



3901 Liberty Street Road • Aurora, Illinois 60504-8122
Telephone: 630.851.7330 • Fax: 630.851.9309

February 18, 2010

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555-0001

Subject: Reply to a Notice of Violation - BRK Brands, Inc - Response to NRC Routine Inspection Report No. 030-32838/09-01.

To Whom It May Concern:

This letter is written in response to the Notice of Violation issued by the NRC on January 20, 2010. BRK Brands, Inc. will address the three violations identified in the NRC's letter and also describe the: (1) reason for the violation, (2) immediate corrective steps and results achieved, (3) corrective action to avoid further violations, and (4) when full compliance will be achieved.

Violation 1

10 CFR 32.29(c) requires, in part, that the licensee file a report to the NRC that includes specific information about products that were transferred to persons exempt from the requirements for a license. It also requires that the licensee file the report, covering the preceding calendar year, on or before January 31 of each year, and that in its first report after December 17, 2007, the licensee separately include data for transfers in prior years not previously reported to the Commission.

(1) Reason for the violation -

The primary reason that BRK Brands did not file reports is due to the lack of a procedure. As a result, requirements were not communicated effectively when employees left the company or changed positions.

(2) Immediate corrective steps and results achieved -

Prompt action was taken to address the immediate concerns of failing to comply with 10 CFR 32.29(C). Transfer counts for 2005, 2006, 2007 and 2008 were sent to the NRC on October 22, 2009.



(3) Corrective action to avoid further violations -

A Radiation Safety procedure will be created and released by February 26, 2010, to communicate the requirements to management, minimize the risk of future non-conformances and provide a way to review performance relative to the stated objectives.

(4) When full compliance will be achieved -

Complete - Full compliance has been achieved. Transfer counts for 2009 were sent to the NRC on January 25, 2010. And, data for years not previously reported was sent October 22, 2009. The Radiation Safety Procedure will be released by February 26, 2010.

Violation 2

10 CFR 30.34(c) requires, in part, that each licensee confine its possession and use of byproduct materials to the locations and purposes authorized by the license.

(1) Reason for the violation -

The Neosho, MO facility does not have an NRC license to possess byproduct materials, but does have a license to distribute byproduct materials. The RSO at the Neosho facility may have been unaware of the need for two NRC licenses.

(2) Immediate corrective steps and results achieved -

The Neosho, MO facility stopped shipping exempt radioactive sources around December 2006.

(3) Corrective action to avoid further violations -

To permanently resolve further violations, BRK Brands, hired a consultant to perform a closeout survey at the Neosho facility. The Closeout survey was sent to the Region III office on January 4, 2010. BRK Brands requests an amendment to our NRC license to remove the Neosho, MO facility. The closeout survey and amendment request are included with this letter. The Radiation Safety Procedure will be released by February 26, 2010 to prevent further violations.

(4) When full compliance will be achieved -

Full compliance will be achieved when amendments to the NRC license are complete.

Violation 3

10 CFR 30.34(h) requires, in part, that each specific licensee notify the appropriate NRC Regional Administrator, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapter of Title 11 (Bankruptcy) of the United States Code by or against the licensee.

(1) Reason for the violation -

The primary reasons that BRK Brands did not notify the NRC regarding the bankruptcy is due to the lack of a procedure, not being fully aware of the requirements and changes in personnel. A procedure will be created for BRK employees to reference and avoid additional incidents.



(2) Immediate corrective steps and results achieved –

Details regarding the bankruptcy were provided in a letter from BRK Brands, Inc. to the Region III office dated October 12, 2009 and November 19, 2009.

(3) Corrective action to avoid further violations –

A Radiation Safety procedure will be released by February 26, 2010 for BRK employees to reference and use to avoid additional incidents. BRK brands are also working with an outside consultant to bring activities into compliance with NRC regulations.

(4) When full compliance will be achieved –

Complete - Reporting is complete for previous years.

In conclusion, BRK Brands is making every effort to promptly identify and correct noncompliant conditions and taking steps to avoid further violations. Please let BRK Brands know if there are any questions or comments.

Sincerely,

Tom Russo, President
Jarden Branded Consumables
Safety and Security

Mark H. Dippner
Compliance Engineer/Radiation Safety Officer
BRK Brands, Inc.

CC: United States Nuclear Regulatory Commission
Robert G. Gattone, Jr.
Senior Health Physicist
Materials Inspection Branch Region III
2443 Warrenville Road, Suite 210
Lisle, IL 60532-4352

Enclosures: Neosho, MO Closeout Survey
Request for Amendment to NRC License



December 30, 2009

Mark Dippner
Compliance Engineer
BRK Brands, Inc.
3901 Liberty Street Road
Aurora, IL 60504-8122

RE: Radiation Closeout Survey on December 29, 2009 in Neosho, MO

Dear Mr. Dippner:

Stan A. Huber Consultants, Inc. was hired by your firm to perform a radiation closeout survey at Jarden Consumer Solutions located at 303 Nelson Avenue in Neosho, Missouri. This facility was formerly used by BRK Brands, Inc. as a warehouse/distribution center for First Alert smoke detectors containing Am-241.

On December 29, 2009 I arrived at Jarden Consumer Solutions and met with Kevin Jefcoat, Sr. Director of Distribution. He explained the layout of the facility and described the areas where the First Alert operations took place. Storage and shipping took place in two separate areas. One is approximately 70,000 ft² while the other is approximately 67,500 ft². See attached diagram.

Mr. Jefcoat escorted me to both areas where I performed both a visual inspection and walkover radiation survey using a Ludlum Model 3 survey meter with attached 1"x1" NaI Scintillation Detector. The background exposure rate inside the facility ranged from 5 µR/hr – 8 µR/hr. No radiation readings were identified during the survey that exceeded background radiation levels. Also, I did not see any boxes or materials that indicated the presence of any smoke detectors.

Based on my radiation survey and walkthrough inspection I conclude that there are no longer any First Alert smoke detectors stored at this site for distribution.

Thank you for your assistance with this matter. If you have any questions, please call me at (815) 485-6161 or email glennhuber@sahci.com.

Sincerely,
Stan A. Huber Consultants, Inc.

Glenn Huber, CHP
President



3901 Liberty Street Road • Aurora, Illinois 60504-8122
Telephone: 630.851.7330 • Fax: 630.851.9309

Thursday, February 18, 2010

U.S. Nuclear Regulatory Commission
Radioisotopes Licensing Division
Region III
2443 Warrenville Road, Suite 210
Lisle, Illinois 60532-4352

RE: Amendment to NRC Radioactive Material License #12-23809-01E, BRK Brands, Inc., Aurora, Illinois

Dear Sir or Madam:

Please amend the above referenced radioactive materials license to reflect the following:

1. We wish to update condition 10 of our license. Device models 1000E Series and 1000M Series are obsolete ion chamber constructions and are no longer distributed under our license.
2. We wish to remove the 303 Nelson Avenue, Neosho, MO location from our license. Attached is a copy of the closeout survey performed by Stan A. Huber Consultants, Inc. indicating that there are no longer any smoke detectors located at this location for distribution and that no radiation readings were identified during the survey that exceeded background radiation levels.
3. We request a copy of the following licensure-associated documents identified in Condition 14 of our license; C. Letter dated July 28, 1992, and K. Application dated July 22, 2002. We are unable to locate a copy of these documents in our files.

Thank you for your assistance in this matter. If you have any questions, please contact me at (630) 851-7330 ext. 3422.

Sincerely,

Mark Dippner
RSO, Compliance Engineer



3901 Liberty Street Road • Aurora, Illinois 60504-8122
Telephone: 630.851.7330 • Fax: 630.851.9309

Thursday, February 18, 2010

U.S. Nuclear Regulatory Commission
Radioisotopes Licensing Division
Region III
2443 Warrenville Road, Suite 210
Lisle, Illinois 60532-4352

RE: Amendment to NRC Radioactive Material License #12-23809-01E, BRK Brands, Inc., Aurora, Illinois

Dear Sir or Madam:

Please amend the above referenced radioactive materials license to reflect the following:

1. We wish to update condition 10 of our license. Device models 1000E Series and 1000M Series are obsolete ion chamber constructions and are no longer distributed under our license.
2. We wish to remove the 303 Nelson Avenue, Neosho, MO location from our license. Attached is a copy of the closeout survey performed by Stan A. Huber Consultants, Inc. indicating that there are no longer any smoke detectors located at this location for distribution and that no radiation readings were identified during the survey that exceeded background radiation levels.
3. We request a copy of the following licensure-associated documents identified in Condition 14 of our license; C. Letter dated July 28, 1992, and K. Application dated July 22, 2002. We are unable to locate a copy of these documents in our files.

Thank you for your assistance in this matter. If you have any questions, please contact me at (630) 851-7330 ext. 3422.

Sincerely,

Mark Dippner
RSO, Compliance Engineer