



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION IV
1600 E. LAMAR BLVD.
ARLINGTON, TX 76011-4511

June 30, 2016

Mr. John Neumeister
Radiation Safety Officer
Kirkland Construction
P.O. Box 580
Rye, CO 81609

SUBJECT: NOTICE OF VIOLATION

Dear Mr. Neumeister:

This letter refers to an examination of the U.S. Nuclear Regulatory Commission (NRC) reciprocity records and additional information gathered related to activities performed under an NRC general license, which was granted under *Title 10 of the Code of Federal Regulations* (10 CFR) 150.20, "Recognition of Agreement State Licenses," to ensure that activities were performed in accordance with NRC requirements. Kirkland Construction was granted a general license to conduct the same activities authorized under its State of Colorado license, in areas of exclusive Federal jurisdiction during calendar year 2012, for a period not to exceed 180 days. The results of the NRC's examination were discussed with you by telephone on June 29, 2016.

Based on the results of this examination, the NRC has determined that a Severity Level IV violation of NRC requirements occurred. The violation was evaluated 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 violation is cited in the enclosed Notice of Violation (Notice). The violation is being cited in the Notice because it was identified by the NRC. The violation concerned the failure to limit activities conducted under a general license issued pursuant to 10 CFR 150.20(a)(1) to a period of 180 days in calendar year 2012, for the possession, storage, and use of radioactive material in Hawaii, a non-Agreement State.

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 Web site at <http://www.nrc.gov/reading-rm/doc-collections/gen-comm/info-notices/1996/in96028.html>. Information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance will be (was) achieved should be addressed. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

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>. 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.

Should you have any questions concerning this matter, please contact Dr. Janine F. Katanic, CHP at (817) 200-1151 or the undersigned at (817) 200-1191.

Sincerely,

/RA/

Ray L. Kellar, P.E., Chief
Nuclear Materials Safety Branch A
Division of Nuclear Materials Safety

Docket No. 150-00005
License No. CO-528-01

Enclosure: Notice of Violation

cc:
State of Colorado Radiation Control Program Director
State of Hawaii Radiation Control Program Director

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>. 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.

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Ray L. Kellar, P.E., Chief
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 Division of Nuclear Materials Safety

Docket No. 150-00005
 License No. CO-528-01

Enclosure: Notice of Violation

cc:
 State of Colorado Radiation Control Program Director
 State of Hawaii Radiation Control Program Director

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DATE	06/29/16	06/30/16				

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Kirkland Construction
Rye, CO

Docket No. 150-00005
License No. CO-528-01

During an NRC examination of reciprocity records and additional information gathered related to activities performed under an NRC general license, which was granted under 10 CFR 150.20, "Recognition of Agreement State Licenses," a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 150.20(a)(1) states, in part, that provided the provisions of 10 CFR 150.20(b) have been met, any person who holds a specific license from an Agreement State, where the licensee maintains an office for directing the licensed activity and retaining radiation safety records, is granted a general license to conduct the same activities in non-Agreement States.

10 CFR 150.20(b)(4) requires, in part, that any person engaging in activities in non-Agreement States shall not, under the general license concerning activities in non-Agreement States, possess or use radioactive materials or engage in the activities authorized under 10 CFR 150.20(a) for more than 180 days in any calendar year.

Contrary to the above, during calendar year 2012, the licensee engaged in activities in a non-Agreement State under a general license issued pursuant to 10 CFR 150.20(a)(1), and possessed and used radioactive material for a period of greater than 180 days in the calendar year. Specifically, from January 13, 2012, through October 26, 2012, a period of greater than 180 days (287 days), the licensee possessed, stored and used radioactive material in Hawaii, a non-Agreement State.

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

Pursuant to the provisions of 10 CFR 2.201, Kirkland Construction 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 violation, 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.

Enclosure

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(a)(4), you may be required to post this Notice within two working days of receipt.

Dated this 30th day of June 2016