

June 30, 2015

EA-14-225

Mr. Michael J. Lange
Group Executive
Vice President, Services
MISTRAS Group, Inc.
195 Clarksville Road
Princeton Junction, NJ 08550

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF
CIVIL PENALTY - \$7,000 TO MISTRAS GROUP, INC.

Dear Mr. Lange:

This refers to our review of MISTRAS Group, Inc., (Mistras) export of two iridium-192 (Ir-192) sealed sources to IR Supplies and Services located in Edmonton, Canada, on or about July 24, 2014. The U.S. Nuclear Regulatory Commission (NRC) noted the apparent violations during a review of a National Source Tracking System (NSTS) Transaction Report (NRC Form 748), in which Mistras reported the export to Canada without obtaining a specific export license. Mistras also failed to provide advanced notification of shipment to the NRC and the Canadian Nuclear Safety Commission.

In a March 9, 2015, letter, the NRC notified Mistras of the apparent violations and also provided you the opportunity to address the apparent violations identified by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In a letter dated April 1, 2015, you provided a written response to the apparent violations.

Based on the information developed during our review and the information provided in your April 1, 2015, response, the NRC has determined that two violations of NRC requirements occurred. The violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are further described in the March 9, 2015, letter. According to your response, the reason stated for the violations is that Mistras personnel assumed the license issued to Mistras in Canada satisfied the NRC license requirement. Additionally, the reason given for failing to provide an advanced notification for shipment is that Mistras made their notification to the NSTS and was unaware of the Title of the *Code of Federal Regulations* (10 CFR) 110.50(c) notification requirements. This was noted as a lack of training of key personnel responsible for exports and imports of materials under NRC licensing jurisdiction.

The NRC notes that the failure to comply with the regulations is significant in that it impacted the NRC's ability to perform its regulatory function. The failure to obtain an export license and to submit an advanced notification of shipment adversely affected the NRC's ability to track Category 2 sources, as well as undermined the adherence of practices and procedures agreed upon between the United States and Canada, and with the International Atomic Energy Agency. Therefore, these violations are categorized collectively in accordance with the NRC Enforcement Policy as a Severity Level III problem.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$7,000 is considered for a Severity Level III problem. Because your facility has been the subject of escalated enforcement actions within the last 2 years, the NRC considered whether credit was warranted for both Identification and Corrective Action in accordance with the civil penalty assessment process described in Section 2.3.4 of the Enforcement Policy. The NRC determined that credit is not warranted for Identification, as the violation was identified by the NRC, and concluded that credit is warranted for the corrective actions taken to address the violation. Specifically, Mistras: (1) submitted the application/fee and obtained the export license (export license was issued by the NRC on May 26, 2015); (2) committed to revising the Radiation Safety Administrative Manual to include the proper methods of notifying the NRC and foreign governments in compliance with 10 CFR 110.50(c); and (3) committed to providing training to individuals responsible for affecting the export/import process, including annual refresher training.

Therefore, to emphasize the importance of compliance with NRC regulations and to encourage prompt identification and comprehensive correction of violations, I am issuing the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) in the base amount of \$7,000 for the Severity Level III problem. In addition, issuance of this Notice constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding: (1) the reason for the violation(s); (2) the corrective steps that have been taken and the results achieved; and (3) the corrective steps that will be taken; and (4) the date when full compliance will be achieved is already adequately addressed on the docket in your letter dated April 1, 2015. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure(s), and your response, if provided, will be made available electronically for public inspection in the NRC Public Document Room or in the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

M. Lange

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If you have any questions concerning this matter, please contact Ms. Brooke G. Smith at (301) 415-2347 or via email at Brooke.Smith@nrc.gov.

Sincerely,

/RA/
Patricia K. Holahan, Director
Office of Enforcement

Docket No.: 03035114
License No.:12-16559-02

Enclosures:

1. Notice of Violation and Proposed Imposition of Civil Penalty
2. NUREG/BR-0254 Payment Methods (Licensee only)

M. Lange

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If you have any questions concerning this matter, please contact Ms. Brooke G. Smith at (301) 415-2347 or via email at Brooke.Smith@nrc.gov.

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NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

MISTRAS Group, Inc.
Princeton Junction, NJ

Docket No. 03035114
License No. 12-16559-02
EA-14-225

During an NRC review of MISTRAS Group, Inc., (Mistras) exports, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the NRC proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and Title 10 of the Code of Federal Regulations (10 CFR) 2.205. The particular violations and associated civil penalty are set forth below:

- A. 10 CFR 110.5 states, in part, that no person may export any nuclear material listed in 10 CFR 110.9 unless authorized by a general or specific license issued under 10 CFR Part 110.

Contrary to the above, on or about July 24, 2014, Mistras exported two Ir-192 sealed sources to Canada without obtaining a specific license from the NRC authorizing the export of Ir-192 to Canada prior to the shipment. Specifically, Mistras submitted a National Source Tracking System (NSTS) Transaction Report indicating the export of two sealed sources each containing 69 curies of Ir-192 to Canada. Instead of citing a valid NRC export authorization (license) number, Mistras entered the import authorization number issued to the recipient company in Canada. The export was also not authorized by a general license issued under 10 CFR Part 110.

- B. 10 CFR 110.50(c)(1) states, in part, that a licensee authorized to export the radioactive material listed in Appendix P to 10 CFR Part 110 is responsible for notifying the NRC and, in cases of exports, the government of the importing country in advance of each shipment.

10 CFR 110.50(c)(4) requires, in part, that the export 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 or about July 24, 2014, Mistras failed to notify the NRC and the Canadian government in advance of exporting two sealed sources to Canada as required by NRC regulations. Specifically, Mistras submitted an NSTS Transaction Report indicating the export of two sealed sources each containing 69 curies of Ir-192 to Canada, but failed to provide the required export notifications to the NRC and the Canadian government in advance of the export of the sources to Canada.

This is a Severity Level III Problem (NRC Enforcement Policy Section 6.15).
Civil Penalty - \$7,000. (EA-14-225)

Enclosure

The NRC has concluded that information regarding: (1) the reason for the violation(s); (2) the corrective steps that have been taken and the results achieved; and (3) the corrective steps that will be taken; and (4) the date when full compliance will be achieved is already adequately addressed on the docket in your letter dated April 1, 2015. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-14-225" and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Director, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

You may pay the civil penalty proposed above, in accordance with NUREG/BR-0254 and by submitting to the Director, Office of Enforcement, a statement ("Statement as to Payment of Civil Penalty") indicating when and by what method payment was made, or may protest imposition of the civil penalty in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission within 30 days of the date of this Notice. Should you fail to answer within 30 days of the date of this Notice, the NRC will issue an order imposing the civil penalty. Should you elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violation listed in this Notice, in whole or in part; (2) demonstrate extenuating circumstances; (3) show error in this Notice; or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the response should address the factors addressed in Section 2.3.4 of the Enforcement Policy. Any written answer addressing these factors pursuant to 10 CFR 2.205 should be set forth separately from the statement or explanation provided pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. Your attention is directed to the other provisions of 10 CFR 2.205 regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205 to be due, this matter may be referred to the Attorney General, and the penalty(ies), unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The responses noted above, i.e., Reply to Notice of Violation, Statement as to payment of civil penalty, and Answer to a Notice of Violation, should be addressed to: Patricia K. Holahan, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to the Director, Office of International Programs, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, MD 20852-2738.

Your response will be made available electronically for public inspection in the NRC Public Document Room or in ADAMS, 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, 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, then 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 that such material is withheld from public disclosure, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim (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).

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

Dated this 30th day of June 2015.