



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

November 16, 2018

EA-18-116

Ms. Sandra M. Kusy
Vice President and General Manager
Source Production & Equipment
Company, Inc
113 Teal Street
St. Rose, LA 70087

SUBJECT: NOTICE OF VIOLATION – SOURCE PRODUCTION & EQUIPMENT
COMPANY, INC. RELATED TO THE IMPORT OF BYPRODUCT MATERIAL

Dear Ms. Kusy:

This letter refers to the U.S. Nuclear Regulatory Commission's (NRC) review of information concerning the import of byproduct material by Source Production & Equipment Company (SPEC), from Russia on or about May 25, 2015. The NRC initiated its review following our receipt of a May 30, 2018, Voluntary Self-Disclosure letter from attorneys representing SPEC, (Agencywide Documents Access and Management System (ADAMS) Accession No. . ML18320A089) notifying the NRC about the import of byproduct material from Russia.

On October 18, 2018, a predecisional enforcement conference (PEC) was conducted at the NRC headquarters office located in Rockville, Maryland, with you and members of your staff to discuss the apparent violation, its significance, its root cause(s), and your corrective actions.

Based on the information provided during the PEC, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding the violation were described in detail in the enclosure entitled, "Summary of Basis of Apparent Violation," contained in the NRC's September 7, 2018, letter (ADAMS Accession No. ML18248A184) to SPEC.

The NRC considers the violation of Title 10 of the *Code of Federal Regulations* (CFR) 110.5, 110.9(a), 110.20(a), and 110.27(a) to be significant because it impacted the NRC's ability to perform its regulatory oversight function to ensure that the byproduct material imported was possessed, stored, and used adequately to protect public health and safety, and the environment. Therefore, this violation has been categorized as a Severity Level (SL) III violation in accordance with the NRC Enforcement Policy .

Because your facility has not been the subject of escalated enforcement actions within the last two years, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. In your letter dated October 12, 2018 (ADAMS Accession No. ML18309A273), SPEC identified comprehensive corrective actions which include: (1) the modification of SPEC's

import/export purchasing procedures to add verification checks for appropriate domestic licensing; (2) multilateral quality assurance checks for radioactive material purchases; (3) radiation safety training for non-routine radisotope purchases; (4) comprehensive training outlining corrective actions to prevent recurrence; and (5) organizational emphasis on the importance of maintaining a safety culture environment thereby enabling staff to identify potential 10 CFR Part 110 violations.

Therefore, to encourage prompt identification and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, the NRC will not propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this SLIII violation 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; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in the letter from attorneys representing SPEC, dated October 12, 2018. 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 "Agency Rules of Practice and Procedure," a copy of this letter, its enclosure(s), and your response will be made available electronically for public inspection in the NRC Public Document Room and in the NRC's ADAMS system, 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 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). The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

Sincerely,

/RA/ by P. Peduzzi /for/

Anne T. Boland, Director
Office of Enforcement

Enclosure:
Notive of Violation

cc w/ encl: State of Louisiana

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION INFORMATION REVIEW,
SOURCE PRODUCTION & EQUIPMENT COMPANY, INC. RELATED TO THE
IMPORT OF BYPRODUCT MATERIAL: DATED: NOVEMBER 16, 2018

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OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Source Production & Equipment Company
St. Rose, LA 70087

EA-18-116

Based on the U.S. Nuclear Regulatory Commission's (NRC's) evaluation of Source Production & Equipment Company (SPEC) activity associated with the import of strontium-89 (Sr-89), from Russia on or about May 25, 2015, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 of the *Code of Federal Regulations* (CFR) section 110.5, states in part, "no person may import any nuclear equipment or material listed in 10 CFR 110.9a, unless authorized by a general or specific license issued under this part."

10 CFR 110.9a(d) indicates byproduct material (e.g., Sr-89) as nuclear equipment and material under NRC import licensing authority. Except as provided under subpart B of this part, no person may import any nuclear equipment or material listed in § 110.9a, unless authorized by a general or specific license.

10 CFR 110.20(a) states, "A person may use an NRC general license as an authority to export of import nuclear equipment or material, if the nuclear equipment or material to be exported or imported is covered by the NRC general licenses in described in §§ 110.21 through 110.27. If an export or import is not covered by the NRC general licenses described in §§ 110.21 through 110.27, a person must file with the Commission for a specific license in accordance with §§ 110.31 through 110.32."

10 CFR 110.27(a) states, "Except as provided in paragraphs (b) and (c) of this section, a general license is issued to any person to import byproduct, source, or special nuclear material if the U.S. consignee is authorized to receive and possess the material under a general or specific NRC or Agreement State license issued by the Commission or a State with which the Commission has entered into an agreement under Section 274b. of the Atomic Energy Act."

Contrary to the above, SPEC imported byproduct material into the United States without being authorized by a general or specific license issued under 10 CFR Part 110. Specifically, on or about May 25, 2015, SPEC imported 100 millicuries of liquid Sr-89 from Russia to its Louisiana facility, without having a possession license issued by the NRC or Agreement State (Louisiana). SPEC's Louisiana Department of Environmental Quality Radioactive Material License authorized Sr-89 in pellet form and as sealed sources, but did not authorize Sr-89 in liquid form. Therefore, the import was not authorized under the provisions of a general license.

This is a Severity Level III violation (Section 6.15).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance will be achieved is already adequately addressed on the docket in the SPEC letter dated October 12, 2018. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if 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

Enclosure

response as a "Reply to a Notice of Violation, EA-18-116 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, United States Nuclear Regulatory Commission, Washington, DC 20555-001 within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

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, United States Nuclear Regulatory Commission, Washington, DC 20555-001.

If you choose to respond, 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 Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the 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, SPEC may be required to post this Notice within two working days of receipt.

Dated this 16th day of November, 2018