



71-9263

Date: September 9, 2010

ATTN: Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, DC 20555-001

Subject: Reply to a Notice of Violation

Dear Sirs,

During an inspection of Source Production and Equipment Co., Inc.'s (SPEC's) facility conducted 07/28/10, one Severity Level IV violation of the 01/12/04 Order Imposing Additional Security Measures was identified by NRC.

Attachment 2 to Order EA-08-212 requires that the licensee shall document the basis for concluding that there is reasonable assurance that individuals granted unescorted access to the security zone are trustworthy and reliable.

Contrary to the above, the licensee failed to document the basis for concluding that individuals granted unescorted access to the security zone were trustworthy and reliable. Specifically, the licensee failed to document the basis for allowing unescorted access to the security zone for one of their employees. This employee had a conviction for burglary which was identified during the required FBI fingerprint and criminal history checks; however, the licensee did not document their basis for concluding that this employee was still deemed trustworthy and reliable, and this person was granted and had access to the security zone in which licensed material was being stored.

The above statement does not completely characterize the violation. The FBI fingerprint and criminal history check did not identify a conviction, it identified an arrest. Nonetheless, we completely understand that the failure to document our trustworthy and reliable decision is the basis for the violation.

1) Reason for violation: At the time that this access determination was made (02/2008), SPEC did not have a process in place that required that the trustworthy and reliability decision be documented. All of the records that were used to make that decision were documented, but there was no system to document the actual determination at the time that access was granted. SPEC developed Form



Source Production & Equipment Co., Inc.

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AD39F1, Security Plan / Fingerprinting Determination on 04/08/08. (See Attachment 1 for original version of that document.) That form is used to provide the applicant with the fingerprinting requirement, the intended use of the information received, and their right to review the information prior to an adverse determination. It is also used to notify and applicant that they have, or have not been granted unescorted access. This form was not in use when this determination was made however, and it does not document the specifics of that determination when an individual has an arrest record.

2) Corrective steps that have been taken and results achieved:

- A. The reviewing official has documented the basis for the previous T&R determination for all current T&R employees with an arrest record. This was completed the day after the inspection.
- B. For the individual involved, the reviewing individual followed up with the arresting agency and discovered that there is no record of a conviction, in fact they have no record of this arrest at all. They checked using alternative criteria (name, birth date, etc) and could find no additional information. So although this employee did have an arrest record, there was no conviction.
- C. SPEC refrained from making a T&R determination or allowing unescorted access until objective evaluation criteria had been developed, and a system for documenting that evaluation is in place.
- D. SPEC developed a documented list of objective criteria based on NRC's guidance for assessing a person's arrest record, employment history, etc. (See Attachment 2)

3) Corrective steps that will be taken to avoid further violations:

- A. Interview every employee requiring access who was hired since 9/11 and has an arrest record to determine whether they were convicted of the charge and obtain additional information.
- B. If the person claims that they were not convicted, follow up with arresting agency.
- C. Interview every future applicant for unescorted access who has an arrest record (or other anomaly in their background) to obtain additional information about that record, document the results.
- D. For future applicants, when needed to make a determination, follow up with the arresting agency to obtain the actual disposition of the arrest and other pertinent details.
- E. Determine whether personnel are to be allowed unescorted access based on information gathered in accordance with security requirements and guidance.
- F. Document the final decision and rationale for the decision.
- G. Maintain all records in accordance with requirements and guidance.

4) Date when full compliance will be achieved: Corrective / Preventative Action Report #00041 has been initiated and full compliance will be achieved by 10/31/10.



We trust that NRC will find that this prompt and comprehensive corrective action addresses the immediate concerns identified in the Notice of Violation in a thorough and complete manner. We are committed to preventing recurrence of the violation. Should any additional information be required, please do not hesitate to contact us.

A copy of this letter is being provided to Region IV.

Sincerely,

A handwritten signature in cursive script that reads "Kelley Richardt".

Kelley Richardt
Regulatory and Quality Manager

Attachment 1: AD39F1, Security Plan / Fingerprinting Determination, dated 04/08/08

Attachment 2: AD39F4, Access (T&R) Determination, (additional) new form being developed

Form No.: AD39F1

Title: Security Plan / Fingerprinting Determination

Name: _____ Date: _____

SPEC is required to submit your fingerprints to the Attorney General for identification and a criminal history records check in order for you to have unescorted access to radioactive material. The fingerprinting order is available to all SPEC personnel via our Intranet, a hard copy of the Order will be made available to you upon request. You have the right to request that your record be revised, or that an explanation be included in your record. SPEC will review the information received, along with our review of your employment and educational history, solely for the purpose of making a determination whether to grant unescorted access to radioactive material. Prior to any adverse determination, the contents of any criminal records will be provided to you for the purpose of assuring correct and complete information.

Please sign and date here documenting that you have reviewed the information above.

Reviewed by _____ on _____ date.

The purpose of this form is to notify you of the results of your security clearance request.

_____ You have been approved for unescorted access to radioactive material based upon our review of your criminal records, employment history, educational history, or _____.

_____ We believe that your records are incorrect or incomplete and wish to provide you with the opportunity to initiate challenge procedures in order to change, correct, update or explain it. You have ten (10) days from this date to initiate a challenge per the Order.

Notification made by _____ on _____ date.

As an employee granted unescorted access to radioactive material, you have the following responsibilities:

1. Do not disclose details of SPEC's security plan to unauthorized personnel, it is sensitive information and must be protected from unauthorized disclosure.
2. Control access to radioactive material to approved SPEC employees that require access.
3. Ensure that new SPEC employees are escorted when access to radioactive material is required until they have been cleared (usually 2 weeks). Escort service personnel in both buildings.
4. Monitor radioactive material to immediately detect, assess and respond to unauthorized access.
5. Ensure two independent physical controls to secure radioactive material from unauthorized removal when not under direct control and constant surveillance.
6. Respond immediately to actual or attempted theft, sabotage or diversion of radioactive material. The phone number for our local sheriff is 985-783-6807.
7. For shipping, also follow the requirements in RG06, Approved Carriers and Shipment Notification.
8. For Sales, also follow the requirements contained in SA07 and the Sales Checklist.
9. Protect sensitive information during use, storage and transit.
10. Control access to sensitive information, shred documents when no longer needed. Specific shipping plans are no longer sensitive information once the shipment is completed.

Source Production & Equipment Company, Inc.
113 Teal Street, St. Rose, LA 70087

Form No.: AD39F4
Title: Access (T&R) Determination

Name: _____

Date: _____

The following elements are required (at minimum) and form the basis for this T&R determination unless the individual has had a favorably decided US Govt check in the last 5 years or an active federal security clearance (EA 08-212). Ensure that the following elements have been completed:

- Fingerprinting and FBI criminal history check
- Verification of work or education references for at least 3 years
- Confirmation of employment eligibility

Each case must be judged on its own merits. In every case, the T&R Official should evaluate trustworthiness and reliability based on an accumulation of information which supports a positive finding, prior to granting unescorted access. Items to consider include:

Y	N	Criteria
		Information collected was consistent and adequate.
		True identity evaluated by comparing applicant provided identification and personal history data to pertinent information from the background check, and other data sources if available.
		There was no indication of criminal history on FBI background check (from fingerprinting)

If any of the above 3 items are not marked yes, as having been found to be acceptable, the T&R Official shall investigate using the following criteria. (See next page for disqualifying criteria.)

- nature, extent, and seriousness of the conduct;
- length of employment (at SPEC);
- circumstances surrounding the conduct, to include knowledgeable participation;
- frequency and recency of the conduct;
- individual's age and maturity at the time of the conduct;
- extent to which participation is voluntary;
- presence or absence of rehabilitation and other permanent behavioral changes;
- motivation for the conduct;
- potential for pressure, coercion, exploitation, or duress;
- likelihood of continuation or recurrence;
- conviction indicates poor judgment, unreliability, or untrustworthiness;
- if applicant's record is inconsistent with their statements, was behavior intentional, innocent, or an oversight. Willful or intentional acts of omission or untruthfulness could be grounds for denial of unescorted access.

Comments:

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Form No.: AD39F4

Title: Access (T&R) Determination

Disqualifying criteria:

- Committed, attempted to commit, aided, or abetted another who committed or attempted to commit any act of sabotage, espionage, treason, sedition, or terrorism.
 - Publicly or privately advocated actions that may be inimical to the interest of the US, or publicly or privately advocated the use of force or violence to overthrow the Government of the US or the alteration of the form of government of the US by unconstitutional means.
 - Knowingly established or continued a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, terrorist, or revolutionist, or with an espionage agent or other secret agent or representative of a foreign nation whose interests may be inimical to the interests of the US, or with any person who advocates the use of force or violence to overthrow the Government of the US or the alteration of the form of government of the US by unconstitutional means. (Ordinarily, the Licensee should not consider chance or casual meetings or contacts limited to normal business or Official relations.)
 - Joined or engaged in any activity knowingly in sympathy with or in support of any foreign or domestic organization, association, movement, group, or combination of persons which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the US or any State or any subdivisions thereof by unlawful means, or which advocate the use of force and violence to overthrow the Government of the US or the alteration of the form of government of the United States by unconstitutional means. (Ordinarily, the Licensee should not consider chance or casual meetings or contacts limited to normal business or official relations.)
 - Deliberately misrepresented, falsified or omitted relevant and material facts from documentation.
- This individual was found to be trustworthy and reliable and will be allowed unescorted access.

Authorized by _____ on _____ date.
SPEC's T&R Official

- This individual was not found to be trustworthy and reliable and will not be allowed unescorted access.

Authorized by _____ on _____ date.
SPEC's T&R Official

* Licensees shall notify the NRC's Headquarters Operations Office at 301-816-5100 within 24 hours if the results from a FBI identification and criminal history records check indicate that an individual is identified on the FBI's Terrorist Screening Data Base.

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