



C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment.

August 6, 2008

Victor M. McCree
Deputy Regional Administrator, Operations
US Nuclear Regulatory Commission
Region II
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW, Suite 23T85
Atlanta, GA 30303-8931

SUBJECT: Comments regarding Apparent Violations documented in USNRC Inspection Report Number 70-1151/2008-002 (Westinghouse Electric Company, Commercial Nuclear Fuel Division, Columbia, South Carolina)

Dear Mr. McCree:

I am writing to you regarding the incident that occurred in February 2008, at the Westinghouse Electric Company, Commercial Nuclear Fuel Division (Westinghouse) located in Columbia, South Carolina. On February 12, 2008, representatives of Westinghouse reported the unauthorized removal of several P-10 vials of uranium hexafluoride (UF₆) from a controlled area within the Westinghouse facility. This loss of control of nuclear material, and associated events surrounding that loss, constitute apparent/alleged violations of both Federal and State Regulations.

Westinghouse conducted an investigation of the incident and determined that the vials of UF₆ were likely improperly disposed at either a local scrap metal facility or a Class D landfill within the State of South Carolina. Based on this information, the South Carolina Department of Health and Environmental Control (SCDHEC) required Westinghouse to perform a risk analysis. Although the risk to individuals and the environment was determined to be low, the fact that UF₆, in any quantity, escaped the Westinghouse facility is of serious concern to us.

Additionally, the fact that the UF₆ may have been improperly disposed within our State is of great concern. It is understood that the USNRC has the responsibility for assuring compliance with federal regulations governing the safeguarding (including material control and accountability and physical protection) of special nuclear material. It is further understood that the USNRC may not consider this quantity of UF₆ to be a significant amount or loss. The responsibility of SCDHEC, however, is to protect human health and the environment of the State of South Carolina.

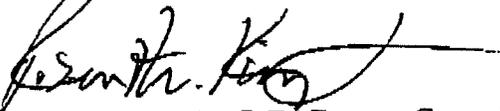
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Westinghouse has a history of compliance issues with federal regulations, and SCDHEC is concerned whether previous corrective actions have been effective. SCDHEC is specifically aware of a past similar incident at this facility documented in USNRC Notice of Violation (EA-02-045) dated May 29, 2002. The root cause for the incident, in part, indicated that, "...process/procedures were not robust and were not followed." No civil penalty was assessed in that case; however, it is specifically stated that, "...similar violations in the future could result in further enforcement action." SCDHEC strongly encourages USNRC, in its decision-making process, to exercise its policy of escalated enforcement regarding this incident and also to consider all previous violations (similar and/or otherwise) associated with this facility.

SCDHEC is pursuing enforcement action with regards to alleged violations of state regulations associated with this incident. We are hopeful that the any enforcement action taken by our Agency will deter future occurrences of a similar nature. However, we must, in part, rely on the authority of the USNRC as the governing federal agency for this facility to aid us in that endeavor. We trust that you understand and share our concerns.

Thank you for the opportunity to respond and for your consideration in this matter.

Sincerely,



Robert W. King Jr., P.E., Deputy Commissioner
Environmental Quality Control
South Carolina Department of Health and Environmental Control

cc: Daphne Neel, Bureau Chief, BLWM
Claire Prince, Asst. Chief, BLWM
Richard Haynes, Director
Cheryl Coleman, Director