



March 13, 2017
E-47659

U. S. Nuclear Regulatory Commission
Attn: Document Control Desk
One White Flint North
11555 Rockville Pike
Rockville, MD 20852

72-1035
72-1004

Subject: Reply to a Notice of Violation

- References: (1) Letter from Patricia Silva (NRC) to Jayant Bondre (TN), "U.S. NUCLEAR REGULATORY COMMISSION IN-OFFICE REVIEW AND NOTICE OF VIOLATION," dated February 13, 2017
- (2) Letter from Jayant Bondre (TN) to Document Control Desk (NRC), "Input Regarding TN Americas LLC 10 CFR 72.48 Evaluation Numbered 721004-1432 Revision 1," dated November 4, 2016
- (3) Nuclear Energy Institute (NEI)-96-07 Revision 1 Appendix B, "Guidelines for 10 CFR 72.48 Implementation," March 2001.

The purpose of this submittal is to provide the TN Americas LLC (TN) reply to the notice of violation described in Reference (1).

As directed by the Enclosure to Reference (1), Enclosure (1) herein includes for the violation: (1) the reason for the violation; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken to avoid further violations; and (4) the date when full compliance will be achieved.

Should the NRC staff have any questions or require additional information regarding this situation, please contact Don Shaw by telephone at 410-910-6878, or by e-mail at don.shaw@areva.com.

Sincerely,

Jayant Bondre
Chief Technical Officer
TN Americas LLC

cc: Patricia Silva, Chief, Inspections and Operations Branch, Division of Spent Fuel Management, Office of Nuclear Material Safety and Safeguards

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Enclosures:

1. Reply to Notice of Violation

TN AMERICAS LLC

Reply to Notice of Violation

- (1) **The reason for the violation, or, if contested, the basis for disputing the violation or severity level;**

Discussion:

The violation, from Reference (1), is as follows:

"10 CFR 72.48, "Changes, test, and experiments," (c)(2) states, in part, that "a specific certificate holder shall obtain a CoC amendment pursuant to §72.244...prior to implementing a proposed change, test, or experiment if the change, test, or experiment would: (viii) Result in a departure from a method of evaluation described in the FSAR (as updated) used in establishing the design basis or in the safety analyses."

Contrary to the above, TN failed to obtain a CoC amendment pursuant to §72.244, prior to implementing a proposed change that departed from the method of evaluation in the FSAR. Specifically, the addition of a new 32PTH1 Type 2-W basket through the 72.48 process resulted in a change from a method described in the FSAR to another method that has not been approved by the NRC for the intended application."

The basis for the violation described in Reference (1) appears to be the following passage:

"The NRC staff only reviews and 'accepts' a method of evaluation insofar as it is sufficient to demonstrate that the cask design of the relevant CoC/license meets the regulatory requirements. Thus, the 'intended application' of the MOE is confined only to the particular CoC/license (amendment) being reviewed and approved."

TN accepts the violation, with comments. The following information is provided to explain the type of information which formed the basis of TN's understanding of the term "intended application" as it relates to 10 CFR 72.48.

The particular words and phrases cited above by the NRC, which appear to be the NRC basis for the violation, do not appear in the NRC-endorsed portions of Reference (3), which is NEI 96-07 Revision 1: Appendix B, "Guidelines for 10 CFR 72.48 Implementation," nor the Statements of Consideration for 10 CFR 72.48. Based on fifteen years of use in Part 72, the term "intended application" meant "the physical problem to be evaluated" using the MOE.

While TN understands that NRC states in Reference (1) that NRC has fully considered Reference (2) (and other input) and has determined that a violation of NRC requirements occurred, TN offers two examples here as input pertaining to this reason-for-violation discussion:

Example 1:

Reference (3) Page 71 states that "A new method is approved by the NRC for intended application if it is approved for the type of analysis being conducted, and applicable terms, conditions and limitations for its use are satisfied."

This is followed later on that page with, "To obtain an adequate understanding of the method and basis for determining it is approved for use in the intended application, licensees or CoC holders should consult various sources, as appropriate. These include SERs, topical reports, licensee

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correspondence with the NRC and licensee or CoC holder personnel familiar with the existing application of the method.”

Example 2:

Reference (3) Page 72 Introduces a section titled “Considerations for Determining if New Methods May be Considered “Approved by the NRC for the Intended Application.” Reference (3) Page 73 then has the following consideration – “Is the ISFSI facility or cask design for which the methodology has been approved designed and operated in the same manner as the ISFSI facility or cask design to which the methodology is to be applied? Is the relevant equipment the same? Does the equipment have the same pedigree? Are the relevant failure modes and effects analyses the same?”

Based on these, and the other examples provided in Reference (2), coupled (again) with no language in Reference (3) similar to the language describing the basis of the violation from Reference (1), TN’s understanding of the term “intended application” as it relates to 10 CFR 72.48 has been that the intended application is not limited to a particular CoC.

Reason for Violation:

TN’s procedure for implementation of 10 CFR 72.48 is based on the NRC-endorsed portions of the applicable NEI guideline. That TN implementing procedure directs full use and consideration of the NRC-endorsed portions of the NEI guideline. TN was not aware of the distinction of confining MOE’s to the particular CoC, as described in Reference (1) in the indication of NRC’s understanding of the meaning of the term “intended application” as it relates to 10 CFR 72.48 because the NRC’s particular words and phrases in this regard do not appear in the NEI guideline.

TN would not have approved the 10 CFR 72.48 evaluation involved with this situation had this distinction been known.

(2) The corrective steps that have been taken and the results achieved;

This violation was entered into TN’s corrective action program.

Licensing Review (LR) 721004-1432 was revised and new LR 721004-1586 was approved which now serves as TN’s 10 CFR 72.48 assessment of the 32PTH1 Type 2-W design. LR 721004-1586 uses the methods of evaluation from CoC 1004, which includes the original 32PTH1 design.

The result of these actions is that TN’s 10 CFR 72.48 assessment of the 32PTH1 Type 2-W design does not use methods of evaluation from different certificates of compliance.

It is TN’s understanding that NRC has reviewed LR 721004-1586 in association with readiness inspection activities for the Crystal River 3 planned spent fuel loading campaign and that NRC finds the new LR acceptable.

NRC’s most recent triennial inspection of TN occurred in April 2016. TN has reviewed all 10 CFR 72.48 Evaluations completed since April 1, 2016 and no other occurrences of the nature involved with this violation were discovered.

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(3) The corrective steps that will be taken to avoid further violations;

Reference (1) states that "the NRC has concluded that TN's MOE is a departure because 1) the method is different from what the staff has previously approved in the NUHOMS[®] 32PTH-1 FSAR, and 2) the approval of the use of the MOE in question occurred under a different TN CoC (1029) and is not considered as a method for approval for the intended application."

Based on this, TN's procedure for implementing 10 CFR 72.48, TIP 3.5, "Licensing Reviews," has been revised to prohibit the use of methods of evaluation used in a different certificate of compliance. TN personnel who carry out the 10 CFR 72.48 process were required to read this procedure change.

In addition, all TN personnel were provided a communication to make them aware of this new requirement and to provide instructions from the procedure.

(4) The date when full compliance will be achieved.

As discussed above under the corrective steps taken and steps taken to avoid further violations, TN as of March 13, 2017 is in full compliance with the requirements of 10 CFR 72.48 regarding the 32PTH1 Type 2-W design.