



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

November 19, 2019

EA-19-121

Mr. Mike Rose  
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 IMPORT SHIPMENTS – NON-CITED VIOLATION

Dear Mr. Rose:

This letter refers to the U.S. Nuclear Regulatory Commission's (NRC) review of Industrial Nuclear Company, Inc. (INC) imports of Category 1 quantities of iridium-192 (Ir-192) from Russia. Title 10 of the *Code of Federal Regulations* (10 CFR) Section 110.50(c) states, in part, that a licensee authorized to export or import radioactive material listed in Appendix P to 10 CFR Part 110 is responsible for notifying the NRC in advance of each shipment. In accordance with 10 CFR 110.50(c)(4), import notifications must be received by the NRC at least 7 days in advance of each shipment. The results of this review were discussed between you and Ms. Jane Chimood, of my staff on October 17, 2019.

Specifically, INC submitted two late notifications, the first one on August 14, 2019 for import on August 15, 2019, and the second one on August 16, 2019 for import on August 17, 2019, of Category 1 quantities of Ir-192 from Russia to INC located in LaPorte, Texas and San Leandro, California, respectively, [NRC's Agencywide Document Access and Management System (ADAMS), Accession No. ML19287A019]. In the e-mail transmitting the notifications, INC self-disclosed that it had failed to submit the notifications 7 days prior to the two imports. Subsequently in a letter dated September 17, 2019 (ADAMS Accession No. ML19287A019), INC stated that the root cause of the deficiency was programmatic in nature, and that INC allowed the required notifications to be performed by an individual who was not dedicated solely to the task at hand. The letter also stated that INC implemented the following corrective actions, effective September 12, 2019: 1) all future pre-shipment notifications will be independently verified for compliance to 10 CFR 110.50(c)(3)(ii) to assure that the correct notification is made to the NRC, 2) a calendar alarm has been set up for all pre-shipment notification for all future shipments, and 3) all personnel performing the independent verification will be appropriately trained to perform the review.

Based on the results of this review, the NRC determined that INC failed to submit the notifications at least 7 days in advance of the shipments, as required by 10 CFR 110.50(c). INC's failure to provide timely information did not allow the NRC sufficient time to perform its review, which could have had significant implications for public health and safety.

Based on its review of information concerning these two imports, the NRC determined that Severity Level IV violations of NRC requirements occurred. The violations were evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is available on the NRC's Web site at <https://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violations are being treated as non-cited violations (NCVs) because all the criteria in Section 2.3.2 of the NRC's Enforcement Policy are met: (1) you identified the violations, (2) you initiated prompt and comprehensive corrective actions to prevent recurrence as documented in the attachment to your e-mail dated September 17, 2019, (3) the violations were not repetitive as a result of inadequate corrective actions, and (4) the violations were not willful.

If you contest the violations or significance of this NCV, you should provide a response within 30 days of the date of this report, with the basis for your denial, to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with copies to the Deputy Director, Office of International Programs, and Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter, and your response if you choose to provide one, will be made available electronically for public inspection in the Public Document Room or from the NRC's document system ADAMS accessible from the NRC Web site at <https://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 feel free to contact Ms. Jane Chimood at 301-287-9225 if you have any questions regarding this matter.

Sincerely,

/RA/

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

cc: G. Perez  
State of California

C. Sullivan  
State of Texas

SUBJECT: FAILURE TO PROPERLY NOTIFY THE U.S. NUCLEAR REGULATORY  
COMMISSION IN ADVANCE OF IMPORT SHIPMENT – NON-CITED VIOLATION  
DATED: NOVEMBER 19, 2019.

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**ADAMS Accession No.: ML19287A081(Package) Letter (ML19308B404)\*via email**

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<b>DATE</b>	11/1/19	11/1/19	11/12/19	11/19/19

**OFFICIAL RECORD COPY**

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