



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
2100 RENAISSANCE BLVD.
KING OF PRUSSIA, PA 19406-2713

July 25, 2018

EA-18-059

David Fenton, Industrial Director –
Additive Technologies
Cytec Industries, Inc.
#1 Heilman Avenue
Willow Island, WV 26134

SUBJECT: CYTEC INDUSTRIES, INC. – RESPONSE TO CONTESTED NOTICE OF
VIOLATION DOCUMENTED IN NRC INSPECTION REPORT NO.
03015161/2018001

Dear Mr. Fenton:

This letter refers to your May 10, 2018, correspondence (ML18138A288)¹, in response to our April 13, 2018, letter and Notice of Violation (Notice)(ML18107A663).

The NRC Notice cited four Severity Level IV violations which were identified by the NRC during an inspection at your Willow Island, West Virginia facility. In your May 10 letter, you contested the first violation, which cited the indirect transfer of control of the license without notification and approval by the NRC.

In your May 10 letter, you asserted that the NRC was incorrect in stating that control of the Cytec Industries Inc. (Cytec) license was transferred indirectly to Solvay Group. You provided the following information as the basis that no change of control occurred: (1) Cytec has owned and operated the Willow Island facility since 1993; (2) in December 2015, Solvay purchased the stock of Cytek but (a) Cytec remains a separate corporation under the State of Delaware, and (b) the corporate form remains the same as prior to the sale of the stock. Separately, you also acknowledged the other three violations and provided information about Cytec's corrective actions for those issues.

In a letter dated June 6, 2018 (ML18159A458), the NRC acknowledged receipt of your May 10 letter and indicated that the NRC was evaluating the merits of your dispute of the violation. We also acknowledged your corrective actions for the other three violations, as described in your May 10 correspondence and indicated that we require no further information regarding those violations.

¹ Designation in parentheses refers to an Agency-wide Documents Access and Management System (ADAMS) accession number. Documents referenced in this letter are publicly-available in accordance with Agency policy using the accession number in ADAMS, except for documents containing sensitive information in accordance with Agency policy.

Based on the NRC staff's review of the points raised in your letter dated May 10, 2018, the NRC has determined that the violation pertaining to the indirect transfer of control of Cytec's license remains valid. The specific basis for this determination is described in the Enclosure.

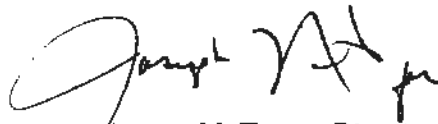
You are required to respond to this letter pertaining to this violation and should follow the instructions specified in the Notice enclosed with our April 13, 2018, letter when preparing your response. If you have additional information that you believe the NRC should consider, you may provide it in your response to the Notice. The NRC review of your response to the Notice will also 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 and your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC document system (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, proprietary, or safeguards information so that it can be made available to the Public without redaction.

If you have any questions regarding this matter, please contact Betsy Ullrich of my staff at (610) 337-5040 or via electronic mail at elizabeth.ullrich@nrc.gov.

Thank you for your cooperation.

Sincerely,



James M. Trapp, Director
Division of Nuclear Materials Safety

License No. 47-10136-03
Docket No. 030-15161

Enclosure:
As Stated

cc w/Encl: Bruce Valentine, Radiation Safety Officer
State of West Virginia

CYTEC INDUSTRIES, INC. – RESPONSE TO CONTESTED NOTICE OF VIOLATION
 DOCUMENTED IN NRC INSPECTION REPORT NO. 03015161/2018001 DATED July 25, 2018

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SUNSI Review Complete: Betsy Ullrich

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NRC Staff Review of May 10, 2018, Letter

In your letter dated May 10, 2018, you disputed the violation on the basis that Cytec remains a separate corporation under the State of Delaware, and the corporate form remains the same as it was prior to the sale of the stock. A summary of your points and the NRC's responses are as follows:

Cytec Industries Inc. Issue 1

You stated that Cytec Industries Inc. (Cytec) has owned and operated the Willow Island facility since 1993, and that every permit, license, deed or contract (including all federal permits and licenses) involving the Willow Island facility is under Cytec's name and ownership.

NRC Response

The NRC determined that this information is not relevant to the indirect transfer of control that occurred.

Cytec Industries Inc. Issue 2

You stated that, in December 2015, Solvay purchased the stock of Cytec but the corporate form has not changed. You stated that Cytec remains a separate corporation under the State of Delaware. You further stated that the only change is that Cytec's stock is owned by Solvay as opposed to the public, and it is Cytec's obligation alone to comply with its permits and licenses.

NRC Response

The NRC determined that the purchase of Cytec's stock by a wholly-owned subsidiary of Solvay constituted a transfer of control. Representatives of the NRC's Office of General Counsel reviewed the information about the sale of the Cytec stock to the Solvay Group. When a wholly-owned subsidiary of Solvay purchased 100% of Cytec's shares, this constituted an indirect change of control under 10 CFR 30.34(b). Solvay, as the ultimate parent company, now has ultimate authority over the conduct of licensed activities, even if no changes occurred in personnel or the facility. The key point is that the acquiring corporation is empowered, by the rights it has as the ultimate owner, to decide when and how the license will be used. The purchase of all of Cytec's shares by a wholly-owned subsidiary of Solvay is similar to example (2) of indirect change of control in NUREG-1556, "Consolidated Guidance about Materials Licensees," Volume 15, Revision 1, "Guidance About Changes of Control and about Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials Licenses," Appendix C, "Examples of Change of Control." That document can be viewed at <https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1556/v15/>.

Enclosure