

**PRELIMINARY INFORMATION - NOT FOR PUBLIC DISCLOSURE UNTIL
VERIFICATION THAT LICENSEE HAS RECEIVED ACTION**

Date: May 17, 2007
EN-07-029

OFFICE OF ENFORCEMENT
NOTIFICATION OF SIGNIFICANT ENFORCEMENT ACTION

Licensee: U.S. Engineering Laboratories, Inc. (USEL) EA-07-035
903 East Hazelwood Avenue
Rahway, NJ 07065

Subject: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL
PENALTY - \$9,750

This is to inform the Commission that a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$9,750 will be issued on or about May 22, 2007, to U.S. Engineering Laboratories, Inc. This action is based on violations of 10 CFR 20.1802 and 10 CFR 20.2201. The first violation involved the failure to control and maintain constant surveillance of licensed material contained in a gauge while the material was in the public domain from as early as October 2005 until March 2, 2006, when it was found in Philadelphia, PA. The second violation involved the failure to immediately report the loss of licensed material to the NRC. In accordance with the NRC's Enforcement Policy, the two violations are categorized as Severity Level III problems.

With respect to the first violation, Section VII.A.1 (g) of the Enforcement Policy indicates that a case involving the loss, abandonment, or improper transfer or disposal of a sealed source or device should normally be assessed a civil penalty of at least the base amount of \$3,250. In addition, this was not the first escalated enforcement action within the previous two inspections for this licensee. Therefore, the NRC considered whether credit was warranted for *Identification and Corrective Action*. Credit for identification is not warranted because the violations were identified as a result of an event. Credit for corrective actions is warranted because the licensee's corrective actions were considered prompt and comprehensive. In determining the appropriate civil penalty, the NRC considered that: (1) this is the licensee's second failure to control or secure a gauge (reference EA-05-152 for a SL III violation involving the failure to control or secure radioactive material); and, (2) the assistant radiation safety officer deliberately failed to report the loss of the gauge to the licensee management or the NRC for at least 5 months after becoming aware that it was missing. Due to these considerations, the NRC exercised enforcement discretion and increased the civil penalty amount by 100% (\$6,500) for the first violation. With respect to the second violation, a base penalty of \$3,250 is warranted for the second violation in accordance with civil penalty assessment process. Therefore, in summary, the NRC is proposing imposition of a total civil penalty of \$9,750 for the SL III violations.

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	May 22, 2007
Telephone Notification of Licensee	May 22, 2007

The licensee has thirty days from the date of the Notice in which to respond. Following NRC evaluation of the response, the civil penalty may be remitted, mitigated, or imposed by Order.

The States of New Jersey and the Commonwealth of Pennsylvania will be notified.

Contacts: Leelavathi Sreenivas, OE, 415-1285; David Solorio, OE, 415-0149

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