24-32199-01. The licensee implemented and planned corrective actions to prevent similar violations.

4 **Exit Meeting Summary**

The NRC inspector presented preliminary inspection findings following the onsite inspection on May 31, 2016. The licensee did not identify any documents or processes reviewed by the inspector as proprietary. The licensee acknowledged the findings presented. On June 21, 2016, the inspector conducted a final exit meeting by telephone with the licensee's RSO.

LIST OF PERSONNEL CONTACTED

#^Russell Thielmann, RSO
Adam Brooks, Authorized User

Attended preliminary exit meeting on May 31, 2016
^ Participated in final telephonic exit meeting on June 21, 2016

INSPECTION PROCEDURES USED

87124: Fixed and Portable Gauge Programs