March 12, 2009

EA-09-046

Mr. R. D. Dicharry, President
Source Production & Equipment Co., Inc.
113 Teal Street
St. Rose, LA 70087

SUBJECT: RESPONSE TO DISPUTED NOTICE OF VIOLATION

Dear Mr. Dicharry:

Thank you for your response dated February 6, 2009, to the Notice of Violation (Notice) associated with NRC Inspection Report 71-0102/2008-201 issued January 9, 2009.

In your response, you stated that you believed the Notice was issued in error and requested that the NRC withdraw the violations. Specifically, you disputed violation A on the basis that 1) the regulations do not require an on-site audit of important to safety vendors, 2) that Source Production and Equipment Company (SPEC) has adequate measures to ensure compliance with purchase requirements, 3) SPEC performs a radiation survey for each depleted uranium shield to satisfy Certificate of Compliance and other regulatory requirements, and 4) performing an on-site audit would not enhance SPEC's ability to ensure the product meets the procurement documents. You disputed violation B on the basis that the specifications for tungsten electrode and cup size are not essential variables in accordance with the ASME Code and therefore did not need to be controlled as such in your welding control procedures.

With regard to violation A, the NRC has concluded that, for the reasons presented in the enclosure to this letter, the violation occurred as stated in the Notice dated January 9, 2009. You are requested to respond to this letter with regard to sustained violation A and should follow the instructions specified in the original Notice when preparing your response. Violation A will remain open until the NRC has verified implementation of your corrective actions during a subsequent inspection.

With regard to violation B, the NRC has determined that, based on the information you provided in your response letter, the violation did not occur. Therefore, violation B in the Notice is withdrawn. Our records will be amended to reflect this change.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your 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/NRC/ADAMS/index.html.

Sincerely,

/RA/
David W. Pstrak, Chief
Rules, Inspections, and Operations Branch
Division of Spent Fuel Storage and Transportation
Office of Nuclear Material Safety
and Safeguards

Docket No. 71-0102

Enclosure: Evaluation and Conclusion

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your 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/NRC/ADAMS/index.html.

Sincerely,

/RA/
David W. Pstrak, Chief
Rules, Inspections, and Operations Branch
Division of Spent Fuel Storage and Transportation
Office of Nuclear Material Safety
and Safeguards

Docket No. 71-0102

Enclosure: Evaluation and Conclusion

Distribution:	Docket 71-0102		
NRC f/c	Public	NMSS r/f	SFST r/f
EBrach, SFST	NMamish, SFST	RWharton, SFST	JWray, OE

G:\SFST\TSISQA\REPORTS\SPEC\SPEC2008NOVresponse.doc

OFC:	SFST	E	SFST	E	SFST	E						
NAME:	RTemps		MDeBose		DPstrak							
DATE:	03/12/09		03/12/09		03/12/09							

OFFICIAL RECORD COPY

EVALUATION AND CONCLUSION

Two violations were identified during a routine inspection conducted from December 8 through 12, 2008, at the Source Production and Equipment Company, Inc. (SPEC) facility in St. Rose, Louisiana. SPEC disagreed with both violations by letter dated February 6, 2009.

A. Specific Basis for Disputing Violation A

SPEC disputed violation A on the basis that 1) the regulations do not require an on-site audit of important to safety vendors, 2) that Source Production and Equipment Company (SPEC) has adequate measures to ensure compliance with purchase requirements, 3) SPEC performs a radiation survey for each depleted uranium (DU) shield to verify Certificate of Compliance and other regulatory requirements, and 4) performing an on-site audit would not enhance SPEC's ability to ensure the product meets the procurement documents.

Based on the above, SPEC requested that the NRC withdraw this violation cited against the failure to meet a requirement of 10 CFR 71.115.

NRC Evaluation of Certificate Holder's Response and Conclusion

The NRC staff has carefully reviewed SPEC's response and has concluded that violation A occurred as stated in our letter dated January 9, 2009, "NRC Inspection Report 71-0102/2008-201 and Notice of Violation." The basis for the determination is as follows:

10 CFR 71.101(b) states, in part, that the certificate holder shall execute the applicable criteria (of Subpart H) in a graded approach to an extent that is commensurate with the quality assurance requirement's importance to safety. SPEC has elected to implement guidance of NUREG/CR-6407, "Classification of Transportation packaging and Dry Spent Fuel Storage Systems According to Importance to Safety," that classifies all packaging components as either important-to-safety (ITS) category A, B or C, or as not-important-to-safety (NITS). By definition, ITS category A (category QA per SPEC's nomenclature) items require the highest level of assurance of their quality. SPEC has elected to classify their (DU) shield supplier as an ITS Category A supplier. Further, 10 CFR 71.115, "Control of purchased material, equipment and services," states, in part, "The certificate holder shall establish measures to assure that purchased material conform to the procurement documents. These measures must include provisions, as appropriate, for source evaluation and selection, objective evidence of quality furnished by the contractor, inspection at the contractor, and examination of product upon delivery." It is the NRC's position that qualification of a supplier as an ITS category A supplier through performance only of an in-office review of the supplier's quality assurance program is not acceptable in satisfying the 10 CFR 71.101(b) and 71.115 requirements as it does not provide objective evidence of quality either through direct inspection (audit) or through examination upon delivery.

SPEC stated in its response letter that the DU supplier cannot perform radiation surveys. The NRC would not expect nor require the DU shield supplier to perform radiation surveys since SPEC can perform this activity more appropriately at their facility. While SPEC's performance of shield surveys, to verify that the DU shields are performing their intended safety function, provides objective evidence of their quality for the shielding function, it is not a sufficient basis to add the supplier as an ITS category A supplier.

The NRC notes that Certificate of Compliance (CoC) 71-9263 references drawing 15B008 as part of the NRC's approved packaging design. Note 3 of the drawing states that the DU shield shall be made of DU with a minimum 99% purity. The NRC considers this to be a critical characteristic due to its specification in the CoC referenced drawing. SPEC is accepting a Certificate of Conformance from the DU supplier that states that the purity value of the supplied shields is greater than 99% as required by the CoC. SPEC has also imposed 10 CFR Part 21 reportability requirements upon the DU supplier. The NRC considers that SPEC's in-office review of the DU supplier's quality assurance manual does not provide objective evidence that the DU purity values, a critical characteristic specified in the CoC drawing, are obtained by the supplier in a manner that satisfies 10 CFR Part 71 Subpart H requirements. Further, SPEC's in-office review of the supplier's quality assurance manual does not provide objective evidence that the suppliers corrective action program is functional and capable of evaluating non-conformances for evaluation and reportability under 10 CFR Part 21.

For the above reasons, the NRC concludes that violation A occurred as stated in the Notice.

B. Specific Basis for Disputing Violation B

SPEC stated in their response letter that the specifications for tungsten electrode and cup size are not essential variables in accordance with the ASME Code, specifically ASME Section IX of the 2007 Code, paragraph 410.3.

NRC Evaluation of Certificate Holder's Response and Conclusion

The NRC staff has carefully reviewed SPEC's response and has concluded that violation B of the Notice should be withdrawn.