

NOTICE OF VIOLATION  
AND  
PROPOSED IMPOSITION OF CIVIL PENALTY

Source Production and Equipment Co., Inc.  
St. Rose, Louisiana

Docket No. 71-0102  
EA-08-039

During an NRC investigation conducted between May 4, 2005, and March 2, 2006, violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the NRC proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violations and associated civil penalty are set forth below:

A. Violations Assessed a Civil Penalty

10 CFR 71.3 states, in part, except as authorized in a general license or specific license issued by the Commission, no licensee may – (a) Deliver licensed material to a carrier for transport; or (b) Transport licensed material.

10 CFR 71.17(c)(2) [formerly 71.12(c)(2)] states, in part, that the general license in 10 CFR 71.12 applies only to a licensee who complies with the terms and conditions of the Certificate of Compliance (CoC).

NRC CoC No. 5979 drawings specify the dimensions and physical characteristics of the transportation package.

Condition 9(b) of the NRC CoC No. 5979 states that the transportation package must be prepared for shipment in accordance with the Operating Procedures of the supplement dated August 20, 1990. Section II.E.1. of the Operating Procedures of the supplement dated August 20, 1990, specifies that preparing the package for shipping includes performing the Alpha Omega Services (AOS) Maintenance Inspection. The AOS Maintenance Inspection Procedure specifies in steps 2.2 – 2.12 to perform the maintenance checklist of Alpha Omega Services, Inc. Model 5979.

1. Contrary to the above, on or about July 15, 2003, December 4, 2003, and May 20, 2004, Source Production and Equipment Co., Inc. (SPEC), an NRC licensee pursuant to Part 110, delivered for transport and transported licensed material without a license because SPEC did not comply with NRC CoC No. 5979. Specifically, the end caps of the NRC CoC No. 5979 transportation package had been modified by AOS, the seller of the package, and as a result the package did not conform to the CoC drawings, in that the end caps were physically and dimensionally different from the approved end caps. The end caps were heavier and thicker than specified, and the bolts were longer than specified.
2. Contrary to the above, SPEC, an NRC licensee pursuant to Part 110, delivered for transport and transported licensed material in an NRC CoC No. 5979 transportation package without a license. Specifically, SPEC did not comply with the CoC because the package was not inspected as required by the CoC before each shipment:

(a) For shipments on July 15, 2003, December 4, 2003, and May 20, 2004, the inspection was limited to the steps listed in an abbreviated maintenance inspection procedure prepared by Foss Therapy Services (FTS). The FTS inspection included steps 2.4 – 2.8, and excluded steps 2.2 - 2.3 and 2.9 - 2.12 of the AOS maintenance procedure;

(b) For shipments on July 15, 2003, and December 4, 2003, the contractor who performed the inspections for SPEC deliberately failed to perform step 2.4.A of the AOS maintenance inspection procedure; and

(c) For a May 20, 2004, shipment, steps 2.4 - 2.8 of the AOS maintenance inspection procedure were not performed.

This constitutes a Severity Level II problem (Supplement VII).  
Civil Penalty - \$9600 (EA-08-039).

B. Violation Not Assessed a Civil Penalty

10 CFR 71.105 (d) states, in part, that the licensee shall provide for indoctrination and training of personnel performing activities affecting quality.

Contrary to the above, between 2001 and 2004, SPEC did not provide for training of personnel performing activities affecting quality. Specifically, SPEC did not train two individuals on the requirements of 10 CFR Part 71 or of NRC CoC No. 5979 before the individuals performed inspections of the NRC CoC No. 5979 package in connection with shipments made on or about June 25, 2001, December 26, 2001, February 6, 2002, August 20, 2002, September 23, 2002, July 15, 2003, December 4, 2003, and May 20, 2004.

This is a Severity Level IV violation (Supplement V).

Pursuant to the provisions of 10 CFR 2.201, SPEC (or the licensee) is hereby required to submit a written statement or explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, with a copy to the Director, Office of Nuclear Material Safety and Safeguards, within 30 days of the date of this Notice of Violation and Proposed Imposition of Civil Penalty (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" (EA-08-039) and should include for each alleged violation: (1) admission or denial of the alleged violation, (2) the reasons for the violation if admitted, and if denied, the reasons why, (3) the corrective steps that have been taken and the results achieved, (4) the corrective steps that will be taken to avoid further violations, and (5) 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 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. Consideration may be given to extending the response time for good cause shown. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

Within the same time as provided for the response required above under 10 CFR 2.201, the licensee may pay the civil penalty proposed above in accordance with NUREG/BR-0254 and by submitting to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555, a statement indicating when and by what method payment was made, or may protest imposition of the civil penalty in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission. Should the licensee fail to answer within the time specified, an Order imposing the civil penalty will be issued. Should the licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violation(s) listed in this Notice, in whole or in part, (2) demonstrate extenuating circumstances, (3) show error in this Notice, or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty, in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the factors addressed in Section VI.C.2 of the Enforcement Policy should be addressed. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from the statement or explanation in reply pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of SPEC is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty due which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205, this matter may be referred to the U.S. Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234(c) of the Act, 42 U.S.C. 2282c.

The response noted above (Reply to Notice of Violation, statement as to payment of civil penalty, and Answer to a Notice of Violation) should be addressed to: Cynthia A. Carpenter, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to the Director, Office of Nuclear Material Safety and Safeguards.

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

Notice of Violation and Proposed  
Imposition of Civil Penalty

4

information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

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

Dated this 14th day of July 2008.