

September 7, 2006
EN 06-039

OFFICE OF ENFORCEMENT
NOTIFICATION OF SIGNIFICANT ENFORCEMENT ACTION

Licensee: Triad Engineering, Inc. (EA-06-150)
P. O. Box 889
Morgantown, WV 26505

Subject: PROPOSED IMPOSITION OF CIVIL PENALTY - \$3,250

This is to inform the Commission that a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$3,250 will be issued on or about September 12, 2006, to Triad Engineering, Inc. This action is based on a Severity Level (SL) III problem involving the loss of a portable gauge containing NRC licensed material into the public domain. On March 14, 2006, a Triad Engineering authorized user (AU) failed to block and brace a portable gauge so that it could not change position during transport, as required by 10 CFR 71.5(a) and 49 CFR 177.842(d). Specifically, the AU failed to secure a transport case containing a portable gauge to the bed of his pick-up truck and to ensure that the tailgate of the truck was properly closed. As a result, while the vehicle was in transit, the unsecured gauge fell off the licensee's truck and was, for a short period of time, left unattended on the public street in violation of 10 CFR 20.1802. Bystanders noted the loss of the case, and notified the driver that it had fallen off his truck. The driver retraced his route and retrieved the gauge. The gauge was found to be intact and undamaged, and no member of the public received a measurable radiation dose.

Since the licensee was the subject of a prior escalated enforcement action within the last two years, the NRC considered whether credit was warranted for Identification and Corrective Action for the SL III problem in accordance with the civil penalty assessment process in Section VI.C.2 of the NRC Enforcement Policy. Identification credit was not warranted since the violations were identified as a result of an event, and not because of any special self monitoring effort by the licensee. Credit for corrective actions was warranted because the licensee's corrective actions, after identification, were considered prompt and comprehensive. Therefore, the NRC is proposing imposition of the base civil penalty of \$3,250.

It should be noted that the licensee has not been specifically informed of the enforcement action. The schedule of issuance and notification is:

Mailing of Notice
Telephone Notification of Licensee

September 12, 2006
September 12, 2006

The State of West Virginia and the Commonwealth of Virginia will be notified.

The licensee has thirty days from the date of the Notice in which to respond. Following NRC evaluation of the response, the civil penalty may be remitted, mitigated, or imposed by Order.

Contacts: Sally Merchant, OE, 415-2747; David Solorio, OE, 415-0149

**PRELIMINARY INFORMATION - NOT FOR PUBLIC DISCLOSURE UNTIL
VERIFICATION THAT LICENSEE HAS RECEIVED ACTION**

Distribution

Distribution:

<u>OWFN</u>	<u>OWFN</u>	<u>TWFN</u>	<u>Regional Offices</u>
Chairman Klein	EDO	OCFO	RI RII
Comm. McGaffigan	DEDR	OP CENTER	RIII RIV
Comm. Merrifield	DEDMRS	NMSS	
Comm. Lyons	OE	OIG	
Comm. Jaczko	OGC	OIS	<u>MAIL</u>
	NRR	RES	ADAMS
SECY	NSIR	ACRS	
OCA	OI		
OPA	OSTP		
OIP			

ML062500018

OE:ES
SMerchant
09/07/06

OE:SC
DSolorio
09/07/06

**PRELIMINARY INFORMATION - NOT FOR PUBLIC DISCLOSURE UNTIL
VERIFICATION THAT LICENSEE HAS RECEIVED ACTION**