



April 7, 2009

Attn: Document Control Desk
Washington, DC 20555

cc: David W. Pstrak, Chief
Rules, Inspections and Operations Branch
Division of Spent Storage and Transportation
Office of Nuclear Material Safety and Safeguards
Washington, DC 20555

SUBJECT: REPLY TO DISPUTED NOTICE OF VIOLATION

Dear Sirs,

This letter is in response to Notice of Violation dated January 9, 2009 and NRC response dated March 12, 2009. Source Production and Equipment Company, Inc. (SPEC) still maintains that we did not violate Nuclear Regulatory Commission (NRC) regulations, specifically those found in 10 CFR 71.101(b) and 10 CFR 71.115.

We do apply a graded approach to quality using guidance published in both NUREG/CR-6407, "Classification of Transportation Packaging and Dry Spent Fuel Storage Systems According to Importance to Safety" and NRC's Regulatory Guide 7.10 "Establishing Quality Assurance Programs for Packaging Used in Transport of Radioactive Material". Primarily using guidance found in Appendix A to 7.10 we classified our DU shield as Category A. 10 CFR 71.115 requires that measures for assuring that purchased material conforms to procurement documents include, as appropriate, source evaluation and selection, objective evidence of quality furnished by the contractor, inspection at the contractor, and examination of product upon delivery. In other words, the regulation requires that the licensee determine which measures are appropriate for the material being purchased. While NRC might disagree with the decision that SPEC made, we do not believe that constitutes a violation of NRC's requirements.

SPEC determined which measures were appropriate for our DU shield supplier as follows. We evaluated potential sources for DU shields, and selected our current supplier based upon initial and annual audits along with inspection of prototype DU shields at our facility. Our DU shield contractor has acknowledged their obligations under NRC's Deliberate Misconduct Rule, and furnishes



Source Production & Equipment Co., Inc.

113 Teal Street St. Rose, LA 70087-9691 Phone 504/464-9471 FAX 504/467-7685 Website: www.spec150.com

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evidence of quality for each shield in the form of a Certificate of Conformance. The contractor is not able to provide complete objective evidence of quality as they cannot perform radiation surveys, so they are performed here. In this case, complete inspection of the shield at the contractor is not possible, as they are not licensed to possess the radioactive material required for a survey of the shield, nor would performing this inspection at their facility rather than ours provide any additional value. As we stated in our February 6, 2009 letter, the most appropriate method of determining whether a DU shield will properly perform its function is to examine it upon receipt at our facility. Our primary inspection tool is a radiation survey, however other inspections are performed as required to ensure that the SPEC-150 will meet both NRC's and SPEC's requirements.

CPAR00014 was initiated during the inspection. The corrective action will be to revise our production drawing to correct the classification of the gamma shield per NRC's guidance in NUREG/CR-6407. NUREG/CR-6407 assigns Category B to gamma shielding utilized in "Packaging for Type B (Special Form) Shipments". The guidance from the NUREG is as follows (see section 5.4.2).

"Gamma shielding is required to reduce external radiation doses to levels acceptable for transport. Lead, depleted uranium, and various steels have been used in the past for gamma radiation shielding. The presence and effectiveness of the shielding is subject to required testing during fabrication of the packaging. The shielding usually performs no other function than shielding and its presence is sufficient to satisfy its function. The shielding is usually enclosed by an outer shell and, as a solid, is not subject to removal during normal conditions of transport. Under many accident conditions, the shielding remains in place and still performs the intended function."

This is precisely the case with the SPEC-150. We had originally assigned the level of QA effort in accordance with Appendix A to NRC's Regulatory Guide 7.10, and the NRC's guidance with regard to the classification process in NUREG/CR-6417 mirrors the rationale that SPEC used in "identifying realistic QA requirements" for the DU shield. The very nature of gamma shielding when used in a package like the SPEC-150 makes it more suitable for the Category B classification.

Sincerely,

A handwritten signature in black ink that reads "Kelley Richardt". The signature is written in a cursive, flowing style.

Kelley Richardt
Regulatory and Quality Manager