

April 30, 2011

EA-12-060

Mr. Jeffrey S. Odenwald
Director-Export Compliance
Flowserve Corporation
3900 Cook Blvd
Chesapeake, VA 23323

SUBJECT: NOTICE OF VIOLATION-FAILURE TO OBTAIN AN NRC SPECIFIC EXPORT
LICENSE FOR NUCLEAR REACTOR COMPONENTS TO MEXICO

Dear Mr. Odenwald:

This letter refers to the U.S. Nuclear Regulatory Commission's (NRC) evaluation of your letter dated May 13, 2011, regarding Voluntary Self Disclosure-Export of Seal Repair Kits for Reactor Recirculation Pumps. The May 13 letter identified that two seal-repair kits were exported to Mexico in March 2010 without first obtaining an NRC specific export license, stated the apparent cause of the violation, and identified your corrective actions to prevent recurrence.

In a telephone conversation on April 10, 2012, Mr. Brian Wittick, Senior Licensing Officer, NRC's Office of International Programs informed you that the NRC was considering escalated enforcement for an apparent violation involving failure to obtain a specific license for export of reactor components, as required by 10 CFR 110.20. Mr. Wittick also informed you that we had sufficient information regarding the apparent violations and your corrective actions to make an enforcement decision without the need for a predecisional enforcement conference or a written response from you. You indicated that Flowserve did not believe that a predecisional enforcement conference or written response was needed.

Based on the information developed during the evaluation of your voluntary disclosure and subsequent discussions, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in your voluntary disclosure letter. Specifically, in March 2010 you exported two seal-repair kits to Mexico without first obtaining an NRC specific license, in violation of 10 CFR 110.20. You identified the cause of the violation as resulting from: (1) inadequate internal processes for classifying items for export because your system used a default classification of EAR99; (2) inadequate supervision of shipping operations; and (3) inadequate training of shipping personnel. Upon identifying the potential violation, you initiated corrective actions that addressed these and other process deficiencies.

The NRC has determined that the apparent violation has regulatory significance because it impacted the NRC's ability to perform its regulatory function. The violation resulted in an export to Mexico without an NRC approved specific license as required by 10 CFR 110.20(a). Specific export licenses ensure that the NRC is able to conduct appropriate checks and verifications, and obtain government-to-government assurances of peaceful use. These licenses are

required for countries not approved for general license export, which ensures exports are not inimical to the common defense and security.

The NRC's Enforcement Policy categorizes violations of this type at Severity Level III. In accordance with the Policy, a base civil penalty in the amount of \$7,000 per violation is considered for this type of Severity Level III violation.

Because you have not been the subject of escalated enforcement actions within the last two years, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of NRC's the Enforcement Policy. Your corrective actions included: (1) changing the shipping documentation process so that it does not default to an Export Control Classification Number (ECCN) of EAR99; (2) requiring a product expert to provide the correct ECCN to the shipping department for creating shipping documents; (3) hiring a new shipping manager with considerable export controls experience (who will review all nuclear exports prior to shipment); (4) training all Flowserve personnel involved in export activities in component classification and the new shipping process; and (5) monthly internal export audits, as well as other actions. Based on your prompt and comprehensive corrective actions, the NRC determined that *Corrective Action* credit is warranted.

Therefore, to encourage prompt identification and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, the NRC is not proposing a civil penalty in this case. However, significant violations in the future could result in a civil penalty.

The NRC has concluded that 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 was achieved is already adequately addressed on the docket in your letter dated May 13, 2011. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response, if you choose to respond, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system Agencywide Documents Access and Management System, 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, proprietary, or safeguards information so that it can be made available to the public without redaction. If personal privacy, proprietary information or safeguards 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 10 CFR 2.390(b) to support a request for withholding confidential

commercial or financial information). The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

Sincerely,

/RA/

Roy P. Zimmerman, Director
Office of Enforcement

Enclosure: Notice of Violation

cc:

U.S. Department of Energy
Office of Non-Proliferation Policy
ATTN: Sean Oehlbert
1000 Independence Avenue, SW
Washington, DC 20585

Defense Threat Reduction Agency (OP-CSNSP)
ATTN: Mr. David McDarby
8725 John J. Kingman Road, MSC-6201
Fort Belvoir, VA 22060-6201

Customs and Border Protection
ATTN: Christopher Baugues
LSS Technical Data Assessment & Teleforensic Center
12825 Worldgate Drive
Herndon, VA 20170

U.S. Department of Energy, NA-243
Office of International Regimes and Agreements
ATTN: Mr. Richard S. Goorevich
1000 Independence Avenue, SW
Washington, DC 20585

Bureau of Industry and Security
Office of Nuclear and Missile Technology
ATTN: Steve Clagett
14th Street & Penn Avenue, NW, Room 2631
Washington, DC 20230

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2631
Washington, DC 20230

Electronic DISTRIBUTION:

M. Doane, OIP S. Dembek, OIP J. Owens, OIP
J. Shepherd-Vladimir, OIP R. Zimmerman, OE N. Hilton, OE
T. Campbell, OE L. Sreenivas

ADAMS Package Accession No.: ML12116A166

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OFFICE	OIP	OIP/BC	OIP/BC	OIP: DD	OE/BC	OE: D
NAME	J. Shepherd-Vladimir	B. Wittick	J. Owens	S. Dembek	T. Campbell	R. Zimmerman
DATE	03/19/12	03/21/12	03/29/12	03/22/12	04/24/12	04/30/12

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Flowserve Corporation
Chesapeake, VA 23323

EA-12-060

During the review of information Flowserve provided to the U.S. Nuclear Regulatory Commission (NRC) on May 13, 2011, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 110.5 states, in part, "no person may export any nuclear equipment or material listed in § 110.8 and § 110.9, or import any nuclear equipment or material listed in § 110.9a, unless authorized by a general or specific license issued under this part."

10 CFR 110.8, "List of nuclear facilities and equipment under NRC export licensing authority," includes "Nuclear reactors and especially designed or prepared equipment and components for nuclear reactors. (See Appendix A to this part), "Appendix A(9) identifies "any other components especially designed or prepared for use in a nuclear reactor or in any of the components described in this section" [e.g. A(4)].

10 CFR 110.20(a) states "A person may use an NRC general license as authority to export or import nuclear equipment or material, if the nuclear equipment or material to be exported or imported is covered by the NRC general licenses described in §§ 110.21 through 110.27. If an export or import is not covered by the NRC general licenses described in §§ 110.21 through 110.27, a person must file an application with the Commission for a specific license in accordance with §§ 110.31 through 110.32."

10 CFR 110.26(a) states, in part, "A general license is issued to any person to export to a destination listed in paragraph (b) of this section any nuclear reactor component of U.S. origin described in paragraphs (5) through (9) of Appendix A to this part...."

10 CFR 110.26(b) does not list Mexico as an authorized destination.

Contrary to the above, in March 2010, Flowserve (Vernon, CA location) exported two reactor recirculation pump seal-repair kits, components subject to NRC licensing jurisdiction, to Mexico without a specific license authorization as required by 10 CFR 110.5.

This is a Severity Level III violation.

The NRC has concluded that information regarding the reason for the violation, the corrective action taken to correct the violation and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in Flowserve's letter dated May 13, 2011. However, Flowserve is required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect Flowserve's corrective actions or position. In that case, or if Flowserve chooses to respond, clearly mark the response as a "Reply to a Notice of Violation (EA-12-060)" and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a

ENCLOSURE

copy to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Any response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

In accordance with 10 CFR 19.11, Flowserve may be required to post this Notice within two working days.

Dated this 30 day of April 2012