

June 17, 2015

EA-15-109

Mr. Mike Rose
Quality Assurance Manager
Alternate Radiation Safety Officer
Industrial Nuclear Company, Inc.
14320 Wicks Blvd.
San Leandro, CA 94577

SUBJECT: FAILURE TO PROPERLY NOTIFY THE U.S. NUCLEAR REGULATORY
COMMISSION IN ADVANCE OF AN EXPORT SHIPMENT AND NOTICE OF
VIOLATION

Dear Mr. Rose:

This letter refers to a review of the Industrial Nuclear Company, Inc. (INC), Advanced Notifications associated with the export of 3.811 TBq iridium-192 from INC to the Canadian Institute for Non-Destructive Evaluation, located in Canada. Title 10 of the *Code of Federal Regulations* (10 CFR) Section 110.50(c) requires, in part, that a licensee authorized to export or import the radioactive material listed in Appendix P to 10 CFR Part 110 is responsible for notifying the U.S. Nuclear Regulatory Commission (NRC) and, in cases of exports, the government of the importing country in advance of each shipment. In accordance with 10 CFR 110.50(c)(3)(i)(H), the export notification must contain a copy of the foreign recipient's authorization or confirmation of that authorization from the government of the importing country.

Based on the information developed during our review of these activities, the NRC has determined that a Severity Level IV violation of NRC requirements occurred when INC failed to properly submit an Advanced Notification of a shipment in accordance with NRC regulations. Specifically, on April 27, 2015, INC notified the NRC of its intent to export 3.811 TBq of iridium-192 to Canada. The notification provided by INC failed to contain a complete copy of the foreign recipient's authorization, or confirmation of that authorization from the government of the importing country, which demonstrated that the recipient was authorized to possess iridium-192. The export was shipped on April 28, 2015. The inadequate export notification provided by INC is a violation of 10 CFR 110.50(c)(3).

The violation was evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is available on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violation is cited in the enclosed Notice of Violation (Notice) because all of the criteria in Section 2.3.2 on the NRC Enforcement Policy were not met in that INC did not identify the violations.

M. Rose

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You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. If you have additional information that you believe the NRC should consider, you may provide it in your response. The NRC will use your response, in part, to determine whether or not 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 Public Document Room or from the NRC's document system Agencywide Documents Access and Management System accessible from the NRC Website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy or proprietary information so that it can be made available to the public without redaction. If personal privacy or proprietary 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 bases 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).

Please contact Brooke G. Smith at (301) 415-2347 if you have any questions regarding this matter.

Sincerely,

/RA/

Nick D. Hilton, Chief
Enforcement Branch
Office of Enforcement

Enclosure:
Notice of Violation

cc: State of California

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Enclosure:
Notice of Violation

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***via email**

OFFICE	OIP	OIP	BC:ECNP/OIP	OE	OE
NAME	SBaker	JChimood	BSmith	RFretz	NHilton
DATE	5/21/15	5/21/15	5/21/15	6/17/15	6/17/15

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Industrial Nuclear Company, Inc.
San Leandro, CA

EA-15-109

During an U.S. Nuclear Regulatory Commission (NRC) review completed on May 11, 2015, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

- A. Section 110.50(c) of Title 10 of the *Code of Federal Regulations* (10 CFR) requires, in part, that a licensee authorized to export or import the radioactive material listed in Appendix P to 10 CFR Part 110 is responsible for notifying the NRC in advance of each shipment. Section 110.50(c) also requires that a licensee authorized to export radioactive material notify the government of the importing country in advance of each export shipment. In accordance with 10 CFR 110.50(c)(3)(i)(H), the notification must contain a copy of the foreign recipient's authorization or confirmation of that authorization from the government of the importing country.

Contrary to the above, on April 27, 2015, Industrial Nuclear Company, Inc. (INC) failed to notify the NRC in advance of an export shipment as required by NRC regulations. Specifically, on April 27, 2015, INC notified the NRC of its intent to export 3.811 TBq of iridium-192 to Canada. The notification provided by INC failed to contain a complete copy of the foreign recipient's authorization, or confirmation of that authorization from the government of the importing country. The export was shipped on April 28, 2015. Iridium-192 is listed in Appendix P to 10 CFR Part 110.

This is a Severity Level IV violation (NRC Enforcement Policy, Section 6.15).

Pursuant to the provisions of Title 10 of the *Code of Federal Regulations* (10 CFR) 2.201, INC, Inc., is hereby required to submit a written statement or explanation to the 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-15-109)" 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, U.S. Nuclear Regulatory Commission, Office of Enforcement, Washington, DC 20555-0001.

Enclosure

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS) accessible from the NRC 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 available to the public without redaction.

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

Dated this 17th day of June 2015.