

October 24, 2016

EA-16-204

Mr. Randy Meyer
Director of Operations
ITW Heartland
1104 Highway 27 W
Alexandria, MN 56308

SUBJECT: ITW HEARTLAND – EXPORT OF NUCLEAR REACTOR COMPONENTS AND
NOTICE OF VIOLATION

Dear Mr. Meyer:

This letter refers to exports of nuclear reactor components by ITW Heartland (ITW), under a U.S. Nuclear Regulatory Commission (NRC) general license in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR), Section 110.26(a). Section 110.54(a)(1) of 10 CFR requires, in part, that licensees making exports under a general license or specific license must provide quarterly reports of exports of nuclear facilities and equipment shipped during the previous quarter to the U.S. Department of Commerce. Additionally, Section 110.54(c), requires, in part, that persons making exports under the general license, shall submit a report of all components to the Deputy Director, Office of International Programs. This report must include: 1) a description of the components keyed to the categories listed in Appendix A to Part 110, "Illustrative List of Nuclear Reactor Equipment Under NRC Export Licensing Authority," 2) the approximate shipment dates, and 3) a list of recipient countries and end users keyed to the items shipped. The results of this review were discussed with you on September 20, 2016, by Mr. Stephen Baker of my staff and Mr. Santiago Aguilar of the Office of Nuclear Material Safety and Safeguards on September 9, 2016.

Based on its review of information concerning the exports, the NRC has determined that a Severity Level IV violation of NRC requirements occurred. Specifically, in 2011 and 2015, ITW failed to report the export of nuclear reactor components to Canada, including equipment associated with reporting requirements under the Protocol Additional to the Agreement Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States (hereinafter referred to as the Additional Protocol), to the NRC and the Bureau of Industry and Security, U.S. Department of Commerce, for exports of components used for control rod adjuster mechanisms. As of September 12, 2016, ITW has provided the required export notifications to the NRC.

The violation was evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included 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).

R. Meyer

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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 "Agency Rules of Practice and Procedure," 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 Andrea R. Jones at (301) 287-9072 if you have any questions regarding this matter.

Sincerely,

/RA/

Peter Habighorst, Chief
Export Controls and Nonproliferation Branch
Office of International Programs

Enclosure:
Notice of Violation

R. Meyer

- 2 -

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Peter Habighorst, Chief
Export Controls and Nonproliferation Branch
Office of International Programs

Enclosure:
Notice of Violation

DISTRIBUTION:

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***via e-mail**

OFFICE	ECNP/OIP	NMSS	OE	BC:ECNP/OIP
NAME	AJones	JRubenstone*	RFretz*	PHabighorst
DATE	09/19/16	10/18/16	10/11/16	10/24/16

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NOTICE OF VIOLATION

ITW Heartland
Alexandria, MN

EA-16-204

During a U.S. Nuclear Regulatory Commission (NRC) review completed on September 14, 2016, a violation of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

- A. Section 110.26(a) of Title 10 of the *Code of Federal Regulations* (10 CFR) issues a general license to persons who wish to export nuclear reactor components that are of U.S. origin, and described in paragraphs (5) through (11) of Appendix A to 10 CFR Part 110, to destinations listed in paragraph (b) of 10 CFR 110.26.

Section 110.54(a)(1) of 10 CFR states, in part, that persons making exports under the general license established by 10 CFR 110.26(a) shall submit a report of exports of nuclear facilities and equipment shipped during the previous quarter by January 15, April 15, July 15, and October 15 of each year on U.S. Department of Commerce (DOC)/NRC Forms AP-M or AP-13, and associated forms. The reports must contain information on all nuclear facilities, equipment, and non-nuclear materials listed in Annex II of the Additional Protocol. In accordance with 10 CFR 110.54(a)(2), these required reports must be submitted to the Bureau of Industry and Security, DOC.

Contrary to the above, in 2011 and 2015, ITW Heartland (ITW), exported nuclear reactor components of U.S. origin and described in paragraphs (5) through (11) of Appendix A to 10 CFR Part 110 to destinations listed in paragraph (b) of 10 CFR 110.26, and failed to submit to the NRC and DOC the required reports associated with the export of these nuclear reactor components. Specifically, on December 20, 2011, and October 20, 2015, ITW exported components used for control rod adjuster mechanisms to Canada. Control rod adjuster mechanisms are nuclear reactor components described in paragraphs (7) and (8) of Appendix A to 10 CFR Part 110 as well as paragraph 1.4 of Annex II to the Additional Protocol. As such, ITW was required by 10 CFR 110.54(a)(1) to submit quarterly reports to the Bureau of Industry.

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, ITW Heartland 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-16-204)" and should include for the 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.

Enclosure

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 2.390, "Agency Rules of Practice and Procedure," 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 24th day of October 2016.