



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

September 5, 2019

Mr. Ronald A. Pickering II
President/Radiation Safety Officer
Construction Engineering Labs, Inc.
96-1173 Waihona Street
Pearl City, Hawaii 96782

SUBJECT: NRC INSPECTION 030-31156/2018-001 AND NOTICE OF VIOLATION

Dear Mr. Pickering II:

This letter refers to the unannounced inspection attempted on February 5, 2018, at your then licensed location on the Island of Maui, Hawaii. The attempted inspection was followed up with limited records review partially conducted on February 7, 2018, at your facility in Pearl City, Hawaii, to allow for an examination of activities conducted under your license as they relate to public health and safety, to confirm compliance with the U.S. Nuclear Regulatory Commission's (NRC) rules, regulations, and with the conditions of your license. Within these areas, the inspection consisted of a selected examination of procedures and representative records, and interviews with personnel. The preliminary inspection findings were discussed with you at the conclusion of the onsite portion of the inspection on February 5, 2018. A final telephonic exit briefing was conducted with you on September 3, 2019.

Based on the results of this inspection, the NRC has determined that four Severity Level IV violations of NRC requirements occurred. The violations were evaluated in accordance with the NRC Enforcement Policy, which can be found at the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violations involved the failures to: (1) provide complete and accurate information to the NRC, (2) provide refresher training required by the United States Department of Transportation to applicable hazmat employees, (3) conduct periodic (at least annual) reviews of the radiation protection program content and implementation, and (4) confirm the possession and use of byproduct material to the locations and purposes authorized in the license. The violations are cited and described in the enclosed Notice of Violation (Notice).

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful in preparing your response. You can find the Information Notice on the NRC website at: <http://pbadupws.nrc.gov/docs/ML0612/ML061240509.pdf>. Information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance will be (was) achieved should be addressed. The NRC review of your response to the Notice will also determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

To the extent possible, your response should not include any personal privacy or proprietary information so that it can be made available to the Public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, 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 information, 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 Title 10 of the *Code of Federal Regulations* (CFR) 2.390(b) to support a request for withholding confidential commercial or financial information).

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter, its enclosure, and 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>.

Should you have any questions regarding this letter or the enclosed Notice, please contact Jason vonEhr at 817-200-1186, or the undersigned at 817-200-1455.

Sincerely,

/RA/

Patricia A. Silva, Chief
Materials Inspection Branch
Division of Nuclear Materials Safety

Docket: 030-31156
License: 53-23293-01

Enclosure:
Notice of Violation

cc:
Jeffrey Eckerd, Manager
State of Hawaii Radiation Program

NRC INSPECTION REPORT 030-31156/2018-001 AND NOTICE OF VIOLATION - DATED
September 5, 2019.

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NOTICE OF VIOLATION

Construction Engineering Labs, Inc.
Pearl City, Hawaii

Docket No.: 030-31156
License No.: 53-23293-01

During an NRC inspection conducted on February 5-7, 2018, four violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A) 10 CFR 30.9(a) requires, in part, that information provided to the Commission by an applicant for a license or by a licensee shall be complete and accurate in all material respects.

Contrary to the above, between August 20 through November 4, 2014, the licensee failed to provide information to the Commission that was complete and accurate in all material respects. Specifically, in a renewal application dated August 20, 2014, and with subsequent communications to NRC licensing staff through November 4, 2014, the licensee omitted information related to the discontinuance of licensed activities at a field office in Maui, Hawaii, and the existence of a second field office that had been operating since approximately September 2012.

This is a Severity Level IV violation (NRC Enforcement Policy, Section 6.9.d)

- B) 10 CFR 71.5(a) requires, in part, that each licensee who transports licensed material outside of the site of usage, as specified in the NRC license, or where transport is on public highways, shall comply with the applicable requirements of the U.S. Department of Transportation regulations in 49 CFR Parts 107, 171 through 180, and 390 through 397, appropriate to the mode of transport.

49 CFR 172.704(c)(2) requires, in part, that a hazmat employee must receive the training required by 49 CFR Part 172, Subpart H, at least once every 3 years.

Contrary to the above, as of March 20, 2015, the licensee failed to provide hazmat employees the training required by 49 CFR Part 172, Subpart H, at least once every 3 years. Specifically, between August 16, 2008, and February 7, 2018, a licensee employee transported Class 7 (radioactive) hazardous material on numerous occasions outside of the site of usage, as specified in the NRC license, and the employees last received the required training on August 16, 2008, a period greater than 3 years.

This is a Severity Level IV violation (NRC Enforcement Policy, Section 6.3.d)

- C) 10 CFR 20.1101(c) requires that the licensee shall periodically (at least annually) review the radiation protection program content and implementation.

Contrary to the above, the licensee failed to periodically (at least annually) review the radiation protection program content and implementation. Specifically, from January 1, 2013, to February 7, 2014, and from February 7, 2014, through January 30, 2017, the licensee failed to periodically review the radiation protection program, periods including and exceeding annual basis.

This is a Severity Level IV violation (NRC Enforcement Policy, Section 6.3.d)

Enclosure

- D) 10 CFR 30.34(c) requires, in part, that each person licensed by the Commission pursuant to the regulations in 10 CFR Part 30 shall confine his possession and use of the byproduct material to the locations and purposes authorized in the license.

Contrary to the above, from September 2012 through March 14, 2018, the licensee failed to confine his possession and use of the byproduct material to the locations and purposes authorized in the license. Specifically, from September 2012 through March 14, 2018, the licensee stored and used licensed byproduct material at 5 Mohala Place, Makawao, Hawaii, a location not authorized on the NRC license.

This is a Severity Level IV violation (NRC Enforcement Policy Section 6.3.d)

Pursuant to the provisions of 10 CFR 2.201, Construction Engineering Labs, Inc., is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator, Region IV, 1600 E. Lamar Blvd., Arlington, Texas 76011, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include: (1) the reason for the violations, or, if contested, the basis for disputing the violation or severity level; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken; and (4) the date when full compliance will be achieved.

Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued requiring information as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

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, United States Nuclear Regulatory Commission, Washington, DC 20555-0001. Your response will be made available electronically for public inspection in the NRC Public Document Room or in 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>.

To the extent possible, your response should not include any personal privacy or proprietary information so that it can be made available to the public 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 2.390(b) to support a request for withholding confidential commercial or financial information).

In accordance with 10 CFR 19.11, you may be required to post this Notice within 2 working days of receipt.

Dated this 5th day of September 2019