



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

Region III
2443 Warrenville Road, Suite 210
Lisle IL 60532-4352
January 7, 2014

EA-13-155

Mr. Terrance G. Alexander
Executive Director of Occupational Safety
and Environmental Health
The Regents of the University of Michigan
Radiation Safety Service
1239 Kipke Drive
Ann Arbor, Michigan 48109-1010

**SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY –
\$3,500 – THE REGENTS OF THE UNIVERSITY OF MICHIGAN RADIATION
SAFETY SERVICE; NRC ROUTINE INSPECTION REPORT
NO. 03001988/2013001(DNMS)**

This refers to the inspection conducted on June 24 through 28, 2013, at your Ann Arbor, Michigan, facility with continued in-office review through September 20, 2013. During the inspection, the NRC identified apparent security violations of its requirements. The significance of the issues and the need for lasting and effective corrective actions were discussed with you during exit meetings on August 13, September 9, and September 24, 2013. Details regarding the apparent violations were provided in NRC Inspection Report No. 03001988/2013001(DNMS) dated October 4, 2013.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violations identified in the report in one of three ways: (1) by providing a written response; (2) by requesting a predecisional enforcement conference; or (3) by attending an alternative dispute resolution (ADR) session. In a letter dated November 8, 2013, you provided a written response to the apparent violations. You supplemented your response on December 3, 2013.

Based on the information developed during the inspection, the information that you provided in your response dated November 8, 2013, and your supplemental response on December 3, 2013, the NRC has determined that violations of NRC requirements occurred. The violations are cited in the Notice of Violation (Notice) in Enclosure 1 (Non-Public) and the circumstances surrounding them are described in detail in our inspection report dated October 4, 2013.

The violations are of concern to the NRC for the reasons stated in Enclosure 2 (Non-Public). Therefore, the violations have been categorized, in accordance with the NRC Enforcement Policy, as Severity Level III violations.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$3,500 is normally considered for each Severity Level III violation.

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

T. Anderson

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Because your facility has been the subject of escalated enforcement actions within the last two years¹, the NRC considered whether credit was warranted for *Identification and Corrective Action* in accordance with the civil penalty assessment process described in Section 2.3.4 of the Enforcement Policy. The Significance Discussion and Civil Penalty Assessment Determination in Enclosure 2 (Non-Public) contains NRC's assessment of the civil penalty factors, including our understanding of the corrective actions you have taken or that will be taken. This assessment resulted in a proposed civil penalty of \$3,500.

If you disagree with this enforcement sanction, you may deny the violation, as described in the Notice, or you may request ADR with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflict outside of court using a neutral third party. The technique that the NRC has decided to employ is mediation. In mediation, a neutral mediator with no decision-making authority helps parties clarify issues, explore settlement options, and evaluate how best to advance their respective interests. The mediator's responsibility is to assist the parties in reaching an agreement. However, the mediator has no authority to impose a resolution upon the parties. Mediation is a confidential and voluntary process. If the parties to the ADR process agree to use ADR, they select a mutually agreeable neutral mediator and share equally the cost of the mediator's services. Additional information concerning the NRC's ADR program can be found at <http://www.internal.nrc.gov/OE/ADR/post-invest-adr-home.html>.

The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as an intake neutral. Intake neutrals perform several functions, including: assisting parties in determining ADR potential for their case, advising parties regarding the ADR process, aiding the parties in selecting an appropriate mediator, explaining the extent of confidentiality, and providing other logistic assistance as necessary. If you are interested in pursuing this issue through the ADR program, within ten days of the date of this letter, please contact: (1) the ICR at 877-733-9415; and (2) Mr. Steven Orth, Enforcement Officer at 630-810-4370. You may also contact both ICR and Mr. Orth for additional information.

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations, and the date when full compliance was achieved, was adequately addressed on the docket in NRC Inspection Report No. 03001988/2013001(DNMS) dated October 4, 2013, in your response dated November 8, 2013, and your supplemental response on December 3, 2013. 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.

¹ On January 6, 2012, the NRC issued a Severity Level III violation for a violation of Title 10 of the Code of Federal Regulations (10 CFR) 35.41(a) and 35.41(b)(2) identified during an March 2011 inspection at your facility (EA-11-228).

T. Anderson

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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 by A. Boland for/

Cynthia D. Pederson
Regional Administrator

Docket No. 030-01988
License No. 21-00215-04

Enclosures:

1. Notice of Violation and Proposed Imposition of Civil Penalty (Non-Public)
2. Significance Discussion and Civil Penalty Assessment (Non-Public)
3. NUREG/BR-0254, "Payment Methods"

cc w/encls: State of Michigan
Mark L. Driscoll
Radiation Safety Officer

T. Alexander

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cc w/encls: State of Michigan
Mark L. Driscoll
Radiation Safety Officer

See Previous Concurrence

FILE NAME: G:\ORAI\IEICS\ENFORCEMENT\Cases\Enforcement Cases 2013\EA-13-155 University of Michigan IC\EA-13-155 University of Michigan draft Final Action.docx

OFFICE	RIII	RIII	RIII	RIII	
NAME	Lougheed	McCraw	Louden Stone	Heck	
DATE	12/16/13	12/16/13	12/16/13	12/16/13	
OFFICE	D:FSME	D:OGC	D:OE	RIII	RIII
NAME	Holian ¹ Sun	Scott ² Lemoncelli	Zimmerman ³ Day	Orth	Pederson
DATE	12/18/13	12/31/13	12/31/13	1/07/14	1/07/14

OFFICIAL RECORD COPY

1 FSME concurrence received via email from R. Sun and K. Day on December 31, 2013.
 2 OGC No legal objection received via email from M. Lemoncelli on December 31, 2013.
 3 OE concurrence received via email from K. Day on December 31, 2013.

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Letter to Terrance G. Alexander from Cynthia D. Pederson dated January 7, 2014

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