



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

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

September 27, 2016

EA-16-140

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

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

Dear Mr. Ideker:

This letter refers to the U.S. Nuclear Regulatory Commission (NRC) inspection conducted on May 31, 2016, 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 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 circumstances surrounding this apparent violation, the significance of the issue, and the need for lasting and effective corrective action were discussed with Mr. Russell Thielmann of your staff on June 21, 2016. Details regarding the apparent violation were provided in NRC Inspection Report No. 03035163/2016001(DNMS), dated July 21, 2016. The inspection report can be found in the NRC's Agencywide Documents Access and Management System (ADAMS) at Accession Number ML16204A234. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violation identified in the report by providing a written response or requesting a predecisional enforcement conference. You provided a written response to the apparent violation in a letter dated August 17, 2016.

Based on the information developed during the inspection, as well as the information you provided in your response dated August 17, 2016, 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 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 control and constant surveillance, as required by Title 10 of the *Code of Federal Regulations* (CFR) 30.34(i). Specifically, your staff did not recognize that the

transportation case containing the portable gauge had only one physical barrier to prevent removal of the transportation case containing the portable gauge during periods of storage in an open bed truck.

The root cause of the violation was a misunderstanding of the requirement. The licensee believed that the locks on the hasps of the transportation case were considered two physical barriers to prevent removal of the gauge. The licensee did not consider that there needs to be two barriers to prevent the removal of the case containing the portable gauge. The failure to use two independent physical barriers to properly secure the gauge and its case is of significance to the NRC because of the potential for unauthorized individuals to gain control of the radioactive material, which could result in its misuse or unintended exposure to a member of the public. Therefore, this violation has been categorized, in accordance with the NRC Enforcement Policy, at Severity Level III.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$7,000 is considered for a Severity Level III violation.

Because your facility has not been the subject of escalated enforcement actions within the last 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 determined that credit was warranted for *Corrective Action*. Specifically, immediate corrective actions included placing two locked cables on the transportation case to prevent removal of the case containing the gauge from an open bed truck. Additionally, two locked hasps were installed on the door of a metal container bolted to the bed of one of the trucks to prevent removal of the case containing the gauge from the truck. The RSO also trained staff on the requirement for using two barriers to prevent removal of the gauge.

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 and your written response dated August 17, 2016. Therefore, you are not required to respond to the Notice enclosed with 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.

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

K. Ideker

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electronically for public inspection in the NRC Public Document Room and in ADAMS. 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. 030-35163
License No. 24-32199-01

Enclosures:
Notice of Violation

cc: Russell Thielmann, RSO
State of Missouri

NOTICE OF VIOLATION

IDEKER, Inc.
St. Joseph, Missouri

License No. 24-32199-01
Docket No. 030-35163
EA-16-140

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on May 31, 2016, with continued in-office review through June 21, 2016 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 (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.

Contrary to the above, on several occasions, including May 31, 2016, the licensee failed 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. Specifically, the licensee only used one independent physical control, either a single chain and padlock or a single padlocked hasp on a metal container to secure portable gauges in the bed of an open-bed truck and did not provide control and constant surveillance at all times in this configuration.

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 the subject inspection report and your letter, dated August 17, 2016. 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-16-140" 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.

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, 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 27th day of September 2016.

K. Ideker

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electronically for public inspection in the NRC Public Document Room and in ADAMS. 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. 030-35163
License No. 24-32199-01

Enclosure:
Notice of Violation

cc: Russell Thielmann, RSO
State of Missouri

Distribution:
See next page

ADAMS Accession Number: ML16273A345

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DATE	09/13/16	09/14/16	09/15/16	09/26/16	09/27/16	09/27/16

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¹ OE Concurrence received by email from K. Norman on September 26, 2016

Letter to Mr. Ken Ideker from Ms. Cynthia D. Pederson dated September 27, 2016

SUBJECT: NOTICE OF VIOLATION – IDEKER, INC.; NRC SPECIAL INSPECTION REPORT
NO. 03035163/2016001(DNMS)

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