

July 14, 2008

Docket No. 71-0102

EA No. 08-039

Richard D. Dicharry, President  
Source Production and Equipment Co., Inc.  
113 Teal Street  
St. Rose, LA 70087

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY -  
\$9,600, NRC OFFICE OF INVESTIGATIONS REPORT NO. 4-2005-004

Dear Mr. Dicharry:

This refers to the investigation conducted between May 4, 2005, and March 2, 2006, at your St. Rose, Louisiana, facility. The investigation was conducted to determine whether a contractor to Source Production and Equipment Co., Inc. (SPEC) deliberately violated the U.S. Nuclear Regulatory Commission (NRC) Certificate of Compliance (CoC) No. 5979 requirements regarding the use of the Model No. 5979 shipping package, serial number 1B.

On June 5, 2008, a pre-decisional enforcement conference was conducted at the NRC Headquarters office, with Mr. Kevin Schehr and Ms. Kelley Richardt of your staff, to discuss apparent violations of 10 CFR 71.3, "Requirement for license" and 71.105, "Quality assurance program," their significance, the root causes, and corrective actions taken by SPEC.

Based on the information developed during the investigation and the information that was provided during the conference, the NRC has determined that two violations of 10 CFR 71.3 and one violation of 10 CFR 71.105 occurred. The violations of 10 CFR 71.3 have been categorized as a Severity Level II problem. The violation of 10 CFR 71.105 has been categorized as a Severity Level IV violation. The violations are described in detail and cited in the enclosed Notice of Violation (Notice) [Enclosure 1].

With respect to the Severity Level II problem, SPEC, an NRC licensee pursuant to 10 CFR Part 110, delivered for transport and transported licensed material in an NRC CoC No. 5979 transportation package without a license in violation of 10 CFR 71.3. Two violations were identified as follows:

- (1) SPEC transported or delivered for transport a transportation package that did not comply with the terms and condition of the CoC. Specifically, the end caps of the package had been modified and, as a result, the package did not conform to the CoC in that the end caps were physically and dimensionally different from those approved in the CoC;
- (2) SPEC delivered for transport and transported licensed material in an NRC CoC No. 5979 transportation package which was not inspected prior to shipment as required by the CoC. There are three examples of this violation: (a) the package inspection before three shipments was limited to an abbreviated inspection checklist which excluded many of the inspection steps specified by the CoC; (b) for two shipments, a

contractor to SPEC deliberately failed to perform Step 2.4.A of the inspection required by the CoC; and (c) for one shipment, steps 2.4 – 2.8 of the AOS maintenance procedure were not performed.

Between July 2003 and May 2004, SPEC made at least three export shipments of licensed radioactive material using the Model No. 5979 package in a nonconforming condition. While the NRC is not aware of actual safety consequences associated with the shipments, the potential safety consequences were significant, considering the potential adverse impact of shipping radioactive materials in an unapproved package design that had not been demonstrated to meet the transportation package approval standards for both normal and hypothetical accident conditions as required by 10 CFR Part 71. Of the many controls that are in place to assure public health and safety during the transport of radioactive materials, one of the most important is that the configuration of the package conforms to that analyzed and approved by the NRC staff, through the package CoC process, so as to assure integrity of the package during transportation for both normal and hypothetical accident conditions. The potential safety consequences were magnified by the failures to perform the required package inspection prior to each shipment.

These two violations have been categorized in accordance with the NRC Enforcement Policy as a Severity Level II problem. In accordance with the Enforcement Policy that was in effect as of the date of the violation, a base civil penalty in the amount of \$9,600 is considered for a Severity Level II problem. Because one of the violations was willful and because the problem is categorized at a Severity Level II, the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. With regard to identification, credit is not warranted because SPEC did not identify the violation. With regard to corrective action, at the pre-decisional enforcement conference, SPEC described procedural controls and Quality System Procedure Manual changes that were put in place which ensure compliance with package CoCs. Specific work instructions and checklists are now required for preparing and shipping all transportation packages. Additionally, Quality Assurance Program training is mandatory for all new employees and the Quality Refresher Training was revised to add a component on CoC compliance and verification. Further, SPEC informed us that training on deliberate misconduct was conducted to prevent recurrence. As a result, credit was given for corrective action.

Therefore, to emphasize the importance of conformance with Certificates of Compliance, I have been authorized to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) at \$9,600, the base amount for the Severity Level II problem (based on Civil Penalty amounts in effect on the date of the violations). In addition, issuance of this Notice constitutes escalated enforcement action that may subject SPEC to an increased inspection effort.

With respect to the Severity Level IV violation of 10 CFR 71.105(d), SPEC did not provide training to two individuals who performed pre-shipment inspections of the Model No. 5979 transportation package on (1) the quality assurance requirements of 10 CFR 71 and (2) the requirements of CoC No. 5979. This violation is not subject to a civil penalty, in accordance with the NRC Enforcement Policy.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements. In particular, the Notice specifies that your response should include for each violation the corrective steps that will be taken to avoid further violations.

In accordance with 10 CFR 2.390 of the NRC "Rules of Practice," a copy of this letter, its enclosure(s), and your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at [www.nrc.gov](http://www.nrc.gov); select **About NRC, Organizations & Functions, Office of Enforcement**, then **Enforcement Documents**.

Sincerely,

/RA/

Cynthia A. Carpenter, Director  
Office of Enforcement

Enclosures:

1. Notice of Violation and Proposed Imposition of Civil Penalty
2. NUREG/BR-0254 Payment Methods

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Sincerely,

/RA/

Cynthia A. Carpenter, Director  
Office of Enforcement

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Distribution w/ enclosure (1)

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<b>NAME</b>	RWharton	MDeBose	DPstrak	NMamish
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<b>NAME</b>	EBrach	CHaney	C Marco	C Carpenter
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