

August 1, 2012

EA-12-144

Ms. Fenshya Chang
Industrial Nuclear Corp.
14320 Wycroft Rd
Oakville, CA 94577

SUBJECT: FAILURE TO NOTIFY THE NRC OF IMPORT, AND FAILURE TO NOTIFY THE IMPORTING COUNTRY OF SEALED SOURCE SHIPMENTS IN VIOLATION OF 10 CFR 110.50(C) – NOTICE OF VIOLATION

Dear Ms. Chang:

This letter refers to a Nuclear Regulatory Commission (NRC) in-office evaluation of Industrial Nuclear Company, Inc. (INC) export and import reporting during calendar year 2012, and your failure to submit timely reports in accordance with the requirements of Title 10 of the Code of Federal Regulations (10 CFR) 110.50(c). Specifically, the following two instances of failing to provide timely import notifications for the period January 1, 2012, through June 30, 2012, were identified:

Shipment Date	Notification Date	Origin	Shipment
1/13/12	1/13/12	Netherlands	SL0113A
1/03/12	1/17/12	Netherlands	SL0113B

These notifications were not received in a timely manner, as required by 10 CFR 110.50(c)(4) and NRC specific license PIB22.02. Additionally, please note that while the specified regulatory citation and your specific import license require that import notifications must be received by the NRC at least 7 days in advance of each shipment, the NRC has been using discretion and allowing the 24 hour import notification requirement of the regulation in effect at the time of license issuance.

Additionally, on two occasions INC failed to provide both the NRC and Canadian Nuclear Safety Commission with advanced notifications of exports as required by 10 CFR 110.50(c)(1). Specifically, on May 31, 2012 and June 6, 2012, INC exported Category 2 quantities of Ir-192 to Kodiak Quality Control Ltd, in Canada, without making prior notifications.

During the review of these apparent violations, the NRC staff communicated the pre-shipment notification requirements with you or your staff on February 3, 2012, June 8, 2012, and June 11, 2012, and confirmed that INC had imported and exported the noted materials in accordance with your specific licenses. INC also communicated in these and follow-on discussions that corrective actions were implemented or were in process to prevent further violations of regulatory requirements pertaining to import notifications, and committed to additional corrective actions in INC letter dated June 14, 2012, associated with export notification violations.

The NRC has determined that two Severity Level IV violations of NRC requirements have occurred, each with two examples. These violations were evaluated in accordance with the NRC Enforcement Policy available on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. Because you did not identify the violations, a non-cited violation, in accordance with section 2.3.2 of the enforcement policy, was not warranted.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The NRC will use your response to the Notice to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.390 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 Agencywide Documents Access and Management System, accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. If personal privacy, proprietary information or safeguards information is necessary to provide an acceptable response, 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 information, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the basis for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

Sincerely,

/RA/

Nick Hilton, Branch Chief
Office of Enforcement

Enclosures: Notice of Violation EA-12-144

cc: (See page 3)

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Sincerely,
 /RA/
 Nick Hilton, Branch Chief
 Office of Enforcement

Enclosures: Notice of Violation EA-12-144

cc: (See page 3)

DISTRIBUTION:

N. Hilton, OE M. Burgess, FSME L. Sreenivas, OE OE Case File EA-12-144
 OE Day File J. Owens, OIP C. Maier, R IV

Accession Nos.: ML12188A144

*Previously concurred **Concurred via email
 Publicly Available Non-Publicly Available Sensitive Non-Sensitive

OFFICE	OIP	OIP	OIP/ECIOB:BC	OE	OE:BC
NAME	S. Baker*	B. Wittick*	J. Owens	C. Faria	N. Hilton
DATE	07/12/12	07/12/12	07/13/12	07/16/12	08/01/12

OFFICIAL RECORD COPY

cc:

Defense Threat Reduction Agency (OP-CSNSP)
Attn: Mr. David McDarby
8725 John J. Kingman Road, MSC-6201
Fort Belvoir, VA 22060-6201

Customs & Border Protection
Attn: Christopher Baugues
LSS Technical Data Assessment & Teleforensics Center
12379 Sunrise Valley Drive, Suite C
Reston, Virginia 20191

California Department of Public Health
Radiologic Health Branch
Attn: Gonzalo Perez, Chief
1500 Capitol Ave., MS 7610
Sacramento, CA 95814
gonzalo.perez@cdph.ca.gov

Canadian Nuclear Safety Commission
Attn: Mr. Larry Chamney
P.O. Box 1046, Station B 280 Slater Street
Ottawa, ON K1P 5S9
CANADA

NOTICE OF VIOLATION

Industrial Nuclear Corp
Oakville, CA 94577

License No.: PXB17a.04/PIB22.02
EA-12-144

As a result of an evaluation conducted on Industrial Nuclear Company, Inc. (INC) export and import notifications from January 1, 2012 through June 30, 2012, and communications with the Nuclear Regulatory Commission (NRC) on and subsequent to February 3, 2012, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 110.50(c)(1) states, in part, that a licensee authorized to export or import the radioactive material listed in Appendix P to this part is responsible for notifying the NRC.

10 CFR 110.50(c)(4) states, in part, that import notifications must be received by the NRC at least 7 days in advance of each shipment (Note: PIB22.02 was issued April 6, 2009, at which time 10 CFR 110.50(b)(4) specified that import notifications must be received by the NRC at least 7 days in advance of each shipment, to the extent practical, but in no case less than 24 hours in advance of each shipment.).

Contrary to the above, on January 3 and 13, 2012, INC imported quantities of iridium-192 in excess of 10 CFR 110 Appendix P levels under NRC license PIB22.02, but failed to notify the NRC at least 24 hours prior to each import. Specifically notification was made on January 17, 2012 for the January 3, 2012, shipment, and January 13, 2013 for the January 13, 2012 shipment.

This is a Severity Level IV violation.

- B. 10 CFR 110.50(c)(1) states, in part, that a licensee authorized to export or import the radioactive material listed in Appendix P to this part is responsible for notifying NRC and, in cases of exports, the government of the importing country in advance of each shipment.

Contrary to the above, on May 31, 2012, and June 6, 2012, INC exported two sealed sources containing quantities of iridium-192 in excess of 10 CFR 110 Appendix P levels from the United States to Canada and failed to notify the Canadian Nuclear Safety Commission prior to shipment.

This is a Severity Level IV violation.

Pursuant to the provisions of Title 10 of the Code of Federal Regulations (10 CFR) 2.201 INC is hereby required to submit a written statement or explanation to the Deputy Director, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, within 30 days of the date of this Notice of Violation. This reply should be clearly marked as a "Reply to a Notice of Violation: EA-12-144" and should include for each violation: (1) the reason

for the violation, or, if contested, the basis for disputing the violation or severity level; (2) the corrective steps that have been taken and the results achieved; (3) any additional corrective steps that will be taken; and (4) the date when full compliance will be or was 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, the NRC may issue an Order or a Demand for Information requiring you to explain why your license should not be modified, suspended, or revoked or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Any response will be made available electronically for public inspection in the NRC Public Document Room or from the NRCs document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

In accordance with 10 CFR 19.11, may be required to post this Notice within 2 working days.

Dated this 1 day of August 2012