

November 3, 2014
EN 14-043

OFFICE OF ENFORCEMENT
NOTIFICATION OF SIGNIFICANT ENFORCEMENT ACTION

Licensee: Bradley D. Bastow, D. O.
South Haven, MI

EA-14-116

Subject: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL
PENALTY - \$7,000

This is to inform the Commission that a Notice of Violation and Proposed Imposition of a Civil Penalty (NOV/CP) in the amount of \$7,000 will be issued on or about November 6, 2014, to a medical licensee, Bradley D. Bastow, D. O., for a Severity Level III Problem involving failure to meet the terms of a Confirmatory Order. Specifically, on September 3, 2013, the NRC issued a Confirmatory Order to Bradley D. Bastow, D. O. as part of an alternative dispute resolution mediation settlement agreement to resolve issues discovered during an inspection and an investigation conducted by the NRC Office of Investigations. In April 2014, the NRC performed a followup inspection and determined that the licensee either did not meet the terms of the Confirmatory Order or did not meet them in the time specified by the Order. Of particular concern was the failure to restore compliance to one of the initial violations that formed the basis of the Confirmatory Order – providing a calibrated and operable well counter or submitting a license amendment request for alternate instrumentation. Not having this instrumentation has a direct health and safety impact on the licensee's staff and patients in that, without the instrumentation, the licensee staff are not able to provide accurate contamination readings.

On September 19, 2014, a predecisional enforcement conference was conducted in the Region III office with the licensee and their attorney to discuss the apparent violations, their significance, their root causes, and corrective actions.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$3,500 is considered for a Severity Level III problem. It was determined that credit was not warranted for either *Identification* or *Corrective Action*. In regard to the *Identification* factor, the violations were identified by the NRC. Credit was not warranted for the *Corrective Action* factor as corrective actions had not been completed or scheduled by the time of the predecisional enforcement conference. The assessment of twice the base civil penalty in the amount of \$7,000 is a result of the NRC enforcement policy and to emphasize the importance of prompt identification and comprehensive correction of violations and compliance with NRC requirements.

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
Telephone notification to the Licensee

November 6, 2014
November 6, 2014

The State of Michigan will be notified.

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