

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of
AREVA, Inc.

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EA-16-016

CONFIRMATORY ORDER
(EFFECTIVE UPON ISSUANCE)

I

AREVA, Inc. (AREVA), is a multinational corporation specializing in nuclear power and renewable energy services, including the export of reactor components under Part 110 of Title 10 of the *Code of Federal Regulations* (10 CFR). AREVA's headquarters is located in Charlotte, North Carolina.

This Confirmatory Order (CO) is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on June 13, 2016.

II

On September 9, 2015, AREVA met with representatives from the NRC's Office of Nuclear Material Safety and Safeguards (NMSS) to discuss licensee responsibilities under the Protocol Additional to the Agreement between the United States of America and the

International Atomic Energy Agency for the Application of Safeguards in the United States of America (hereinafter referred to as the Additional Protocol). During the meeting, AREVA officials informed the NMSS representatives that AREVA may have exported reactor components to other countries without making the notifications required by the Additional Protocol and the NRC's regulations in 10 CFR 110.54(a)(1). Subsequently, AREVA conducted a review of its export activities, and later notified the NRC that it had exported zirconium tubes between June 1, 2009, and March 18, 2015, some of which went to nuclear power plants located in Taiwan, and that it had exported a reactor coolant pump (RCP) to France on July 25, 2014. On October 29, 2015, AREVA provided the required export notifications to the U.S. Department of Commerce (DOC), and on November 3, 2015, this information was provided to the NRC (NRC's Agencywide Documents Access and Management System (ADAMS) Accession No. ML16056A349).

Section 110.54(a)(1) of 10 CFR states, in part, that reports of exports of nuclear facilities and equipment shipped during the previous quarter must be made by licensees making exports under the general license or specific license in 10 CFR Part 110 by January 15, April 15, July 15, and October 15 of each year on DOC/NRC Forms AP-M or AP-13, and associated forms. In accordance with 10 CFR 110.54(a)(2), these required reports must be submitted to the DOC, Bureau of Industry and Security. The reports must contain information on all nuclear facilities, equipment, and non-nuclear materials listed in Annex II of the Additional Protocol.

Between June 2009 and March 2015, AREVA failed to report exports under the general license and specific license in 10 CFR Part 110 of nuclear equipment shipped during the previous quarter. Specifically, AREVA exported nuclear reactor equipment and components from the United States including components described in paragraphs (4), (5), (6), and (7) of

Appendix A to 10 CFR Part 110 and failed to submit quarterly reports to the NRC and DOC as noted by the following examples:

1. On June 1, 2009, AREVA exported zircalloy boiling water reactor fuel channels to a nuclear power plant located in Taiwan.
2. On April 26, 2012, AREVA exported zirconium tubes designed and prepared for use as fuel cladding to CEZUS in France.
3. On December 3, 2013, AREVA exported inert zircalloy fuel rods designed and prepared for use as fuel cladding to a nuclear power plant located in Taiwan.
4. On February 20, 2014, AREVA exported zirconium fuel assembly guide tubes to CEZUS in France.
5. On March 18, 2015, AREVA exported zirconium tubes designed and prepared for use as fuel cladding to GDE-SA (a fuel recycler) in France.
6. On July 25, 2014, AREVA exported an RCP (without motor), especially designed and prepared for circulation of the primary coolant in a nuclear reactor, to Jeumont in France.

Reactor coolant pumps, reactor pressure tubes, fuel channels, zirconium tubes designed and prepared for use as fuel cladding, and zirconium fuel assembly guide tubes are nuclear reactor equipment and components described in paragraphs (4), (5), (6), and (7) of Appendix A to 10 CFR Part 110, and are listed in Annex II of the Additional Protocol. France and Taiwan are also listed in 10 CFR 110.26(b) as approved destinations for the export of nuclear reactor components under a general license. As such, AREVA was required by 10 CFR 110.54(a)(1) to submit quarterly export reports to the DOC, Bureau of Industry and Security.

NRC staff reviewed the export notifications submitted on November 3, 2015, and during this review, identified a second apparent violation regarding the export of an RCP (without motor) to France without a specific license authorizing the export (as listed in example 6 above). Section 110.5 of 10 CFR states, in part, that no person may export any nuclear equipment listed in 10 CFR 110.8 unless authorized by a general or specific license issued under 10 CFR Part 110. Section 110.20(a) of 10 CFR states that a person may use an NRC general license as authority to export or import nuclear equipment or material, if the nuclear equipment or material to be exported or imported is covered by the NRC general licenses described in § 110.21 through 110.27. If an export or import is not covered by an NRC general license, a person must file an application for a specific license in accordance with § 110.31 through 32.

On July 25, 2014, AREVA exported nuclear equipment listed in 10 CFR 110.8 to France that was not authorized by a general license and without filing an application for a specific license in accordance with § 110.31 through 32. In its annual report of exports required by 10 CFR 110.54(c) dated January 16, 2015 (non-public), AREVA stated that it had exported an "RCP" under the 10 CFR 110.26 general license. AREVA inappropriately keyed the component to paragraph (9) of Appendix A to Part 110, "Illustrative List of Nuclear Reactor Equipment under NRC Export Licensing Authority." However, reactor primary coolant pumps are described in paragraph (4) of Appendix A to 10 CFR Part 110 and are, therefore, not permitted to be exported under the NRC general license in 10 CFR 110.26.

On April 21, 2016, the NRC issued a letter to AREVA that detailed the results of the NRC's findings, as described above, and outlined two apparent violations (ADAMS Accession No. ML16110A402). The apparent violation involved (1) the failure to make quarterly reports of the export of nuclear reactor components subject to the Additional Protocol and as required by the

NRC's regulations; and (2) the export of an RCP (without motor) to France without a specific license authorizing the export.

The first apparent violation impacted the U.S. Government's ability to comply with international obligations for reporting certain exports under the Additional Protocol. The second apparent violation raised significant regulatory concerns because an RCP is considered a "major reactor component" and requires the highest level of review under the Atomic Energy Act of 1954, as amended, and 10 CFR Part 110. Specifically, the export of an RCP would require a NRC Commission-level review and solicitation of U.S. Executive Branch views including government-to-government assurances from EURATOM in accordance with the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy between the European Atomic Energy Community and the United States of America (commonly referred to as the Section 123 Agreement). AREVA's failure to apply for and receive an export license significantly impacted the NRC's regulatory process.

In the April 21, 2016 letter the NRC offered AREVA the opportunity to: (1) request a Predecisional Enforcement Conference (PEC) or (2) request an ADR. In response to the NRC's letter, AREVA requested to use the NRC's ADR process. On June 13, 2016, AREVA and the NRC met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. The ADR process is one in which a neutral mediator, with no decision-making authority, assists the parties in reaching an agreement on resolving any differences regarding the dispute. This CO is issued pursuant to the agreement reached during the ADR process.

III

During the ADR session, AREVA and the NRC reached a preliminary settlement agreement. The elements of the agreement included corrective actions that AREVA stated were completed as described below and future actions as follows:

Completed Corrective Actions

1. AREVA provided quarterly reports to the NRC via the DOC for export reports of reactor equipment and components for calendar years 2009 through 2015.

Future AREVA Actions

Communications

1. AREVA will submit an article, reviewed by AREVA's General Counsel and Export Control Officer, to be included in the quarterly Nuclear Materials Management and Safeguards Systems (NMMSS) newsletter.
 - a. Within 60 calendar days from the date of the CO, AREVA will submit a draft of the article to the Director, Office of Enforcement, for review and approval.
 - b. The article will summarize the existence of NRC import/export requirements, emphasizing the importance of specific and general license requirements under 10 CFR Part 110, including the reporting requirements.
 - c. The article will also include lessons-learned regarding EA-16-016.

- d. Within 15 calendar days of the NRC's receipt of the draft article submitted by AREVA, the NRC will provide its comments, if any, to AREVA and approve the article.
 - e. AREVA will incorporate any NRC comments into the article.
 - f. The NRC will publish the article in the next quarterly newsletter.
2. AREVA will conduct a presentation, as outlined below, at the NMMSS Annual Users Conference to be held in May 2017.
- a. At least 30 calendar days prior to the conference, AREVA will submit its draft presentation to the NRC.
 - b. The presentation will summarize the existence of NRC import/export requirements, emphasizing the importance of specific and general license requirements under 10 CFR Part 110, including the reporting requirements.
 - c. The presentation will also include lessons-learned regarding EA-16-016.
 - d. Within 15 calendar days of the NRC's receipt of the draft presentation submitted by AREVA, the NRC will provide its comments, if any, to AREVA and approve the presentation.
 - e. AREVA will incorporate any NRC comments into the presentation.
3. By the end of calendar year 2016, AREVA will offer to discuss and exchange views on the lessons-learned regarding EA-16-016 with Westinghouse Electric Company, General Electric-Hitachi, and Urenco USA, during a conference call or a meeting. Significant observations from the discussions should be incorporated into the presentation outlined in paragraph 2 above.

Work Processes

4. Within 12 months, AREVA will develop and/or update written procedures related to NRC requirements contained in 10 CFR Parts 75 and 110. These written procedures will include a corporate focus and apply to all AREVA facilities.

Training

5. Within 60 calendar days, AREVA will conduct training with management and staff responsible for the import/export activities within AREVA to outline the requirements contained in 10 CFR Parts 75 and 110, and to emphasize and reinforce NRC compliance expectations. AREVA will maintain documentation of management and staff that attended such training.
6. AREVA will provide annual refresher training for management and staff responsible for the import/export activities including training on any developed or updated written procedures referred to in paragraph 4. AREVA will maintain documentation of management and staff that attended such training.
7. AREVA will provide initial training for new management and staff responsible for import/export activities, including training on any developed or updated written procedures referred to in paragraph 4. AREVA will maintain documentation of management and staff that attended such training.

Audits

8. No later than 60 calendar days following the development of the procedures described in paragraph 4, AREVA will engage an independent third-party consultant to conduct a review and provide a written assessment of AREVA's written import/export compliance program and training activities. Within 30 calendar days of the receipt of the final audit report, AREVA will share the consultant's written assessment, which may include recommendations or suggestions for improvement, with the NRC. The consultant will possess NRC regulatory experience. AREVA's submission of the first audit report to the NRC shall in no event be later than 2 years from the issuance of the CO.

9. Following the initial audit, the audits will continue on an annual basis. Within 30 calendar days of the receipt of the annual audit report, AREVA will share the consultant's written assessment, which may include recommendations or suggestions for improvement, with the NRC. After the third annual audit, upon request by AREVA and a showing of good cause, the Director, Office of Enforcement, shall rescind the audit requirements.

AREVA Annual Report

10. Concurrently with the submission of the initial audit report discussed in paragraph 8 and annually thereafter, AREVA will submit to the Director, Office of Enforcement, an annual letter confirming its compliance with the CO and providing relevant details demonstrating such compliance. After the fourth submission of the compliance letter, upon request by AREVA and a showing of good cause, the Director, Office of Enforcement, shall rescind the compliance letter requirement.

Safety Culture

11. Within 60 calendar days of issuance of the CO, AREVA will provide to the Director, Office of Enforcement, AREVA's written policies, procedures, and other information relating to AREVA's safety culture including, but not limited to, safety conscious work environment, employee concerns, and its corrective action program for NRC review and comment.

General

12. The NRC agrees not to pursue further enforcement action in connection with its April 21, 2016, letter to AREVA.
13. In consideration of the commitments above, the NRC agrees to refrain from imposing a civil penalty or issuing a Notice of Violation.
14. The CO will constitute an escalated enforcement action.
15. Additionally, the CO resulting from this ADR will correct and document incorrect information documented in the NRC's April 21, 2016, letter to AREVA.
16. AREVA's successor in interest will be bound by the terms and conditions set forth in the CO.
17. Unless otherwise specified, all dates are from the date of issuance of the CO.

18. Unless otherwise specified, all documents required to be submitted to the NRC will be sent to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2783, with a copy to the Director, Office of International Programs, NRC.

On July 29, 2016, AREVA consented to issuing this Order with the commitments, as described in Section V below (ADAMS Accession No. ML16176A139). AREVA further agreed that this Order is to be effective upon issuance and that it has waived its right to a hearing.

IV

Because AREVA has agreed to take additional actions to address NRC concerns, as set forth in Section III above, the NRC has concluded that its concerns can be resolved through issuance of this CO.

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 CO is effective upon issuance.

Accordingly, pursuant to Sections 81, 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 110, IT IS HEREBY ORDERED, EFFECTIVE UPON ISSUANCE, THAT AREVA COMPLETE THE FOLLOWING ACTIONS:

Communications

1. AREVA will submit an article, reviewed by AREVA's General Counsel and Export Control Officer, to be included in the quarterly NMMSS newsletter.
 - a. Within 60 calendar days from the date of the CO, AREVA will submit a draft of the article to the Director, Office of Enforcement, for review and approval.
 - b. The article will summarize the existence of NRC import/export requirements, emphasizing the importance of specific and general license requirements under 10 CFR Part 110, including the reporting requirements.
 - c. The article will also include lessons-learned regarding EA-16-016.
 - d. Within 15 calendar days of the NRC's receipt of the draft article submitted by AREVA, the NRC will provide its comments, if any, to AREVA and approve the article.
 - e. AREVA will incorporate any NRC comments into the article.
 - f. The NRC will publish the article in the next quarterly newsletter.

2. AREVA will conduct a presentation, as outlined below, at the NMMSS Annual Users Conference to be held in May 2017.

- a. At least 30 calendar days prior to the conference, AREVA will submit its draft presentation to the NRC.
 - b. The presentation will summarize the existence of NRC import/export requirements, emphasizing the importance of specific and general license requirements under 10 CFR Part 110, including the reporting requirements.
 - c. The presentation will also include lessons-learned regarding EA-16-016.
 - d. Within 15 calendar days of the NRC's receipt of the draft presentation submitted by AREVA, the NRC will provide its comments, if any, to AREVA and approve the presentation.
 - e. AREVA will incorporate any NRC comments into the presentation.
3. By the end of calendar year 2016, AREVA will offer to discuss and exchange views on the lessons-learned regarding EA-16-016 with Westinghouse Electric Company, General Electric-Hitachi, and Urenco USA, during a conference call or a meeting. Significant observations from the discussions should be incorporated into the presentation outlined in paragraph 2 above.

Work Processes

4. Within 12 months, AREVA will develop and/or update written procedures related to NRC requirements contained in 10 CFR Parts 75 and 110. These written procedures will include a corporate focus and apply to all AREVA facilities.

Training

5. Within 60 calendar days, AREVA will conduct training with management and staff responsible for the import/export activities within AREVA to outline the requirements contained in 10 CFR Parts 75 and 110, and to emphasize and reinforce NRC compliance expectations. AREVA will maintain documentation of management and staff that attended such training.
6. AREVA will provide annual refresher training for management and staff responsible for the import/export activities including training on any developed or updated written procedures referred to in paragraph 4. AREVA will maintain documentation of management and staff that attended such training.
7. AREVA will provide initial training for new management and staff responsible for the import/export activities including training on any developed or updated written procedures referred to in paragraph 4. AREVA will maintain documentation of management and staff that attended such training.

Audits

8. No later than 60 calendar days following the development of the procedures described in paragraph 4, AREVA will engage an independent third-party consultant to conduct a review and provide a written assessment of AREVA's written import/export compliance program and training activities. Within 30 calendar days of the receipt of the final audit report, AREVA will share the consultant's written assessment, which may include

recommendations or suggestions for improvement, with the NRC. The consultant will possess NRC regulatory experience. AREVA's submission of the first audit report to the NRC shall in no event be later than 2 years from the issuance of the CO.

9. Following the initial audit, the audits will continue on an annual basis. Within 30 calendar days of the receipt of the annual audit report, AREVA will share the consultant's written assessment, which may include recommendations or suggestions for improvement, with the NRC. After the third annual audit, upon request by AREVA and a showing of good cause, the Director, Office of Enforcement shall rescind the audit requirements.

AREVA Annual Report

10. Concurrently with the submission of the initial audit report discussed in paragraph 8 and annually thereafter, AREVA will submit to the Director, Office of Enforcement, an annual letter confirming its compliance with the CO and providing relevant details demonstrating such compliance. After the fourth submission of the compliance letter, upon request by AREVA and a showing of good cause, the Director, OE shall rescind the compliance letter requirement.

Safety Culture

11. Within 60 calendar days of issuance of the CO, AREVA will provide to the Director, Office of Enforcement, AREVA's written policies, procedures, and other information relating to

AREVA's safety culture including, but not limited to, safety conscious work environment, employee concerns, and its corrective action program for NRC review and comment.

In the event of the transfer of ownership of AREVA to another entity, the terms and conditions set forth hereunder shall continue to apply to the new entity and accordingly survive any transfer of ownership.

Unless otherwise specified, all dates are from the date of issuance of the CO.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by AREVA of good cause.

VI

In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by this CO, other than AREVA, may request a hearing within 30 calendar days of the date of issuance of this CO. 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, as amended at 77 FR 46562, August 3, 2012). 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 identification (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/getting-started.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 Electronic Filing 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 System (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 through the EIE System. 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 Electronic Filing 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 Electronic Filing Help Desk is available between 9 a.m. and 7 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 stating why there is good cause for not filing electronically and 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://ehd1.nrc.gov/ehd/>, 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 CO and shall address the criteria set forth in 10 CFR 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 CO 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 30 days from the date of this CO 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.

Dated at Rockville, Maryland this 4th day of August 2016.

For the Nuclear Regulatory Commission

/RA/

Patricia K. Holahan, Director
Office of Enforcement