GENERAL ATOMICS

February 12, 2002
38/67-3430

Via Overnight Delivery Service

U. S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, D.C. 20555

Subject: **Reply to NRC Notice of Violation**

Reference: Docket Nos. 50-163 and 50-89; License Nos. R-67 and R-38; NRC Inspection Report Nos. 50-163/2002-201 and 50-89/2001-201 dated January 18, 2002

Dear Sir or Madam:

Enclosed is General Atomics' (GA's) response to the Notice of Violation issued on January 18, 2002 (Reference). This response was prepared pursuant to the provisions of 10 CFR 2.201.

GA trusts you will find its response and corrective actions to be appropriate, responsive and satisfactory. If you have any questions concerning this response, please contact me at (858) 455-2823.

Very truly yours,

Keith E. Asmussen

Keith E. Asmussen, Ph. D.
Director, Licensing, Safety and Nuclear Compliance

Attachment: Reply to NRC Notice of Violation/Inspection Report Nos 50-163/2001-201 and 50-089/2001-201

cc: Mr. Craig Bassett, NRC Region II

IE01

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General Atomics' Response to Notice of Violation
Inspection Report Nos. 50-163/2001-201 AND 50-089/2001-201

During a Nuclear Regulatory Commission (NRC) inspection of General Atomics' (GA's) TRIGA® reactors facility conducted on September 24-26, 2001, a violation of NRC requirements was identified. The violation is re-stated below, followed by GA's response:

Violation:

> 10 CFR 73.21(e) requires that each document or other matter that contains Safeguards Information as defined in paragraph (b) in this section shall be marked "Safeguards Information" in a conspicuous manner to indicate the presence of protected information.
>
> Contrary to the above, the licensee sent documents containing safeguards information to the NRC on June 29 and November 21, 2000, and March 5, 2001, that was not marked in a conspicuous manner to indicate the presence of protected information.
>
> This is a Severity Level IV violation (Supplement III).

GA's Response:

(1) <u>The reason for the violation</u>:

Following an NRC assessment of the status of physical protection and contingency response planning for GA's TRIGA reactors facility, the NRC proposed a number of steps/modifications to enhance the physical protection of the facility and the material contained therein. In response, GA voluntarily addressed and complied with each request. This involved making several significant modifications to its TRIGA reactors facility and its contingency response procedures and commitments. Accordingly, GA then drafted proposed revisions to its "Fixed Site and Transportation Plan for the Protection of Special Nuclear Material at the General Atomics TRIGA Reactors Facility" to reflect these changes. Concurrently, GA prepared a draft "Safeguards Contingency Response Plan for the General Atomics TRIGA Reactor Facility" to document GA's revised response procedures and commitments.

The voluntary measures to enhance security were proposed and implemented in a context of uncertainty regarding regulatory status and intent as applied to once self-protecting fuel at a disassembled (for purposes of decommissioning) non-power

reactor. While focusing on the dialog with NRC regarding the scope and sufficiency of its voluntary actions to enhance physical protection and response procedures, and while recognizing that the information contained in the documents required protection, GA inadvertently marked them "10 CRF 2.790 Information - not authorized for public disclosure, " rather than "Safeguards Information."

While GA agrees that the documents should have been marked "Safeguards Information," it is noted that the documents were marked in a conspicuous manner to indicate the presence of protected information; each page was stamped with the words "not authorized for public disclosure." Further, GA handled and protected all of the subject documents in the manner appropriate for "safeguards" information. GA's internal distribution was limited and at no time did any unauthorized persons have access to the documents. No copies were distributed outside of GA except those sent to the NRC. The copies sent to the NRC were appropriately packaged to preclude inadvertent disclosure.

(2) The corrective steps that have been taken and the results achieved:

All documents have been conspicuously marked with the words "Safeguards Information." Documents existing at the time were either stamped "Safeguards Information," or they were destroyed and replaced with new documents which were printed with the words "Safeguards Information."

(3) The corrective steps, if any, that will be taken to avoid further violations:

All file copies and electronic templates for revisions have "Safeguards Information" conspicuously marked on them. Additionally, those few cognizant GA employees who have a responsibility involving documents containing "Safeguards" information have all been counseled regarding the need for, and importance of, properly marking all such documents.

(4) The date when full compliance will be achieved:

GA is in full compliance. (Full compliance was achieved within about 24 hours of becoming aware of the problem in March 2001.)