

August 29, 2012

EA-12-166

Mr. Dennis Kehoe, M.S.
Radiation Safety Officer
MidMichigan Medical Center
4005 Orchard Drive
Midland, MI 48670

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 03002013/2012001(DNMS) AND
NOTICE OF VIOLATION – MIDMICHIGAN MEDICAL CENTER

Dear Mr. Kehoe:

On July 11 and 12, 2012, with continuing in-office review through August 9, 2012, the U.S. Nuclear Regulatory Commission (NRC) conducted a routine inspection of your facilities located in Midland, Clare, and Saginaw, Michigan. The purpose of the inspection was to determine whether activities authorized under your license were conducted safely and in accordance with NRC requirements. The in-office review included detailed evaluation of the information provided and the overall determination of the circumstances and significance of the issue identified during the inspection. The enclosed report presents the results of this inspection.

During this inspection, the NRC staff examined activities conducted under your license as they relate to public health and safety, compliance with the Commission's rules and regulations, and compliance with the conditions of your license. Within these areas, the inspection consisted of selected examination of procedures and representative records, observations of activities, and interviews with personnel.

Based on the results of this inspection, an apparent violation was identified and is being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The apparent violation is security related and is described in the enclosed, non-public, inspection report. Since the NRC has not made a final determination in this matter, no Notice of Violation is being issued for this inspection finding at this time. The circumstances surrounding this apparent violation, the significance of the issues, and the need for lasting and effective corrective action were discussed with you at the telephonic inspection exit meeting on August 9, 2012.

Enclosures Contain Sensitive Unclassified Non-Safeguards Information. When separated from enclosures, this transmittal letter is decontrolled.

D. Kehoe

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Before the NRC makes its enforcement decision, we are providing you an opportunity to either: (1) respond to the apparent violation addressed in this inspection report within 30 days of the date of this letter; or (2) request a Predecisional Enforcement Conference (PEC). If a PEC is held, the NRC will issue a press release to announce the time and date of the conference; however, it will be closed to public observation since Security Related Information will be discussed. Please contact Tamara Bloomer at 630-829-9627 within ten days of the date of this letter concerning your choice of response. A PEC should be held within 30 days of the date of this letter.

If you choose to provide a written response, it should be clearly marked as "Response to the Apparent Violation in Inspection Report No. 03002013/2012001(DNMS); EA-12-166," and should include, for the apparent violation: (1) the reason for the apparent violation, or, if contested, the basis for disputing the apparent violation; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken to avoid further violations; and (4) the date when full compliance will be achieved. In presenting your corrective actions, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violation.

Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a PEC.

If you choose to request a PEC, the PEC will afford you the opportunity to provide your perspective on the apparent violation and any other information that you believe the NRC should take into consideration before making an enforcement decision. The topics discussed during the conference may include the following: information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned to be taken.

As your facility has not been the subject of escalated enforcement actions within the last two years or two inspections, a civil penalty may not be warranted in accordance with Section 2.3.4 of the Enforcement Policy. In addition, based upon NRC's understanding of the facts and your corrective actions, it may not be necessary to conduct a PEC in order to enable the NRC to make a final enforcement decision. However, our final decision will be based on your confirming on the license docket that the corrective actions previously described to the staff have been or are being taken.

In addition, please be advised that the number and characterization of apparent violations described in the enclosed inspection report may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

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Based on the results of this inspection, the NRC has also determined that two Severity Level IV violations of NRC requirements occurred. The violations were evaluated in accordance with the NRC Enforcement Policy. The first violation is security related and is described in the attached inspection report.

The second violation concerned the failure to notify the NRC within 30 days after two authorized users began acting as temporary radiation safety officers on May 17, 2012, as required by Title 10 of the Code of Federal Regulations (CFR) 35.14(b)(2). The root cause of the violation was that you were unaware of the requirement to notify the NRC in this case. As corrective action, you provided written notification to the NRC of the temporary appointment on July 12, 2012.

The 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 violations are being cited in the Notice because they were identified by the NRC inspector.

The NRC has concluded that information regarding the reason for the Severity Level IV violations, the corrective actions taken and planned to be taken to correct the violations and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in NRC Inspection Report No. 03002013/2012001(DNMS), enclosed. Therefore, you are not required to respond to this letter concerning the violations cited in the Notice 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.

Two violations were cited as a result of inspections conducted in April 2008 and April 2010 concerning your high dose rate remote afterloader brachytherapy system. The inspector determined that corrective actions had been completed as described and that the violations had not recurred. Based on this, the violations are closed.

The enclosures to this letter contain Security Related Information, therefore, disclosure to unauthorized individuals could present a security vulnerability. Therefore, the material will not 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). The enclosures to this letter must be protected from unauthorized disclosure in accordance with Section IC-6 of Attachment B, to NRC Order EA 05-090.

D. Kehoe

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We will gladly discuss any questions you have concerning this inspection.

Sincerely,

/RA/

Anne T. Boland, Director
Division of Nuclear Materials Safety

Docket No. 030-02013
License No. 21-01549-02

Enclosures:

1. Notice of Violation (non-public)
2. Inspection Report No. 03002013/2012001(DNMS)
(non-public)

cc w/encls: State of Michigan

cc w/o encls: Diane Nold, Vice President

D. Kehoe

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Sincerely,

/RA/

Anne T. Boland, Director
Division of Nuclear Materials Safety

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