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**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**

Region III  
2443 Warrenville Road, Suite 210  
Lisle IL 60532-4352

August 21, 2012

EA-12-119

Ms. Lori A. Fobes, Laboratory Manager  
Consumers Energy Company  
One Energy Plaza  
Jackson, MI 49201-2276

**SUBJECT: NOTICE OF VIOLATION – CONSUMERS ENERGY COMPANY  
NRC ROUTINE INSPECTION REPORT NO. 03004868/2012001(DNMS)**

Dear Ms. Fobes:

This refers to the inspection conducted on May 3, with continuing in-office review through June 7, 2012, at the Consumers Energy facility in Jackson, Michigan. The purpose of the inspection was to review licensed activities to ensure that they were being performed in accordance with NRC requirements. During the inspection, an apparent violation of NRC requirements was identified. The significance of the issue and the need for lasting and effective corrective actions were discussed with you at the inspection exit meeting on June 7, 2012. Details regarding the apparent violation were provided in NRC Inspection Report No. 03004868/2012001(DNMS) dated July 5, 2012.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violation identified in the report by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In a letter dated August 1, 2012, you provided a response to the apparent violation.

Based on the information developed during the inspection, as documented in the inspection report, and the information that you provided in your letter dated August 1, 2012, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the Notice of Violation (Notice) in Enclosure 1 (non-public) and the circumstances surrounding it are described in detail in our inspection report dated July 5, 2012.

The enclosures contain Sensitive  
Unclassified Non-Safeguards Information.  
Upon separation, this cover letter is  
decontrolled.

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L. Fobes

-2-

The violation is of concern to the NRC for the reasons stated in Enclosure 2 (non-public). Therefore, the violation has been categorized, in accordance with the NRC Enforcement Policy, as a Severity Level III violation. In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$3500 is normally considered for a Severity Level III violation. Because your facility has not been the subject of escalated enforcement actions within the last two years, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process described in Section 2.3.4 of the Enforcement Policy. In NRC Inspection Report No. 03004868/2012001(DNMS), the NRC described its understanding of the corrective actions taken to correct the violation. In your August 1, 2012, response and in your supplemental electronic mail message of August 6, 2012, you confirmed the corrective actions taken to correct the violation. Based on these corrective actions, the NRC has determined that *Corrective Action* credit is warranted, as described in Enclosure 2.

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 the reason for the violation, the corrective actions taken and planned to correct the violation, and the date when full compliance was achieved, was adequately addressed on the docket in NRC Inspection Report No. 03004868/2012001(DNMS) dated July 5, 2012, and in your responses dated August 1 and 6, 2012. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective action or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice. Additionally, if you choose to respond, please mark your entire response "Security-Related Information – Withhold from Public Disclosure under 10 CFR 2.390." In accordance with Title 10 of the Code of Federal Regulations (10 CFR) 2.390(b)(1)(ii), the NRC is waiving the affidavit requirements for any response to this letter. However, to the extent possible, your response, if any, should not include any personal privacy, proprietary, or safeguards information.

The NRC has also reviewed the corrective actions that your company has taken or plans to take to address the two Severity Level IV violations cited in the NRC's Notice of Violation dated July 5, 2012. Mr. Bill Lin of the NRC contacted your radiation safety officer, Mr. John Merrill, on August 9, 2012, to discuss your response to Violation A. The NRC has reviewed the corrective actions, which appear to be adequate, and has no further questions at this time. The actions Consumers Energy has taken and plans to take to address the violations will be examined during a future inspection.

L. Fobes

-3-

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be made available electronically for public inspection in the NRC Public Document Room or from 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>. However, because of the Security-Related Information contained in the enclosures, and in accordance with 10 CFR 2.390, copies of the enclosures will not be available for public inspection.

Additionally, the enclosures must be protected from unauthorized disclosure. Security-Related Information is discussed in Regulatory Information Summary RIS-2005-031, "Control of Security-Related Sensitive Unclassified Non-Safeguards Information" (ML053480073), which is available on the NRC Web site or in ADAMS.

Sincerely,

*/RA/*

Charles A. Casto  
Regional Administrator

Docket No. 030-04868  
License No. 21-08606-03

Enclosures:

1. Notice of Violation (Non-Public)
2. Final Determination of Significance (Non-Public)

cc w/encls: John Merrill, Radiation Safety Officer  
State of Michigan

L. Fobes

-4-

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Charles A. Casto  
Regional Administrator

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cc w/encls: John Merrill, Radiation Safety Officer  
State of Michigan

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See Previous Concurrences

FILE NAME: G:\ORAI\IICS\ENFORCEMENT\Cases\Enforcement Cases 2012\EA-12-119 Consumers Energy IC\EA-12-119 Consumers Energy draft Final Action.docx

OFFICE	RIII	RIII	RIII	D:OE	RIII	RIII
NAME	Lougheed	McCraw for Bloomer	Boland	Zimmerman <sup>1</sup>	Orth	Casto
DATE	08/08/12	08/08/12	08/08/12	08/16/12	08/20/12	08/21/12

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1 OE concurrence received via e-mail from S. Woods on August 16, 2012.

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Letter to Lori A. Fobes from Charles A. Casto dated August 21, 2012

SUBJECT: NOTICE OF VIOLATION – CONSUMERS ENERGY  
NRC ROUTINE INSPECTION REPORT NO. 03004868/2012-001(DNMS)

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