



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

October 22, 2019

EA-19-111

Mr. Mike Rose
Industrial Nuclear Company, Inc.
14320 Wicks Blvd.
San Leandro, CA 94577

SUBJECT: NOTICE OF VIOLATION – INDUSTRIAL NUCLEAR COMPANY, INC.
FAILURE TO PROPERLY NOTIFY THE U.S. NUCLEAR REGULATORY
COMMISSION IN ADVANCE OF IMPORT SHIPMENT

Dear Mr. Rose:

This letter refers to the U.S. Nuclear Regulatory Commission's (NRC) review of information concerning the import of a Category 2 quantity of iridium-192 (Ir-192) by Industrial Nuclear Company, Inc. (INC), from Mexico on or about June 14, 2019. The NRC initiated its review following an inquiry from the U.S. Customs and Border Protection (CBP) on June 14, 2019. On September 24, 2019, the results of this review were discussed between Ms. Jane Chimood, of my staff, and Mr. Quinton Nester, of your organization.

Based on the results of this review, the NRC has determined that a Severity Level IV violation of NRC requirements occurred. The violation involved a failure to submit a notification at least 7 days prior to shipment as required by Title 10 *Code of Federal Regulations* (10 CFR) 110.50(c). The violation was 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 violation is cited in the enclosed Notice of Violation (Notice), with a description of the circumstances surrounding the violation. The NRC is citing the violation in the Notice because INC did not identify the violation.

Specifically, on June 14, 2019, the NRC received a telephone call and the pertinent shipping documentation from the CBP for assistance in identifying the advanced notification of shipment (notification) for an import shipment destined to the INC facility in Texas. The shipment contained a Category 2 quantity of Ir-192 from Mexico. On June 18, 2019, and after communications with NRC staff, INC confirmed that INC had failed to submit a notification for this shipment. Specifically, INC failed to file an import notification for the Category 2 quantity of Ir-192 at least 7 days prior to the shipment of radioactive material listed in Appendix P to 10 CFR Part 110, as required by 10 CFR 110.50(c)(4).

In its e-mail dated June 18, 2019 (ADAMS Accession No. ML19260G181), INC acknowledged that the main cause of its not notifying the NRC of the import of Category 2 quantity of Ir-192 was due to its customer's failure to communicate with INC about the inbound shipment until the day that the NRC was notified by the CBP. As stated in the June 20 and June 21, 2019 e-mails (ADAMS Accession No. ML19260G181), INC's corrective actions to restore compliance and to prevent future reoccurrence included: 1) notifying its customer of NRC's requirements of the advanced notification 7 days prior to shipment of Category 2 quantity of Ir-192; 2) emphasizing that INC would not accept any imports of Category 2 quantity of Ir-192 without being notified at least 7 days prior to the shipment; and 3) revising INC's procedures to add a process of reminding its customer regularly about the NRC Notification requirement. In its follow-up e-mail dated September 30, 2019 (ADAMS Accession No. ML19277F620), INC reported that it has received notifications from the customer of imports of Category 2 quantity of Ir-192 on August 15, and August 28, 2019, respectively, 7 days in advance of the shipments.

NRC does not expect a response to this Inspection Report or Notice of Violation. If you have additional information that you believe the NRC should consider, you may provide a response. 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 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

Enclosure:
Notice of Violation

cc: C. Sullivan
State of Texas

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FAILURE TO PROPERLY NOTIFY THE U.S. NUCLEAR REGULATORY
COMMISSION IN ADVANCE OF IMPORT SHIPMENT
DATED: OCTOBER 22, 2019.

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ADAMS Accession No.: ML19259A259 (P) *via email

OFFICE	OIP/ECNP	OIP/ECNP*	OE/EB	BC:OIP/ECNP
NAME	JChimood	AJones*	BFretz	PHabighorst
DATE	10/10/19	10/10/19	10/18/19	10/22/19

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Industrial Nuclear Company, Inc.
San Leandro, CA 94577

EA-19-111

During a U.S. Nuclear Regulatory Commission (NRC) review completed on September 24, 2019, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 *Code of Federal Regulations* (10 CFR) 110.50(c)(4) states, in part, that import notifications must be received by the NRC at least 7 days in advance of each shipment.

Contrary to the above, Industrial Nuclear Company, Inc. (INC) failed to submit an import notification to the NRC at least 7 days in advance of at shipment. Specifically, on June 14, 2019, the U.S. Customs and Border Protection (CBP) notified the NRC that an import shipment originating in Mexico and destined for INC facility in Texas, containing Category 2 quantities of iridium-192 (Ir-192) did not have a corresponding advanced import notification of shipment. On June 18, 2019, INC confirmed that INC was not aware of the shipment and therefore, had not filed an import notification.

This is a Severity Level IV violation (NRC Enforcement Policy 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 was achieved is already adequately addressed in emails, dated June 20, June 21, and September 30, 2019 (ADAMS Accession Nos. ML19260G181 and ML19277F620). However, you are required to submit a written statement or explanation pursuant to the provisions of 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 response as a "Reply to a Notice of Violation (EA-19-111)," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Director, Office of International Programs, within 30 days of the date of the letter transmitting this Notice of Violation.

In accordance with 10 CFR 2.390, if you desire a response it 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>. 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 22nd day of October 2019.

Enclosure

Charlotte Sullivan, Ed. D.
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