

August 2, 2006

EA-06-167
NMED No. 060234

Glenn D. Mroz, President
Michigan Technological University
500A Administration Building
1400 Townsend Drive
Houghton, Michigan 49931-1295

SUBJECT: NRC SPECIAL INSPECTION REPORT NO. 070-00277/06-001 AND NOTICE
OF VIOLATION - MICHIGAN TECHNOLOGICAL UNIVERSITY

Dear Mr. Mroz:

This refers to the special inspection conducted on June 7, 2006, at the Michigan Technological University facility in Houghton, Michigan. The purpose of the inspection was to follow up on the loss of licensed material reported to the NRC in an April 24, 2006 letter.

Based on the results of this inspection, the NRC has determined that two Severity Level IV violations of NRC requirements occurred. These violations were evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Enforcement Policy**. The violations are cited in the enclosed Notice of Violation (Notice). The violations involve the failure to secure licensed material from unauthorized access or use and the failure to conduct a physical inventory of licensed material every six months. Specifically, in 1977 a student requested permission to view a fuel plate, containing licensed material, under an electron microscope. The student subsequently returned the sealed envelope that had contained the fuel plate to the storage location after use. On March 16, 2006, the envelope was opened and the fuel plate was not found in the envelope. Your staff investigated the loss of licensed material and determined that the material was not placed in the envelope prior to returning the envelope to storage and was most likely disposed in a landfill. Corrective actions including conducting a physical inventory of all licensed material and requiring that future inventories include a visual observation and counting of each item in the inventory.

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 is already adequately addressed on the docket in Dr. Allen Niemi's letter to the NRC, dated April 24, 2006. 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.

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 Web site 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 available to the Public without redaction.

Sincerely,

/Darrel G. Wiedeman acting for RA/
John R. Madera, Chief
Materials Inspection Branch

Docket No. 070-00277
License No. SNM-256

cc: Dr. Allen N. Niemi, Director, OSHS
Dr. Donald A. Daavittila, Radiation Safety Officer

Enclosure:
1. Notice of Violation

Letter to Glen D. Mroz from John R. Madera dated August 2, 2006

SUBJECT: NRC SPECIAL INSPECTION REPORT NO. 070-00277/06-001 AND NOTICE OF VIOLATION - MICHIGAN TECHNOLOGICAL UNIVERSITY

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NOTICE OF VIOLATION

Michigan Technological University
Houghton, Michigan

Docket No. 070-00277
License No. SNM-256
EA-06-167

During an NRC special inspection conducted on June 7, 2006, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

1. 10 CFR 20.207(a), superceded by 10 CFR 20.1801 on June 20, 1991, requires that the licensee secure from unauthorized removal or access, licensed materials that are stored in controlled or unrestricted areas. 10 CFR 20.207(b), superceded by 10 CFR 20.1802 on June 20, 1991, requires that the licensee control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage. As defined in 10 CFR 20.1003, controlled area means an area, outside of a restricted area but inside the side boundary, access to which can be limited by the licensee for any reason; and unrestricted area means an area, access to which is neither limited nor controlled by the licensee.

Contrary to the above, as of 1977, the licensee did not secure from unauthorized removal or limit access to approximately 0.4 microcuries of U-235 and 0.3 microcuries of U-238 in an argonaut type fuel plate located in the scanning electron microscopy facility, which is an unrestricted area, nor did the licensee control and maintain constant surveillance of this licensed material.

This is a Severity Level IV violation (Supplement IV)

2. Condition 13 of License No. SNM-256 requires that the licensee conduct a physical inventory every 6 months to account for all sources and/or devices received and possessed under the license.

Contrary to the above, from 1977 to April 2006, the licensee failed to conduct a physical inventory every 6 months to account for all sources possessed under the license. Specifically, the licensee did not account for a piece of argonaut type fuel plate, containing approximately 0.4 microcuries of U-235 and 0.3 microcuries of U-238, that was identified as missing on March 16, 2006, from the licensee's storage facility.

This is a Severity Level IV violation (Supplement VI).

The NRC has concluded that information regarding the reason for the violations, 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 a letter from the licensee, dated April 24, 2006. 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-06-167" and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy

Enclosure 1

to the Regional Administrator, Region III within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

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 from the NRC's document 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.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 2nd day of August 2006