



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION I
2100 RENAISSANCE BLVD., SUITE 100
KING OF PRUSSIA, PA 19406-2713

January 26, 2017

Docket No. 03020231
EA-16-224

License No. 47-23065-01

Chad M. Riley
Principal-in-Charge
Thrasher Engineering, Inc.
600 White Oaks Boulevard
Bridgeport WV 26330

SUBJECT: THRASHER ENGINEERING, INC., NOTICE OF VIOLATION - NRC
INSPECTION REPORT NO. 03020231/2016001

Dear Mr. Riley:

This letter provides you the U.S. Nuclear Regulatory Commission's (NRC's) enforcement decision for apparent violations identified during an inspection of licensed activities conducted at Thrasher Engineering, Inc. (Thrasher), Bridgeport, WV. The inspection was conducted on September 13, 2016, at a temporary jobsite. The NRC discussed the apparent violations, described in the subject NRC inspection report, during a telephonic exit meeting with Wade Naylor, Acting Radiation Safety Officer, of your staff on November 9, 2016.

In the November 30, 2016, letter transmitting the inspection report, we provided you an opportunity to address the apparent violations being considered for escalated enforcement by either attending a pre-decisional enforcement conference (PEC) or by providing a written response before we made our final enforcement decision. In the letter, we also informed you that we had sufficient information regarding the apparent violations and Thrasher's corrective actions to make an enforcement decision without the need for a PEC. In a telephone call on December 8, 2016, you informed Mr. Blake Welling, Chief, Commercial, Industrial, R&D, and Academic Branch that Thrasher did not request a PEC, and would provide a written response clarifying the cause of the non-escalated violation.

Based on the information developed during the inspection, the NRC has determined that three violations of NRC requirements occurred. These violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in detail in the subject inspection report. The two violations considered for escalated enforcement involved Thrasher's failures to: (1) control and maintain constant surveillance of the gauge containing the radioactive sources; and (2) use two independent physical controls that form tangible barriers to secure the gauge from unauthorized removal. Specifically, a portable gauge containing licensed material in an amount exceeding the quantities in 10 CFR Part 20, Appendix C was stored in a company vehicle while the keys to the truck and the padlocks on the transport case

containing the portable gauge were visible from outside the vehicle, compromising the two barriers. Additionally, the authorized user was approximately 40 feet away from the vehicle and was focused on a conversation with another individual and the work being conducted in a trench which was located between the AU and the vehicle. Therefore, the AU did not maintain constant surveillance of the portable gauge. The failure to control and maintain constant surveillance of a portable gauge and to use two independent physical controls that form tangible barriers to secure the portable gauge from unauthorized removal is of significant concern to the NRC. The potential existed for the portable gauge to be stolen and to cause significant radiation exposure to the general public. However, in this specific case, the likelihood of exposure to the general public was limited because the gauge was left unattended for only a short period of time.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$14,000 is considered for a SL III violation. Because your facility has not been the subject of escalated enforcement action within either the last two years or the two most recent 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 has concluded that credit is warranted for Thrasher's corrective actions. Specifically, Thrasher: (1) immediately took possession of the keys to the gauge and locked the vehicle; and (2) provided mandatory training to authorized users on the procedures for storing portable gauges away from the main storage location in Clarksburg, WV. Therefore, to encourage prompt and comprehensive correction of violations of NRC requirements, 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. Issuance of this SL III violation constitutes an escalated enforcement action that may subject you to increased inspection effort.

An additional violation, also documented in the Notice, has been categorized in accordance with the NRC Enforcement Policy at SL IV. This violation involved the failure to submit a written report as required by 10 CFR 20.2201(b) within 30 days after making a telephone report required by 10 CFR 20.2201(a). Specifically, Thrasher made a telephone report of an incident involving a stolen portable density gauge, but did not submit the written report within 30 days of the telephone report. The circumstances surrounding this additional violation are documented in detail in the Notice as well as in the aforementioned inspection report. The additional violation is being cited because it was identified by the NRC.


The NRC has concluded that information regarding: (1) the reason for the violations; (2) the actions planned or already taken to correct the violations and prevent recurrence; and, (3) the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 03020231/2016001. 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 of Violation.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response, if you choose to provide one, should not include any personal privacy, proprietary, or safeguards

information so that it can be made available to the Public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such information, you must specifically identify the portions of your response that you seek to have withheld, and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information).

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

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel H. Dorman", with a stylized flourish at the end.

Daniel H. Dorman
Regional Administrator

Enclosure:
Notice of Violation

cc w/enclosure: Wade Naylor, Acting Radiation Safety Officer
State of West Virginia

NOTICE OF VIOLATION

Thrasher Engineering, Inc.
Bridgeport, WV 26330

Docket No. 03020231
License No. 47-23065-01
EA-16-224

During an NRC inspection conducted on September 13, 2016, with continued in-office review through November 9, 2016, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

A. ESCALATED VIOLATION

10 CFR 20.1802 requires that the licensee shall control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage.

10 CFR 30.34(i) requires 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 September 13, 2016, Thrasher Engineering, Inc. (Thrasher) did not control and maintain constant surveillance of licensed material, a portable gauge, that was in an unrestricted area and that was not in storage, and did not use a minimum of two independent physical controls that formed tangible barriers to secure the gauge from unauthorized removal. Specifically, an authorized gauge user left a portable nuclear moisture density gauge containing licensed material in the bed of a pickup truck, and left the keys to the vehicle, vehicle camper top, and transport case inside the cab of the vehicle while the cab was unlocked. The authorized user was observed to be approximately 40 feet from the vehicle which was screened from sight by trees, was engaged in conversation with another construction worker, and focused on work activities away from the vehicle containing the gauge.

This is a Severity Level III violation (Enforcement Policy Sections 6.3 and 6.7)

B. NON-ESCALATED VIOLATION

10 CFR 20.2201(b), requires, in part, that each licensee required to make a report under paragraph (a) of this section shall, within 30 days after making the telephone report, make a written report setting forth the information required by this regulation.

Contrary to the above, as of November 9, 2016, Thrasher was required to make a report under paragraph (a) of 10 CFR 20.2201, but did not, within 30 days after making the telephone report, make a written report setting forth the information required by 10 CFR 20.2201(b). Specifically, the licensee made a telephone report on September 10, 2016, of an incident involving a stolen portable moisture/density gauge but did not submit a written report as of November 9, 2016, a period greater than 30 days.

This is a Severity Level IV violation (Enforcement Policy Section 6.9)

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 Inspection Report No. 03020231/2016001. 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-16-224)" 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, U.S., Nuclear Regulatory Commission, Region I, 2100 Renaissance Boulevard, King of Prussia, PA 19406, within 30 days of the date of the letter transmitting this Notice of Violation.

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, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

Dated this 26th day of January, 2017