

February 20, 2007
EN 07-009

OFFICE OF ENFORCEMENT
NOTIFICATION OF SIGNIFICANT ENFORCEMENT ACTION

Licensee: Universal Testing, LLC (EA-06-259)
Clearfield, Utah 84015

Subject: PROPOSED IMPOSITION OF CIVIL PENALTY - \$6,500

This is to inform the Commission that a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$6,500 will be issued on or about February 23, 2007, to Universal Testing, LLC. This action is based on a Severity Level (SL) III violation involving the failure to secure from unauthorized removal or access licensed material that was stored in an unrestricted area. This occurred on February 18, 2006, when a radiographer was transporting a radiography exposure device and stopped at a local bar in Casper, Wyoming. The device was left unattended and unsecured in the open bed of a pickup truck for about 1 ½ hours while the radiographer was inside the bar. Later that evening, the radiographer was involved in a traffic accident, resulting in his arrest and the impoundment of the pickup truck (with the unsecured radiography source in the bed of the truck) by the Wyoming State Police. The radiographer informed the Wyoming State Police about the radioactive source and requested that the truck be locked inside a garage at the impound yard.

The NRC considered whether credit was warranted for Identification and Corrective Action for the willful SL III violation in accordance with the civil penalty assessment process in Section VI.C.2 of the Nuclear Regulatory Commission (NRC) Enforcement Policy. Identification credit was not warranted since the violations were identified by the NRC. Credit was warranted for corrective action based on the actions taken by the licensee to prevent recurrence. Therefore, to emphasize the importance of compliance with NRC regulations, the NRC proposes imposition of a Civil Penalty in the base amount of \$6,500 for a SL III violation.

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	February 23, 2007
Telephone Notification of Licensee	February 23, 2007

The States of Utah and Wyoming 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**

Electronic Distribution: EN-07-009, February 20, 2007

<u>OWFN</u>	<u>OWFN</u>	<u>TWFN</u>	<u>Regional Offices</u>
Chairman Klein	DO	OCFO	RI RII
Comm. McGaffigan	DEDR	OP CENTER	RIII RIV
Comm. Merrifield	DEDMRS	NMSS	
Comm. Jaczko	OE	OIG	
Comm. Lyons	OGC	OCIO	<u>MAIL</u>
SECY	NRR	RES	ADAMS
OCA	NSIR	ACRS	OE staff
PA	OI		
IP	STP		

DISTRIBUTION: (Hard copy)

C. Carpenter
M. Fahey
S. Merchant
D. Solorio
D. Starkey
OE r/f
EA-06-259 File
EN Binder

ML070510672

OE:ES
SMerchant
02/20/07

OE:SC
DSolorio
02/20/07