



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**

REGION III  
2443 WARRENVILLE ROAD, SUITE 210  
LISLE, IL 60532-4352

December 19, 2011

EA-11-219

Ms. Carolyn R. Mahoney  
President  
Lincoln University of Missouri  
820 Chestnut Street  
Jefferson City, Missouri 65101

SUBJECT: NOTICE OF VIOLATION – LINCOLN UNIVERSITY OF MISSOURI;  
NRC INSPECTION REPORT NO. 03010534/2011001 (DNMS)

Dear Ms. Mahoney:

This letter refers to a U.S. Nuclear Regulatory Commission (NRC) routine inspection conducted on August 23, 2011, at your facility located in Jefferson City, Missouri, with continued in-office review through September 16, 2011. The purpose of the inspection was to determine whether activities authorized under your license were conducted safely and in accordance with NRC requirements. During the inspection, apparent violations of NRC requirements were identified. The significance of the issues, and the need for lasting and effective corrective actions were discussed with you at the final inspection exit meeting on September 16, 2011. Details regarding the apparent violations were provided in NRC Inspection Report No. 03010534/2011001(DNMS) dated October 14, 2011.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violations identified in the report by either attending a Predecisional Enforcement Conference or by providing a written response before we made an enforcement decision. In a letter dated November 11, 2011, and in an electronic mail message dated December 6, 2011, from your Hazardous Materials Compliance Officer, you provided responses to the apparent violations.

Based on the information developed during the inspection, and the information provided in your responses, the NRC has determined that violations of NRC requirements occurred. 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 involved the failure to appoint a new Radiation Safety Officer (RSO) after the person named on your NRC license left your employment. Since you did not have an RSO, leak tests and physical inventories also required by your NRC license were not performed, records of disposal and receipt of radioactive materials were not maintained, and required notifications to the NRC associated with licensed activities were not made.

The root cause of the violations was inadequate oversight of the radioactive materials program by licensee management. The failure to: (1) appoint a new Radiation Safety Officer (RSO) after the person named on your NRC license left your employment; (2) perform leak tests and physical inventories; and (3) maintain records of disposal and receipt of radioactive materials is of concern to the NRC because it could have resulted in unauthorized usage or removal of licensed material, resulting in unintended exposure to members of the public. In addition, the failure to make required notifications to the NRC impacts the agency's ability to perform its regulatory oversight functions. Therefore, the violations have been categorized in accordance with the NRC Enforcement Policy as a Severity Level III problem.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$3500 is considered for a Severity Level III problem. Because your facility has not been the subject of an escalated enforcement action within the last two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. Credit was warranted for your corrective actions which included, but were not limited to: (1) appointing a new RSO, amending your NRC license, and developing procedures to ensure that planned and unexpected changes in the RSO designation are performed in a timely manner; (2) reinforcing NRC requirements with your staff, including the need to notify the NRC if principle activities have ceased; (3) conducting a physical inventory of nuclear material onsite; (4) disposing of all current nuclear material; and (5) developing and revising procedures and your Radiation Program Manual to ensure that records are maintained and that proper leak checks and physical inventories are performed.

Therefore, in recognition of the absence of previous escalated enforcement action, and to encourage prompt and comprehensive correction of violations, 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 problem constitutes escalated enforcement action, which may subject you to increased inspection effort.

The NRC has concluded that information regarding the reasons for the 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. 03010534/2011001(DNMS) and in your response dated November 11 and December 6, 2011. 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 Title 10 of the Code of Federal Regulations (10 CFR) 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if any, will be made available electronically for public inspection in the NRC Public Document Room

C. Mahoney

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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>. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

Sincerely,

***/RA by Jennifer Uhle for/***

Cynthia D. Pederson  
Acting Regional Administrator

Docket No. 030-10534  
License No. 24-16097-01

Enclosure:  
Notice of Violation

cc w/encl: State of Missouri

## NOTICE OF VIOLATION

Lincoln University of Missouri  
Jefferson City, Missouri

Docket No. 030-10534  
License No. 24-16097-01  
EA-11-219

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on August 23, 2011, with continued in-office review through September 16, 2011, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. Condition 12 of Amendment No. 11 NRC License No. 24-16097-01, effective between January 9, 2009, and August 18, 2011, identified a specifically-named individual as the Radiation Safety Officer (RSO) for the activities authorized by the license.

Contrary to the above, between May 2009 and August 18, 2011, the licensee failed to ensure that the individual named on the NRC license fulfilled the responsibilities of the RSO. Specifically, the individual named on the license left the licensee's employment in May 2009, and the licensee failed to have an RSO approved by the NRC until August 18, 2011.

- B. Condition 17 of NRC License No. 24-16097-01 requires, in part, the licensee to 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, the licensee failed to conduct a physical inventory to account for all sources and/or devices received and possessed under the license between May 2009 and August 8, 2011, a period longer than 6 months.

- C. Title 10 of the Code of Federal Regulations (10 CFR) 30.36(d) requires, in part, that licensees provide notification to the NRC in writing within 60 days if no principal activities under the license have been conducted for a period of 24 months.

Contrary to the above, as of August 23, 2011, the licensee failed to notify the NRC in writing within 60 days of no longer conducting principal activities under the license for a period of 24 months. Specifically, principal activities under the license had not been conducted since May 2009, and the licensee did not provide the required written notification to the NRC.

- D. Condition 23 of NRC License No. 24-16097-01 requires, in part, that the licensee conduct its program in accordance with the statements, representations, and procedures contained in the Application dated September 18, 2001.

Item 10.3 entitled "Material Receipt and Accountability" of the Application dated September 18, 2001, requires, in part, that "records of receipt of radioactive materials will be maintained for as long as the material is possessed or for 3 years following the transfer or disposal of the radioactive material," and "disposal records will be maintained until termination of the NRC license."

Enclosure

Contrary to the above, as of August 23, 2011, the licensee failed to maintain records of receipt of radioactive materials for as long as the material was possessed and failed to maintain disposal records until termination of the NRC license. Specifically, the licensee disposed of records of receipt of radioactive materials and disposal records in May 2009.

- E. Ten CFR 31.5(c) requires, in part, that any person who acquires, receives, possesses, uses or transfers byproduct material in a device pursuant to the general license provided in 10 CFR 31.5(a) comply with the requirements in 10 CFR 31.5(c). Ten CFR 31.5(c)(2) requires, in part, that the device is tested for leakage of radioactive material at no longer than 6 month intervals or at such other intervals as are specified in the label. Ten CFR 31.5(c)(15) requires, in part, that devices, that are not in use, not be held for longer than two years, and that devices kept in standby for future use are excluded from the two-year time limit, if the general licensee performs quarterly physical inventories of these devices while they are in standby.

Contrary to the above, as of August 23, 2011, the licensee failed to comply with the applicable requirements for devices pursuant to the general license provided in 10 CFR 31.5(a). Specifically: (1) the licensee failed to leak test three electron capture detectors each containing approximately 10 or 15 millicuries of nickel-63 between at least May 2009 and August 23, 2011, an interval that is longer than 6 months; and (2) the licensee held in storage two electron capture detectors each containing approximately 15 millicuries of nickel-63 between at least May 2009 and August 23, 2011, an interval that is longer than 2 years, and did not conduct quarterly physical inventories of these devices.

This is a Severity Level III problem (Section 6.3).

The NRC has concluded that information regarding the reasons for the 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. 03010534/2011001(DNMS), in your letter dated November 11, 2011, and in an electronic mail message dated December 6, 2011, from your Hazardous Materials Compliance Officer.

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-11-219," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator, Region III, 2443 Warrenville Road, Suite 210, Lisle, IL 60532, 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, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Enclosure

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 Agencywide Documents Access and Management 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 of receipt.

Dated this 19<sup>th</sup> day of December 2011

C. Mahoney

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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>. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

Sincerely,

**/RA by Jennifer Uhle for/**

Cynthia D. Pederson  
Acting Regional Administrator

Docket No. 030-10534  
License No. 24-16097-01

Enclosure: Notice of Violation

cc w/encl: State of Missouri

DISTRIBUTION:  
See next page

\*See previous concurrence

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OFFICE	RIII	RIII	RIII	OE	RIII	RIII
NAME	Lougheed*	McCraw for Bloomer*	Louden for Boland*	Day for Zimmerman <sup>1</sup>	Orth	Uhle for Pederson
DATE	12/01/11	12/01/11	12/02/11	12/15/11	12/15/11	12/19/11

**OFFICIAL RECORD COPY**

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<sup>1</sup> OE concurrence received via e-mail from K. Day on December 15, 2011.

Letter to Carolyn R. Mahoney from Cynthia D. Pederson dated December 19, 2011

SUBJECT: NOTICE OF VIOLATION – LINCOLN UNIVERSITY OF MISSOURI;  
NRC INSPECTION REPORT NO. 03010534/2011001(DNMS)

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