



Westinghouse Electric Company  
Hematite Former Fuel Cycle Facility  
3300 State Road P  
Festus, MO 63028  
USA

Mr. Michael Johnson  
Director, Office of Enforcement  
U.S. Nuclear Regulatory Commission  
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Rockville, MD 20852-2738

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Our ref: HEM-06-10  
Date: January 23, 2006

Reference: SNM-33 (Docket 70-0036)

Subject: REPLY TO NOTICE OF VIOLATION

Dear Mr. Johnson:

Westinghouse Electric Company LLC (Westinghouse) is in receipt of a Notice of Violation (NOV) dated December 29, 2005 (070-0036/05-002). That NOV advises that the Nuclear Regulatory Commission (NRC) has determined that a Severity Level IV violation of an NRC requirement has occurred at the Hematite facility. The NOV states that the violation "involved the failure to report the loss or degradation of required nuclear criticality safety controls to the NRC within 24 hours." The specific loss or degradation was the failure to determine the U235 mass and label items placed in the safe storage array. The NRC and Westinghouse agree that inadvertent criticality was unlikely.

As noted in the NOV letter, in January 2005, Westinghouse determined that items had not been properly labeled prior to placement in storage areas. Further investigation determined that the items in storage were contaminated, not containing discreet quantities of uranium.

Westinghouse, with input from its Nuclear Criticality Safety (NCS) contractor evaluated the condition for reportability and concluded that a report was not required. This conclusion was based on the Hematite facility's 1992 response to the NRC bulletin 91-01 which stated that deviation from controls, administrative in this case, may not be considered a complete loss of a controlled parameter. The conclusion that the mass control had not been degraded or violated was based on visual inspections by Westinghouse's NCS contractor that concluded that each item contained less than 700 grams U235, within the limit for the array.

Westinghouse believes the reason for the NOV is the conclusion that reporting after the initial investigation was not required since Westinghouse believed no loss of double contingency had occurred. Based upon subsequent discussions, Westinghouse recognizes that this conclusion was not shared by the NRC and, thus, filed the report. For the purpose of this response to the NOV, Westinghouse admits to the violation.

During the NCS stop work in January through April 2005, Westinghouse performed a number of corrective actions including the revision of Nuclear Criticality Safety Evaluations (NCSEs) and procedures related to handling and storage of items. Specifically for NCSEs, a conflict between two NCSEs was resolved regarding the handling of items based on activity and mass determination. A procedure was revised to provide a process of mass determination and labeling, thus ensuring the proper implementation of the NCSE administrative controls. In addition, an NCS Oversight procedure was implemented requiring that all NCS storage areas be inspected daily for compliance with all applicable postings and procedures.

Following restart of SNM work in April 2005, U235 mass determination on each identified item in the storage array was performed. The U235 mass on each identified item was determined to be  $\leq 1.24$  grams, the items were then removed from criticality safety storage as exempt, or as NCS spacing exempt, in accordance with requirements of the applicable NCS evaluation and approved procedures.

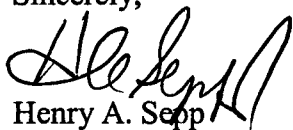
Several additional corrective actions have been completed related to this issue. Procedures that are used to make Uranium mass estimates have been revised to clarify techniques and labeling requirements. In Situ Object Counting System, or ISOCS, is now being used to provide an alternative method of Uranium mass determinations. Westinghouse has reviewed PR-NC-003 and the responses to NRC bulletin 91-01 and confirmed that we are in compliance with all requirements.

Future actions to prevent recurrence will be to review the NCSEs and procedures (reporting and mass determination) prior to future decommissioning/remediation activities and revise these documents as necessary to ensure that mass determinations are made and labeling of mass is completed when applicable. Reports will be made promptly (within the allotted 4-hour or 24-hour periods) in accordance with the response to the 91-01 bulletin and procedure. Retraining will be conducted for any procedure revisions that are made.

In conclusion, the NCS program at Hematite is in full compliance with all requirements. Westinghouse is committed to a strong and effective NCS program at the Hematite facility and will continue to monitor all aspects of the work with a priority on safety, valuing the prevention of errors, and a work force that adheres to procedures.

If you have any questions concerning this response, please contact me at (314) 810-3368.

Sincerely,

A handwritten signature in black ink, appearing to read "H. A. Sepp", is written over the printed name.

Henry A. Sepp  
Project Director

cc: Regional Administrator, NRC Region III  
Mr. Geoff Grant, NRC Region III Deputy Regional Administrator  
Mr. Jamnes Cameron, NRC Region III  
Mr. Mike McCann, NRC Region III  
Mr. Dennis Morey, NRC Headquarters  
Ms. Amy Snyder, NRC Headquarters  
Mr. Mike J. Saunders, Westinghouse  
Mr. A. Joseph Nardi, Westinghouse  
Mr. Gordon M. Vytlačil, Westinghouse  
Mr. Tracy Chance, Westinghouse