

October 30, 2008

EA-08-222

Colonel Charles Kibben, Commander
Department of the Army
Crane Army Ammunition Activity
300 Highway 361
Crane, IN 47522-5099

SUBJECT: NOTICE OF VIOLATION [NRC REACTIVE INSPECTION REPORT
NO. 040-09045/2008-001(DNMS)] - DEPARTMENT OF THE ARMY –
CRANE ARMY AMMUNITION ACTIVITY

Dear Colonel Kibben:

This refers to the inspection conducted on July 24, 2008, at the Crane Army Ammunition Activity, Crane, Indiana. The purpose of the inspection was to review the inadvertent shipment of 195 depleted uranium rounds to Alliant Tech Systems at the Radford Army Ammunition Plant, Radford, Virginia. Two apparent violations were identified involving the failure to control radioactive material not in storage in accordance with NRC requirements in 10 CFR 20.1802, and the failure to properly describe the material on shipping papers and properly mark and label the packages in accordance with NRC requirements in 10 CFR 71.5 and Department of Transportation requirements in 49 CFR 171.2. The inspection report discussing the apparent violations was transmitted to you in our letter dated August 20, 2008.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violations identified in the report by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. You subsequently provided a written response in a letter dated September 18, 2008.

Based on the information developed during the inspection and information provided in your written response, the NRC has determined that two violations of NRC requirements occurred. The violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in detail in the subject inspection report. Between June and November 2007, Crane Army Ammunition Activity was demilitarizing munitions which contained depleted uranium and high explosive rounds. The depleted uranium and high explosives rounds were separated and packed in separate cardboard boxes. However, the cardboard boxes did not contain any identifying information. Two cardboard boxes of either depleted uranium or high explosive rounds were normally placed into an outer container which was marked as radioactive or explosive. However, several outer containers were packed with one cardboard box of depleted uranium rounds and one cardboard box of high explosives rounds. These outer containers were marked as containing explosives. As a result on May 22 and 29, 2008, Crane Army Ammunition Activity inadvertently shipped three cardboard boxes of depleted uranium rounds with a shipment of high explosive rounds to Alliant Tech Systems at the Radford Army Ammunition Plant. The failure to control radioactive material not in storage, and the failure to properly describe the material on shipping papers and properly mark and label the packages are violations of 10 CFR 20.1802, 10 CFR 71.5 and 49 CFR 171.2.

The root cause of the violations was an inadequate procedure for demilitarizing the munitions. The procedure did not require marking the cardboard boxes to indicate that they contained depleted uranium. The failure to properly describe the material on shipping papers and properly mark and label the packages could result in a significant failure to identify the type, quantity or form of radioactive material during transportation. Therefore, these violations have been categorized collectively in accordance with the NRC Enforcement Policy as a Severity Level III problem.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$3,250 is considered for a Severity Level III problem. Because your facility has not been the subject of escalated enforcement actions within the last two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. Credit was warranted for your corrective actions which included revising your procedure for demilitarizing the munitions to include adding a Radioactive Yellow II label to the top of the cardboard boxes containing depleted uranium rounds.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III problem constitutes escalated enforcement action, which may subject you to increased inspection effort.

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to be taken to correct the violations and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 040-09045/2008-001(DNMS) and your letter dated September 18, 2008. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if any, 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. 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). The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

C. Kibben

-3-

Please contact John Madera, Chief, Materials Inspection Branch, with any questions. Mr. Madera can be reached at telephone number (630) 829-9721.

Sincerely,

/RA by Mark A. Satorius Acting for/

James L. Caldwell
Regional Administrator

Docket No. 040-09045
License No. SUB-1578

Enclosure:
Notice of Violation

cc: State of Indiana

C. Kibben

-3-

Please contact John Madera, Chief, Materials Inspection Branch, with any questions.
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NAME	Pelke		Gattone for Madera		Reynolds		Wray for Carpenter ¹		Burgess ²		O'Brien		Satorius for Caldwell	
DATE	10/24/08		10/27/08		10/28/08		10/23/08		10/23/08		10/29/08		10/30/08	

OFFICIAL RECORD COPY

1 OE concurrence received via E-mail from J. Wray on October 23, 2008.

2 FSME concurrence received via E-mail from M. Burgess on October 23, 2008.

Letter to Charles Kibben from James L. Caldwell dated October 30, 2008

SUBJECT: NOTICE OF VIOLATION [NRC REACTIVE INSPECTION REPORT
NO. 040-09045/2008-001 (DNMS)] - DEPARTMENT OF THE ARMY –
CRANE ARMY AMMUNITION ACTIVITY

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NOTICE OF VIOLATION

Department of the Army
Crane Army Ammunition Activity
Crane, Indiana

Docket No. 040-09045
License No. SUB-1578
EA-08-222

During an NRC inspection conducted on July 24, 2008, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

1. 10 CFR 71.5(a) requires that a licensee who transports licensed material outside the site of usage, as specified in the NRC license, or where transport is on public highways, or who delivers licensed material to a carrier for transport, comply with the applicable requirements of the Department of Transportation (DOT) regulations appropriate to the mode of transport contained in 49 CFR parts 170 through 189. Pursuant to 49 CFR 172.101, radioactive material is classified as hazardous material.

49 CFR 171.2(e) prohibits any person from offering hazardous material for transportation unless, among other requirements, the hazardous material is properly classed, described, packaged, marked, labeled, and in condition for shipment as required or authorized under the Hazardous Material Regulations (49 CFR parts 171-177). This includes: describing the hazardous material on the shipping paper; marking the package with the proper shipping name and identification number; appropriately labeling the package; and marking the package as "Radioactive."

Contrary to the above, on May 22 and 29, 2008, the licensee offered depleted uranium rounds for transportation to Alliant Tech Systems and failed to: (1) describe the hazardous material on the shipping paper that accompanied the shipment; (2) mark the package with the proper shipping name and identification number; and (3) label the package with Radioactive Yellow-II labels.

2. 10 CFR 20.1802 requires that the licensee control and maintain constant surveillance of license material that is in a controlled or unrestricted area and that is not in storage.

Contrary to the above between June 1, 2007, and August 26, 2008, the licensee failed to control 195 depleted uranium rounds that were in a controlled area or unrestricted area and not in storage. Specifically, the depleted uranium rounds were placed in unmarked cardboard boxes and were inadvertently transported from the licensee's facility to Alliant Tech Systems.

This is a Severity Level III problem (Supplement V).

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to be taken to correct the violations and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 040-09045/2008-001(DNMS) and your letter dated September 18, 2008. However, you are required to submit a written statement or explanation pursuant to 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-08-222," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator and the Enforcement Officer, Region III, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, your response 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>. Therefore, to the extent possible, the 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 two working days.

Dated this 30th day of October 2008