

U.S. NUCLEAR REGULATORY COMMISSION

REGION V

Report No. 82-02

License No. 53-04935-01 Priority IV Category G

Licensee: Philip J. W. Lee, M.D.

A. Y. Wong Bldg., Suite 101

1507 S. King Street

Honolulu, Hawaii 96814

Facility Name: Same as above

Conference Location: 1507 S. King Street

Conference Conducted: August 5, 1982

Participants: *B. H. Faulkenberry* 8/18/82
B. H. Faulkenberry, Deputy Regional Administrator Date Signed

H. E. Book 8/18/82
H. E. Book, Chief, Radiological Safety Branch Date Signed

Approved by: *R. D. Thomas* 8/18/82
R. D. Thomas, Chief, Materials Radiation Protection Section Date Signed

Approved by: *H. E. Book* 8/18/82
H. E. Book, Chief, Radiological Safety Branch Date Signed

Summary:

An Enforcement Conference was held on August 5, 1982. The following matters were discussed:

1. NRC Enforcement Policy and Procedures.
2. Noncompliances observed during last inspection at this facility made on June 28, 1982.
3. Enforcement history at this facility.
4. NRC actions to be taken in the present situation.
5. Possible future actions by NRC.

The Enforcement Conference involved a total of two man hours on site, utilizing two NRC representatives.

DETAILS

1. Enforcement Conference Participants

Philip J. W. Lee, M.D., Licensee
B. H. Faulkenberry, Deputy Regional Administrator, NRC
H. E. Book, Chief, Radiological Safety Branch, NRC
T. N. Anamizu, State of Hawaii, Department of Health

2. Enforcement Conference

On August 5, 1982, an enforcement conference was held in the offices of Dr. Philip J. W. Lee, with the individuals listed above participating. The enforcement conference was related to a routine safety inspection of activities authorized by NRC license number 53-04935-01. That inspection was conducted on June 28, 1982. The enforcement conference was announced in a letter to the licensee dated July 27, 1982. A copy of that letter is attached to this report.

The current General Policy and Procedures for NRC Enforcement Actions as published in Appendix C of 10 CFR Part 2 were explained by Mr. Faulkenberry. Dr. Lee said he had a copy, and had a general understanding of the policy. However, Mr. Faulkenberry explained the significance of the various Severity Levels of violations. He also explained the significance of an enforcement conference, and when such a conference was held. He also described under what conditions civil penalties and other escalated enforcement actions were utilized. He made certain that Dr. Lee understood that an enforcement conference concerning his activities was in progress.

The violations observed during the most recent inspections were discussed by Mr. Book. Dr. Lee had already received the Notice of Violation dated July 23, 1982. Appendix A of that Notice of Violation was based in the discussions. A copy is attached to this report. The violations were individually discussed with Dr. Lee. In general, he said the violations occurred because he had changed radiation safety consultants and had lost his chief technologist. As a result, the radiation safety program had suffered.

Dr. Lee was informed that the violation involving insecure storage of the Sr-90 eye applicator could have been a Severity Level III violation, but that the Region V office had used its discretion and assigned it to Severity Level IV. Dr. Lee said the applicator was now stored under lock and key except when it was in actual use, that it had been leak tested, and that the storage container bore the proper labels.

With respect to the place of use, Dr. Lee called attention to his letter to the NRC dated March 17, 1982, which indicates that material is being used only in Suite 101. The letter also states

that only limited use of radioactive materials occurs in this program. The letter did not specifically request amendment of the license, and was not accompanied by a fee, so no action was taken by the NRC. In that regard, it is noted that the license authorizes only those radioactive materials requested by Dr. Lee in his most recent application for renewal dated March 19, 1979. Dr. Lee was told that he did need an amendment to his license, and it was suggested that he telephone NMSS to discuss the matter before submitting his application for amendment.

With respect to the violations related to linearity tests on his dose calibrator, use of the dose calibrator, and bioassays of employees, Dr. Lee said these were inadvertent omissions due to the change of personnel. He said he had every wish and intent to operate in compliance, and that these situations had been corrected.

A review of the enforcement history at this facility revealed that the last three inspections (since 1969) have revealed no violations. Dr. Lee was informed that the NRC was concerned when a program which had a good history suddenly developed numerous safety-related problems.

The licensee was told that no escalated enforcement action was planned at this time, but that we expected a written response to our Notice of Violation dated July 23, 1982. The licensee was also told that if the violations were not corrected satisfactorily, if they were repeated, or if similar violations occurred, escalated enforcement action would probably be taken by the NRC. It was explained that this provision would remain in effect for two years or until the next inspection, whichever was longer. The licensee was also informed that an early reinspection would be conducted by the NRC.

3. Conclusions

The licensee's response to the enforcement conference was acceptable. The NRC will receive a written response to the Notice of Violation. No escalated enforcement action is contemplated at this time. An early reinspection will be scheduled.