



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

October 4, 1996

EA 96-256 and EA 96-377

Wayne Weinfurter
President
GCME, Inc.
3471 Packerland Drive
DePere, WI 54115

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY -
\$5,000 AND DEMAND FOR INFORMATION
(NRC Inspection Report No. 030-31195/96001(DNMS))

Dear Mr. Weinfurter:

This refers to the routine safety inspection conducted at GCME, Inc., from June 27 to July 22, 1996, during which several violations of NRC requirements were identified. A copy of the inspection report was sent to GCME, Inc., on August 12, 1996, and a predecisional enforcement conference was held in the NRC Region III office, Lisle, Illinois, on August 29, 1996.

Based on the information developed during the inspection and the information provided at the conference by you and the GCME Radiation Protection Officer (RPO), the NRC has determined that significant violations of NRC requirements have occurred. The violations are cited in the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice), and the circumstances surrounding the violations are described in detail in the inspection report. Additional examples of the failure to monitor the user of a nuclear gauge with a film badge and the failure to secure or maintain surveillance of NRC-licensed material in an unrestricted area were identified during the predecisional enforcement conference. Specifically, the RPO stated that he permitted a new employee to operate a nuclear gauge without the employee having a film badge during training sessions while under the RPO's direct supervision in June 1996. During other discussions with the RPO at the conference, he stated that he routinely left a nuclear gauge unsecured or unattended while working at construction sites. These issues are included in the enclosed Notice as additional examples of the violations previously described in the inspection report.

The NRC is particularly concerned about your repetitive failure to ensure that your employees are wearing film badges while using NRC-licensed material. Specifically, during an inspection of GCME, Inc., on October 10, 1989, the NRC identified that an employee had not worn a film badge while using NRC-licensed material on August 15, 1989. This violation of NRC requirements was cited at Severity Level IV on November 6, 1989. GCME, Inc., responded to that violation in a letter dated November 6, 1989, and stated that "... film badges have been received and are worn every time (sic) machine is used" The next NRC inspection was conducted on January 10, 1995, with a subsequent investigation by the NRC Office of Investigations (OI). That

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investigation and inspection found that GCME, Inc., had not provided film badges to any of the authorized users of NRC-licensed materials from October 1990 through the summer of 1991 and from the end of 1992 to July 3, 1993. The 1990 to 1993 violations were considered to represent careless disregard of NRC requirements and were categorized at Severity Level III. By letter, dated October 5, 1995, GCME, Inc., described its corrective action to ensure that film badges were distributed to employees. Since the current inspection and conference found more examples of the same violation, it is apparent that GCME, Inc., has not taken effective corrective action to prevent the recurrence of this violation. Furthermore, the failure by employees of GCME, Inc., to properly secure or maintain surveillance of NRC-licensed material in an unrestricted area is also of concern because inadequate controls could lead to the inadvertent release of radioactive material to the public domain.

In the aggregate, the violations are of significant regulatory concern because they are indicative of a breakdown in the control of NRC-licensed activities that collectively represent a potentially significant lack of attention or carelessness toward licensed responsibilities. Incumbent upon each company licensed by the NRC to use byproduct material in a commercial enterprise is the responsibility to protect public health and safety, including its employees, by ensuring that the rules, regulations and license conditions are followed at all times. That has not been the case at GCME, Inc. Therefore, the violations are collectively categorized in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, as a Severity Level III problem.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$2,500 is considered for a Severity Level III problem. Because your facility has been the subject of an escalated enforcement action within the last two inspections,¹ the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section VI.B.2 of the Enforcement Policy. Credit was not given for the *Identification* factor because the NRC identified the violations. Credit was not warranted for the *Corrective Action* factor because GCME, Inc., had not determined the root cause of the problem or developed corrective actions prior to the August 29, 1996 conference even though GCME, Inc., was informed of the potential violations during the inspection exit meeting on June 27, 1996, and during several follow-up telephone conversations from July 3 to July 24, 1996. Additionally, a copy of NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," was provided to GCME, Inc., on August 12, 1996. Furthermore, it was not until the August 29, 1996 predecisional enforcement conference that GCME, Inc., with NRC prompting, proposed corrective actions.

¹ EA 95-154, issued on November 18, 1995, represented a Severity Level III violation for failing to ensure that authorized users were provided with film badges for use in conjunction with the operation of a moisture/density gauge. A civil monetary penalty was not proposed for this Severity Level III violation.

Therefore, to emphasize the need to immediately identify violations, to assure that the root cause of each violation is fully identified and understood, to ensure that corrective actions are prompt and comprehensive to avoid repetition of a violation, and in recognition of the previous escalated enforcement action involving GCME, Inc., I am issuing the enclosed Notice in the amount of \$5,000 for the Severity Level III problem. You should be aware that the issuance of this Notice constitutes an escalated enforcement action that may subject GCME, Inc., to increased inspection effort.

Since this problem demonstrates a lack of regard for, and adherence to, procedures and a lack of management control and supervision over licensed activities, it raises a question as to whether GCME, Inc., will in the future be able to effectively manage the NRC-licensed radiation safety program. Therefore, a Demand for Information is also enclosed. The Demand for Information seeks further information to determine: (1) whether the NRC can have reasonable assurance that in the future GCME, Inc., will conduct its activities in accordance with the Commission's requirements; and (2) whether your license should be modified, suspended or revoked, or other enforcement action taken to ensure compliance with NRC regulatory requirements. Failure to comply with the provisions of this Demand for Information may result in additional enforcement action.

Questions concerning the Demand for Information should be addressed to Mr. James Lieberman, Director, Office of Enforcement, who can be reached at telephone number (301) 415-2741.

You are required to respond to this letter and should follow the instructions specified in the enclosures when preparing your responses.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your responses will be placed in the NRC Public Document Room (PDR). To the extent possible, your responses should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential, commercial or financial information). If safeguards information is necessary to provide an acceptable

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response, please provide the level of protection described in 10 CFR 73.21.

Sincerely,

James Lieberman, Director
Office of Enforcement

Docket No. 030-31195
License No. 48-23409-01

Enclosures: 1. Notice of Violation and
Proposed Imposition
of Civil Penalty
2. Demand for Information