

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	Docket No.: 70-1257
AREVA NP, Inc.)	License No.: SNM-1227
)	
)	EA-09-272

CONFIRMATORY ORDER
(EFFECTIVE IMMEDIATELY)
[NRC-2010-0172]

I

AREVA NP, Inc. (AREVA or Licensee) is the holder of Materials License No. SNM-1227 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 70. The license in effect at the time of the incident described below was most recently amended via Amendment 49, issued on July 9, 2007. The NRC renewed Materials License No. SNM-1227, effective April 24, 2009. The license authorizes the operation of the AREVA NP facility in accordance with the conditions specified therein. The facility is located at the AREVA site in Richland, Washington.

This Confirmatory Order is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on March 9, 2010.

II

On September 23, 2009, the NRC's Office of Investigations (OI) completed an investigation (OI Case No. 2-2009-025) regarding activities at the AREVA facility located in

Richland, Washington. Based on the evidence developed during the investigation, the NRC staff concluded that on April 21, 2009, Item Relied On For Safety (IROFS) 1111, an electronic eye sensor known as the vacuum wand interlock, was deliberately bypassed by an employee and made to work by using tape. These actions violated Standard Operating Procedure (SOP) 40486, "Richland Operations General Rules," Version 16.0, Section 7.0 which states that "interlocks, limit switches and any other safety-related equipment are never to be bypassed, made to work by using tape or other material, or adjusted by anyone except for a defined purpose and in accordance with an approved procedure." As a result, IROFS 1111 was not available and reliable as required by 10 CFR 70.61(e).

III

On March 9, 2010, the NRC and AREVA met in an ADR session mediated by a professional mediator, which was arranged through Cornell University's Institute on Conflict Resolution. ADR is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement or resolving any differences regarding their dispute. This confirmatory order is issued pursuant to the agreement reached during the ADR process. The elements of the agreement consist of the following:

1. The NRC and AREVA agreed that the incident that occurred on April 21, 2009, as described in NRC's January 6, 2010, letter, constituted a violation of SOP 40486, and that the operator's actions were deliberate. The NRC and AREVA also agreed that, although the vacuum wand interlock IROFS was disabled, sufficient system IROFS remained in service to perform the intended safety function for identified accident scenarios.

2. Based on AREVA's review of the incident and NRC concerns associated with precluding recurrence of the violation, AREVA completed the following corrective actions and enhancements:

- a. The equipment was returned to normal operation and safety function was verified;
- b. The employee was immediately relieved of duties pending an investigation;
- c. A charter was established and a root cause investigation was performed;
- d. Although not reportable, AREVA notified the NRC of the incident in a timely manner;
- e. Disciplinary action was administered in accordance with company policies;
- f. AREVA Richland management held stand down meetings with all Richland employees to reinforce obligations with respect to willful misconduct, procedural compliance, potential event repercussions, personal accountability, problem reporting, open communications, opportunities for employees to raise issues and other discussion topics;
- g. Lessons learned from this incident were communicated internally and to all other AREVA U.S. Special Nuclear Material (SNM) licensed facilities within the AREVA U.S. fuel organization;
- h. AREVA conducted an extent of condition review with operators in all product centers and determined that the incident was isolated; and
- i. Safety Conscious Work Environment (SCWE) training was conducted for employees at all AREVA SNM licensed facilities within the AREVA U.S. fuel organization.

3. In addition to the actions completed by AREVA as discussed above, AREVA agreed to additional corrective actions and enhancements, as fully delineated below in Section V of this Confirmatory Order.
4. AREVA agreed to complete the items listed in Section V within 12 months of issuance of this Confirmatory Order.
5. Within three months of completion of the terms of this Confirmatory Order, AREVA will provide the NRC with a letter discussing its basis for concluding that this Confirmatory Order has been satisfied.
6. The NRC and AREVA agreed that: (1) the actions referenced in Section III.2 and Section V will be incorporated into a Confirmatory Order; and (2) the resulting Confirmatory Order will be considered by the NRC for any assessment of AREVA, as appropriate.
7. In consideration of the completed corrective actions delineated in Section III.2 and the Commitments delineated in Section V of this Confirmatory Order, the NRC agrees to refrain from proposing a civil penalty or issuing a Notice of Violation for the matter discussed in the NRC's letter to AREVA of January 6, 2010 (EA-09-272).
8. This agreement is binding upon successors and assigns of AREVA NP Inc.

On April 14, 2010, AREVA consented to issuance of this Confirmatory Order with the commitments, as described in Section V below. AREVA further agreed that this Confirmatory Order is to be effective upon issuance and that it has waived its right to a hearing.

Since AREVA has completed the actions as delineated in Section III.2, and agreed to take the actions as set forth in Section V, the NRC has concluded that its concerns can be resolved through issuance of this Confirmatory Order.

I find that AREVA's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments, the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that AREVA's commitments be confirmed by this Confirmatory Order. Based on the above and AREVA's consent, this Confirmatory Order is immediately effective upon issuance.

Accordingly, pursuant to Sections 51, 53, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 70, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT LICENSE NO. SNM-1227 BE MODIFIED AS FOLLOWS:

- a. AREVA will incorporate lessons learned from this incident, including enhanced SCWE training, into General Employee Training for new employees and annual refresher training for all AREVA Richland employees;
- b. AREVA will implement a management observation program at Richland for the purpose of reinforcing task performance standards and work practices;

- c. AREVA Richland Site Operations will perform a survey to determine the results of efforts to increase supervisor availability in the work area;
- d. AREVA will develop a presentation and offer to present the detail of this incident and lessons learned with regard to work practices to a future industry forum such as the annual Fuel Cycle Information Exchange.
- e. AREVA agrees to complete the above items within 12 months of issuance of this Confirmatory Order
- f. Within three months of completion of the terms of this Confirmatory Order, AREVA will provide the NRC with a letter discussing its basis for concluding that this Confirmatory Order has been satisfied.

The Regional Administrator, NRC Region II, may relax or rescind, in writing, any of the above conditions upon a showing by AREVA of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its publication in the Federal Register. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the

submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software. If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based

submission form. In order to serve documents through the Electronic Information Exchange (EIE), users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at MSHD.Resource@nrc.gov, or by a toll-free call at (866) 672-7640. The NRC Meta System Help

Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at http://ehd.nrc.gov/EHD_Proceeding/home.asp, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 C.F.R. 2.309(d) and (f).

If the hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

VII

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date this Confirmatory Order is published in the Federal Register without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received. A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS CONFIRMATORY ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Victor M. McCree
Deputy Regional Administrator for Operations

Dated this 26th day of April 2010