

August 8, 2013

EA-13-166
EN 48971
NMED 130195 (Closed)

Mr. John Stempowski
Purchasing Manager
Prefix Corporation
1300 West Hamlin Road
Rochester Hills, MI 48309

SUBJECT: RESPONSE TO WRITTEN REPORT DATED JULY 12, 2013, AND NOTICE OF VIOLATION – PREFIX CORPORATION

Dear Mr. Stempowski:

On July 26, 2013, the U.S. Nuclear Regulatory Commission (NRC) completed an in-office review of your April 11, 2013, initial notification to the NRC and your July 12, 2013, written report regarding a missing static eliminator, containing 1.9 millicuries of polonium-210 at the time of loss, from your Rochester Hills facility. In your letters, you described the circumstances regarding the discovery of the missing device and Prefix Corporation's proposed corrective actions to prevent recurrence. Telephone meetings between you and Ryan Craffey of my staff were conducted April 26, 2013, and July 12, 2013, to discuss the event and the NRC's findings.

Based on the review of your notification and report, the NRC has determined that two Severity Level IV violations of NRC requirements occurred. The violations were evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The first violation involved the failure to transfer or dispose of a generally-licensed device containing byproduct material in accordance with Title 10 of the *Code of Federal Regulations* (CFR) Part 31.5(c)(8)(i). The second violation involved the failure to make a written report to the NRC, in accordance with 10 CFR 20.2201(b)(1), within 30 days after reporting by telephone the occurrence of any lost, stolen, or missing licensed material in a quantity greater than ten times the quantity specified in Appendix C to 10 CFR Part 20.

The NRC is citing the violations in the enclosed Notice of Violation (Notice). You are required to respond to the violations and should follow the instructions specified in the enclosed Notice when preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

J. Stempowski

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At this time, we have no further questions regarding the loss of the static eliminator. The NRC considers its review of this event closed; however, your corrective actions in response to the event and violations will be reviewed through future correspondence or during an onsite inspection.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, will be made available electronically for public inspection in the NRC's Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC's website 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 publicly available without redaction.

We will gladly discuss any questions you have concerning this correspondence.

Sincerely,

/RA/

Aaron T. McCraw, Chief
Materials Inspection Branch
Division of Nuclear Materials and Safety

Docket No. 999-90003
General Licensee

Enclosure:
Notice of Violation

cc w/encl: State of Michigan

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Aaron T. McCraw, Chief
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NOTICE OF VIOLATION

Prefix Corporation
Rochester Hills, Michigan

Docket No. 999-90003
General Licensee

During the U.S. Nuclear Regulatory Commission's (NRC's) review of an event reported to the agency on April 26, 2013, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. Title 10 of the *Code of Federal Regulations* (CFR) Part 31.5(a) states, in part, that a general licensee is hereby issued to commercial and industrial firms to acquire, receive, possess, use or transfer, in accordance with the provisions of paragraphs (b), (c), and (d) of this section, byproduct material contained in devices designed and manufactured for the purpose of producing light or an ionized atmosphere.

Title 10 CFR Part 31.5(c)(8)(i) requires that any person who acquires, receives, possesses, uses or transfers byproduct material in a device pursuant to the general license in paragraph (a) of this section shall transfer or dispose of the device containing byproduct material only by export as provided in paragraph (c)(7) of this section, by transfer to another general licensee as authorized in paragraph (c)(9) of this section, or to a person authorized to receive the device by a specific license issued under parts 30 and 32 of this chapter, or part 30 of this chapter that authorizes waste collection, or equivalent regulations of an Agreement State, or as otherwise approved under paragraph (c)(8)(iii) of this section.

Contrary to the above, on April 11, 2013, Prefix Corporation failed to transfer or dispose of a generally licensed Nuclestat Nuclear Static Eliminator containing approximately 1.9 millicuries of polonium-210 in a manner authorized by 10 CFR 31.5(c). Specifically, in early April 2013, the company could not locate the device, last used in November 2012, as it was preparing to renew its lease of the device from the manufacturer, and the device was neither transferred to an authorized recipient nor disposed of in an authorized manner.

This is a Severity Level IV violation (Section 8.1.F of the NRC Enforcement Manual).

- B. Title 10 CFR Part 31.5(a) states, in part, that a general licensee is hereby issued to commercial and industrial firms to acquire, receive, possess, use or transfer, in accordance with the provisions of paragraphs (b), (c), and (d) of this section, byproduct material contained in devices designed and manufactured for the purpose of producing light or an ionized atmosphere.

Title 10 CFR Part 31.5(c)(10) requires, in part, that any person who acquires, receives, possesses, uses or transfers byproduct material in a device pursuant to the general license in paragraph (a) of this section shall comply with the provisions of 10 CFR 20.2201 and 10 CFR 20.2202 of this chapter for reporting radiation incidents, thefts, or loss of licensed material.

Enclosure

Title 10 CFR 20.2201(b)(1) requires, in part, that each licensee required to make a report under paragraph (a) of this section shall, within 30 days after making the telephone report, make a written report.

Contrary to the above, on May 26, 2013, Prefix Corporation failed to make a written report within 30 days after making an initial telephone report on April 26, 2013, notifying the NRC of a lost polonium-210 static eliminator source. Specifically, Prefix did not provide a written report to the NRC until July 12, 2013.

This is a Severity Level IV violation (Section 6.9 of the NRC Enforcement Policy).

Pursuant to the provisions of 10 CFR 2.201, Prefix Corporation is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator, Region III, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" 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) the corrective steps that will be taken, and (4) the date when full compliance was or will be 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, an order or a Demand for Information may be issued as to why the 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.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated this 8th day of August 2013.