

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of
AREVA NP, Inc.

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Docket No.: 70-1257
License No.: SNM-1227

EA-10-041

CONFIRMATORY ORDER
(EFFECTIVE IMMEDIATELY)

[NRC-210-0384]

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 October 5, 2010.

II

On April 3, 2009, the NRC Office of Investigations (OI) began an investigation (OI Case No. 2-2009-024) at AREVA. Based on the evidence developed during its investigation, OI substantiated that an Advisory Engineer deliberately falsified United Kingdom Department for Transport (DfT) transit approval forms regarding overseas shipments of low enriched uranium. Additionally, OI determined that the Advisory Engineer deliberately failed to follow procedure for release of criticality calculations associated with the shipments. The results of the investigation,

completed on December 1, 2009, were sent to AREVA in a letter dated August 10, 2010. The NRC's August 10, 2010 letter offered AREVA the opportunity to resolve the enforcement aspects of this matter through the NRC's normal enforcement process, or through ADR. In response to the NRC's offer, AREVA requested use of the NRC ADR process to resolve the matter.

On October 5, 2010, the NRC and AREVA met in an ADR session mediated by a professional mediator, 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 to resolve any differences regarding the dispute. This confirmatory order is issued pursuant to the agreement reached during the ADR process.

III

During that ADR session, a preliminary settlement agreement was reached. The elements of the agreement consisted of the following:

1. The NRC and AREVA agreed that the two apparent violations documented in the NRC's letter of August 10, 2010, would be characterized as one violation involving the requirements of 10 CFR 71.5(a), and 49 CFR 172.204(a), associated with the transportation of Class 7 (radioactive) material, on three separate occasions. Specifically, on December 9, 2008, and on March 11 and 18, 2009, a licensee employee deliberately altered (falsified) the date stamp on three documents entitled "Approval to Transit a UK [United Kingdom] Port." Because the DfT transit approvals were falsified, the licensee failed to comply with 49 CFR 172.204(a) which requires the licensee to attest to the fact that the contents of the consignment (shipment) were in all respects in proper condition for transport according to applicable international and national governmental regulations.

2. In response to the violation described above, AREVA implemented numerous corrective actions and enhancements, including but not limited to a prompt investigation into the incidents, performance of a sufficiently independent root cause analysis and corrective action review, an assessment of the actual and potential safety impact of the incidents, a thorough extent of condition review, appropriate notification of regulatory authorities, safety culture and safety conscious work environment initiatives, process changes, and numerous corrective actions and enhancements to preclude recurrence.
3. In response to the violation as described in Section III.1 above, AREVA agreed to the following actions:
 - a. Within 30 days of the issuance of the Confirmatory Order, AREVA will submit a Reply to a Notice of Violation, which documents its corrective actions and enhancements as discussed in Section III.2 above. AREVA's Reply to a Notice of Violation will be consistent with the requirements of 10 CFR 2.201.
 - b. Within 12 months after the issuance of the Confirmatory Order, AREVA will conduct a review to determine the effectiveness of corrective actions and enhancements as described in its Reply to a Notice of Violation. The effectiveness review will also incorporate any commonalities from previous willful issues occurring within AREVA's U. S. Fuel organization within the last three years of the date of issuance of the Confirmatory Order. Upon completion of its effectiveness review, AREVA will develop and implement any additional corrective actions and enhancements, as warranted, to address any additional weaknesses or deficiencies. The results of AREVA's effectiveness review and development of additional corrective actions and enhancements will be communicated to the NRC within 60 days of development of resulting corrective actions.
 - c. No later than June 30, 2012, AREVA will conduct an independent (i.e., outside

the global AREVA organization), safety culture assessment in accordance with an accepted nuclear industry standard. The assessment will include AREVA's Richland, Washington facility, its Erwin, Tennessee facility, and its Lynchburg, Virginia facility. Corrective actions and enhancements, and a schedule for implementation, will be developed in response to the results of the assessment, and provided to the NRC within three months of completion of this effort.

4. The NRC and AREVA agree that the above elements will be incorporated into a Confirmatory Order, and that the violation will be cited as a Notice of Violation, and included as an attachment to the Confirmatory Order. In addition, AREVA agrees to waive its hearing rights for the issues documented in the Confirmatory Order. The resulting Confirmatory Order will be considered by the NRC for any assessment of AREVA, as appropriate.
5. In consideration of the commitments delineated in Section III.3 above, the NRC agrees to refrain from proposing a civil penalty for all matters discussed in the NRC's letter to AREVA of August 10, 2010 (EA-10-041).
6. This agreement is binding upon successors and assigns of AREVA.

IV

Since the licensee has agreed to take additional actions to address NRC concerns, as set forth in Item III above, 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 Order. Based on the above and AREVA's consent, this Confirmatory Order is immediately effective upon issuance.

V

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 IS MODIFIED AS FOLLOWS:

1. Within 30 days of the issuance of the Confirmatory Order, AREVA will submit a Reply to a Notice of Violation, which documents its corrective actions and enhancements as discussed in Section III.2 above. AREVA's Reply to a Notice of Violation will be consistent with the requirements of 10 CFR 2.201.
2. Within 12 months after the issuance of the Confirmatory Order, AREVA will conduct a review to determine the effectiveness of corrective actions and enhancements as described in its Reply to a Notice of Violation. The effectiveness review will also incorporate any commonalities from previous willful issues occurring within AREVA's U. S. Fuel organization within the last three years of the date of issuance of the Confirmatory Order. Upon completion of its effectiveness review, AREVA will develop and implement any additional corrective actions and enhancements, as warranted, to address any additional weaknesses or deficiencies. The results of AREVA's

effectiveness review, and development of additional corrective actions and enhancements, will be communicated to the NRC within 60 days of development of resulting corrective actions.

3. No later than June 30, 2012, AREVA will conduct an independent (i.e., outside the global AREVA organization), safety culture assessment in accordance with an accepted nuclear industry standard. The assessment will include AREVA's Richland, Washington facility, its Erwin, Tennessee facility, and its Lynchburg, Virginia facility. Corrective actions and enhancements, and a schedule for implementation, will be developed in response to the results of the assessment, and provided to the NRC within three months of completion of this effort.

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 AREVA, 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 made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, 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 AREVA) 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 a 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.

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 ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Luis A. Reyes
Regional Administrator

Dated this 2nd day of December 2010