

**FORM 1-II: Cover Letter Transmitting Inspection Report (including apparent violations) and Requesting Response ("Choice Letter")**

EA-YY-XXX

NMED NO. (If applicable)

(Name of licensee)

(Address)

SUBJECT: [Include FACILITY NAME for reactor cases] - NRC [Include type of inspection, e.g., "INTEGRATED, SPECIAL"] INSPECTION REPORT NO(S). (XXXXXXXX/YYYNNN)  
[If applicable, add "AND INVESTIGATION REPORT NO(S). (X-XXX-XXX)"]

Dear \_\_\_\_\_:

This letter refers to the inspection/investigation conducted on (date(s)) at the [Use (plant name) for reactor licensee; use (City, State) for materials licensee] facility. [Include the purpose statement, e.g., "The purpose of the inspection was to [what was the inspection intended to accomplish?]. The enclosed report presents the results of this inspection. [Document any subsequent meetings and/or telephone discussions.]

[Routine inspections may use the following paragraph:

This inspection/investigation examined activities conducted under your license as they relate to safety and compliance with the Commission's rules and regulations and with the conditions in your license. Within these areas, the inspection consisted of a selected examination of procedures and representative records, observations of activities, and interviews with personnel.]

Based on the results of this inspection/investigation, (number) apparent violation(s) was (were) identified and is (are) being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. [The narrative that follows should briefly discuss the nature of the apparent violation(s) with references to the applicable section(s) of the inspection report.]

[Describe the information the NRC became aware of, including how, by whom and when it was communicated, e.g., "The circumstances surrounding these apparent violations, the significance of the issues, and the need for lasting and effective corrective action were discussed with members of your staff at the inspection exit meeting on (date)."] [Insert the following sentence when applicable, "As a result, it may not be necessary to conduct a pre-decisional enforcement conference in order to enable the NRC to make an enforcement decision."]

[Insert the following paragraph for cases in which a civil penalty is not being considered:

In addition, since you identified the violation (or your facility has not been the subject of escalated enforcement actions within the last 2 years, [Alternatively, use, "last two inspections"]), and based on our understanding of your corrective action, a civil penalty may not be warranted in accordance with Section VI.C.2 of the Enforcement Policy. The 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.]

[Insert the following paragraph for cases involving the loss, abandonment, or improper transfer or disposal of a sealed source or device:

You should be aware that Section VII.A.1.g. of the NRC Enforcement Policy states that for violations involving the loss, abandonment, or improper transfer or disposal of a sealed source or device, the NRC should normally exercise discretion when proposing the imposition of a civil penalty of at least the base amount. Since the apparent violation involves the [Indicate whether the violation involves the loss, abandonment, or improper transfer or disposal of a sealed source or device, including the quantity and

isotope], the NRC is considering proposing imposition of a civil monetary penalty. The base civil penalty amount is based on approximately three times the expected average cost of authorized disposal; however, the NRC may consider adjusting the civil penalty amount to a more appropriate base amount if you can demonstrate that three times the actual cost of disposal would be significantly less than the base amount. However, NRC will not normally decrease the civil penalty to an amount below the lowest base civil penalty for such cases, i.e., \$3,250]

Before the NRC makes its enforcement decision, we are providing you an opportunity to [Include the choices (1-3), which are relevant to the particular case] (1) respond to the apparent violation(s) addressed in this inspection report within 30 days of the date of this letter, (2) request a Pre-decisional Enforcement Conference (PEC), or (3) request Alternative Dispute Resolution (ADR). If a PEC is held, it will be open for public observation and the NRC will issue a press release to announce the time and date of the conference [If the case involves Security Related Information remove the previous sentence and replace it with the following, "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 (name) at (phone number) within 7 days of the date of this letter to notify the NRC of your intended response.

[If a written response is an option provided to the licensee, incorporate the following paragraph:

If you choose to provide a written response, it should be clearly marked as a "Response to (An) Apparent Violation(s) in Inspection Report No(s). (XXXXXXXX/YYYNNN); EA-YY-XXX" and should include for each 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. 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 predecisional enforcement conference.]

[Insert the following paragraph for cases which involve Security Related Information:

In addition, if you choose to provide a written response, please mark your entire response "Security Related Information-Withhold from Public Disclosure under 10 CFR 2.390." In accordance with 10 CFR 2.390(b)(1)(ii), the NRC is waiving the affidavit requirements for your response to this letter. However, to the extent possible, your response should not include any personal privacy, proprietary, or safeguards information."]

[If a PEC is an option provided to the licensee, incorporate the following paragraph:

If you choose to request a PEC, the conference 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: 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. [Add the following discussion for material and fuel cycle licensees: "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(s). The guidance in the enclosed excerpt from NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful."]

[If ADR is an option provided to the licensee, incorporate the following paragraph:

In lieu of a PEC, you may also request Alternative Dispute Resolution (ADR) with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflicts using a third party neutral. The technique that the NRC has decided to employ is mediation. Mediation is

a voluntary, informal process in which a trained neutral (the "mediator") works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC's program can be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as a neutral third party. Please contact ICR at 877-733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR.]

[Insert the following paragraph for cases in which a reference is made or information is enclosed, regarding NRC's review of an apparent enforcement action against an individual:

Because this letter references and encloses information addressing NRC's review of an apparent enforcement action against an individual, this letter and its enclosures will be maintained by the Office of Enforcement (OE) in a NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from our Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.]

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.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure(s), and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

[For those packages containing Safeguards Information, remove the preceding paragraph and replace it with the following:

The material enclosed herewith contains Safeguards Information as defined by 10 CFR Part 73.21 and its disclosure to unauthorized individuals is prohibited by Section 147 of the Atomic Energy Act of 1954, as amended. Therefore, the material will not be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.]

[For packages containing Security Related Information, remove the two preceding paragraphs and replace them with the following:

The material enclosed herein contains Security Related Information; its 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 document system (ADAMS). This letter and its enclosure(s) must be protected from unauthorized disclosure in accordance with Section IC-6 of Attachment B, to NRC Order EA 05-090. Security Related Information is also 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 at <http://www.nrc.gov/reading-rm/adams.html>.]

If you have any questions concerning this matter, please contact (name) of my staff at (phone number).

Sincerely,

\_\_\_\_\_  
Regional Administrator  
(or designee)

Docket No. \_\_\_\_\_

License No. \_\_\_\_\_

Enclosure(s):

- 1) Inspection Report
- 2) [For materials and fuel cycle licensees add, "Excerpt from NRC Information Notice 96-28."]