

December 15, 2010
FAB10.834



U.S. Nuclear Regulatory Commission
Attn: Document Control Desk
Washington, DC 20555-0001

Gentlemen:

Subject: Reply to a Notice of Violation; EA-10-041, NRC Office of Investigation Report No. 2-2009-024, Docket No. 70-1257; License No. SNM-1227

Ref. 1. Letter, L.A. Reyes to R. Land, "Confirmatory Order (Effective Immediately) (NRC Office of Investigation Report No. 2-2009-024); December 2, 2010.

Via the referenced letter, the NRC conveyed a Confirmatory Order and a Notice of Violation (NOV), both associated with altered (falsified) transit permits supporting certain United Kingdom-bound SNM shipments from AREVA's Richland fuel fabrication facility in December 2008 and March 2009. Section V of the Confirmatory Order requires AREVA to submit a Reply to a Notice of Violation within 30 days of the issue date of the Order (December 2, 2010) that documents AREVA's corrective actions and enhancements undertaken in response to this event.

Attached please find AREVA's response to the NOV, documenting its completed, ongoing, and planned corrective/preventive actions in response to this event. The actions are consistent with those set forth by AREVA at the Alternative Dispute Resolution held on October 5, 2010 to address these issues.

If you have questions or require further information, please contact me at 509-375-8781.

Very truly yours,

A handwritten signature in black ink that reads 'R. Land' in a cursive style.

R. Land, Manager
Richland Site Manager

AREVA NP INC.
An AREVA and Siemens company

2101 Horn Rapids Road, Richland, WA 99354
Tel.: 509 375 8100 - www.aveva.com

JE07
RSMII

U.S. Nuclear Regulatory Commission
December 15, 2010

FAB10.834
Page 2

cc:

USNRC, Region II
Attn: Mr. L.A. Reyes, Administrator
Marquis One Tower
245 Peachtree Center Avenue, Suite 1200
Atlanta, GA 30303-1257

US NRC
Office of Nuclear Material Safety and Safeguards
Attn: Marilyn Diaz (E2C40M)
Executive Boulevard Building
6003 Executive Boulevard
Rockville, MD 20852

Mr. Richard W. Boyle
Chief, Radioactive Materials Branch
Office of Hazardous Materials
Technology
U.S. Department of Transportation
1200 New Jersey Ave., S.E.
Washington, DC 20590

/mah

**Reply to a Notice of Violation; EA-10-041,
NRC Office of Investigation Inspection Report No. 2-2009-024
Docket # 70-1257/ License # SNM-1227**

Statement of Violation

The violation as stated in the subject NRC Enforcement Action (EA-10-041) is as follows:

10 CFR 71.5(a) requires, in part, that each licensee who delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the U.S. Department of Transportation regulations in 49 CFR parts 107, 171 through 180, and 390 through 397, appropriate to the mode of transport.

49 CFR 172.204(a) requires, in part, that each person who offers a hazardous material for transportation shall certify that the material is offered for transportation in accordance with this subchapter by printing (manually or mechanically) on the shipping paper the certification (declaration) containing the language contained in paragraph (a)(2) of this section.

49 CFR 172.204(a)(2) requires the following declaration from each person who offers a hazardous material for transportation, "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations."

Contrary to the above, on three separate occasions, the licensee failed to comply with the requirement of 10 CFR 71.5(a) and 49 CFR 172.204(a). Specifically, on December 9, 2008, and on March 11 and 18, 2009, a licensee employee willfully altered the reference and (falsified) date stamp on three documents entitled "Approval to Transit a UK [United Kingdom] Port". Because the UK Department for Transport (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.

Reason for the Violation

The root cause of this incident involves management's over-reliance on a single individual's knowledge and expertise to carry out the UK permitting function, using informal processes; these informal processes as they pertained to UK permitting as well as international shipping lacked clarity of roles and responsibilities and, combined with a breakdown in internal communications, resulted in the inappropriate decision to alter UK Special Transit Permits (STPs) when schedule pressures were magnified.

Corrective Actions Taken and Results Achieved

A. Initial Corrective Actions

1. Pertinent regulatory authorities were notified on the day the violations were discovered, namely the UK Department for Transportation, the US Department of Transportation, and the US Nuclear Regulatory Commission.
2. The implicated employee was immediately relieved of duties pending an investigation.
3. A root cause investigation was chartered and subsequently performed.
4. Documentation for special nuclear material (SNM) shipments from Richland in-process at the time of discovery was reviewed to evaluate current extent of condition.
5. AREVA worked cooperatively with the UK DfT to acquire a Certificate for the Special Arrangement Shipment of Radioactive Materials to address a shipment lacking a valid STP that was in Liverpool at the time of initial event discovery.
6. With support of the UK DfT, all three invalid STPs relative to Richland-to-Lingen pellet shipments were identified.
7. International SNM shipments from Richland were suspended pending identification and implementation of appropriate compensatory actions.
8. An assessment was conducted of the broader potential extent of condition relative to other licensed activities supported by the individual implicated in the violation. This assessment of criticality safety analyses and SNM shipment activities potentially impacted by this individual did not reveal any further extent of condition at AREVA's Richland or Lynchburg sites.
9. A stand-down meeting was conducted with the Richland packaging and transportation organizations to reinforce expectations relative to procedural compliance and problem reporting.

B. Long-Term Preventive Actions

1. Actions were taken to formalize the AREVA NP Fuel Sector global international transportation process via;
 - clarification of roles and responsibilities for international shipments within applicable implementing procedures; and
 - designation of a Transport Advisor in accordance with AREVA Directive PO ARV SHS GEN 005 EN.
2. Improvements were made in the oversight of personnel task assignments and quality processes in the international shipping area via:
 - implementation of a documentation overcheck process for domestic and international SNM shipments to monitor performance; and

- review of the internal audit program scope and frequency relative to international shipments.
3. Training improvements pertinent to international shipping were enacted, including:
- adding AREVA Directive PO ARV SHS GEN 005 EN, "Radioactive Materials Transport Directive", to the Learning Management Curriculum for appropriate personnel;
 - revision of AREVA's Policy 1005, "Export Control", to better reflect the global shipping process and to better distinguish the role of the AREVA NP Export Officer versus the roles of Transportation and Logistics personnel; and
 - conduct of a training needs review for the Richland Transportation and Logistics personnel.
4. Training was provided to emphasize, and actions were taken to demonstrate, a strong safety culture that includes effective communication and the principle that schedule pressures cannot override regulatory compliance. Actions completed include:
- communications of lessons learned from this incident to internal organizations as well as the other US AREVA SNM-licensed facilities within the AREVA US Fuel Organization;
 - provision of Safety Conscious Work Environment (SCWE) training for employees at all AREVA US fuel facilities;
 - reinforcement of Policy 0230, "Management of Work-Related Fatigue" and the expectation for all employees to secure management approval prior to exceeding designated work hour limits; and,
 - administration of disciplinary action, i.e. termination of the implicated employee, in full accordance with company policies.
5. Actions have been taken to track and assure effective implementation of corrective action commitments related to this event. Actions include:
- an independent one year post-event effectiveness review conducted by the AREVA NP Inc. Quality organization (no findings identified);
 - conduct of a container fleet management assessment at AREVA's US-based fuel facilities by AREVA Business Unit Logistics technical experts; and,
 - implementation of a management observation program at the Richland facility for the purpose of reinforcing task performance standards.

Additional Corrective and/or Preventive Actions Ongoing or That Will Be Taken

1. Richland's transportation/logistics and shipping container management programs are in the process of being transitioned to AREVA's Business Unit Logistics (BUL) organization, specifically to Transnuclear Inc. within BUL. The transition will ultimately provide a consolidation of expertise, management systems, and transportation protocols within AREVA's transportation systems, domestically and globally.
2. A revised NRC Certificate of Compliance has been acquired for the ANF-250 shipping container to address the criticality safety concerns underlying the UK's requirement of Special Transit Permits for this container. The revised NRC COC has been validated by the USDOT; the USDOT Certificate of Competent Authority is currently undergoing revalidation amongst foreign competent authorities.
3. A SCWE survey has been conducted as a follow-up to the SCWE training already provided to employees at AREVA's US fuel facilities. The results of the survey are currently being presented to AREVA Fuels management as a precursor to the development of a resultant action plan.
4. Consistent with the Confirmatory Order, AREVA will, by December 2, 2011, conduct an effectiveness review of the corrective actions and enhancements described in this NOV response. The results of the effectiveness review and any additional corrective actions/enhancements called for by the review, will be conveyed to the NRC within 60 days of development of the resulting corrective actions.
5. Consistent with the Confirmatory Order, AREVA will, by no later than June 30, 2012, commission an independent safety culture assessment in accordance with an accepted nuclear industry standard. The assessment will cover Richland and any other operational domestic AREVA fuel facilities. Results of the assessment, including any corrective actions and enhancements called for by the assessment and an implementation schedule for those actions, will be provided to the NRC within three months of completion of this effort.

Date When Full Compliance Will Be Achieved

Based on actions taken to-date, AREVA's Richland facility has achieved full compliance in its SNM shipping operations.