

~~SDP/ENFORCEMENT PANEL WORKSHEET~~

EA-00-200

Date of Panel: 8/24/00

Licensee: CE Nuclear Power, LLC

Facility/Location: Westinghouse/Hematite, Missouri

License Type (non-reactor): Fuel Facility

Docket No(s): 070-00036

License No(s): SNM-33

Inspection/OI Report No(s): 2000004(DNMS)

Date of Exit Meeting/OI Report Date: 08/10/2000

~~WITHHOLD ENTIRELY~~
~~Exemption 4~~
~~(MC&A)~~

release

Panel Chairman (SES Sponsor): Cynthia Pederson

Responsible Branch Chief/Lead Inspector: P. Hiland/D. Wiedeman

Enforcement Representative: Ken Lambert, Brent Clayton

Other regional attendees:

Headquarters attendees:

1. Brief Summary of Issues/Potential Violations:

In December 1999 (around December 14, 1999), two "shoe boxes" containing uranium/gadolinium were removed from Drum 3042 for processing. Two other "shoe boxes" were also removed from this drum. The location of the second two "shoe boxes" was unknown until the licensee was notified on June 14, 2000, when Westinghouse's facility in Sweden notified the Hematite facility that a container labeled as "empty" contained the two "shoe boxes" of uranium/gadolinium pellets. On May 22, 2000, the licensee inadvertently shipped 37.4 kilograms of natural uranium/gadolinium pellets from their site in Festus, Missouri, to a sister company located in Barseback Kraft, Sweden in a ABB-2901 shipping drum labeled "EMPTY". In doing so the licensee failed to comply with the transportation requirements for the shipment of licensed material specified in 10 CFR 71.5 and 49 CFR 170 through 189. The licensee also failed to complete a Nuclear Material Transaction Report for exported material within the time period required, one working day. The licensee had two opportunities to identify the missing material prior to the shipment on May 22, 1999.

2. Purpose of Panel:

To discuss a potential Severity Level III violation involving the transportation of radioactive material. Supplement V.C.3, states "Any noncompliance with labeling, placarding, shipping paper, packaging, loading, that could reasonably result in the following: (a) A significant failure to identify the type, quantity, or form of the material, and (b) A failure of the carrier or recipient to exercise adequate controls" constitutes a Severity Level III violation.

25-10

3. Regional Recommended Enforcement Strategy:

Severity Level III, with no civil penalty. The licensee should be given the opportunity for a predecisional enforcement conference. The regulatory message should focus on the fact that fortunately this event involved source material and could have been enriched special nuclear material.

4. Analysis of Significance/Root Cause:

Failure to follow the licensee's MC&A procedures. MC&A procedures were not well written from a human factors perspective.

a. Actual Consequence: none

b. Potential Consequence(s); This event could have involved SNM, thereby increasing the safety significance, i.e., increased risk of exposure to the public or the loss of control of special nuclear material.

c. Potential for Impacting Regulatory Process: NA

d. Willful Aspects: none

e. Root Cause(s): Inattention to details and failure to follow procedures.

5. Apparent Severity Level(s)/Color and Basis:

Transportation violations would be SL III in accordance with C.3(a) and (b) of Supplement V for a noncompliance with the proper labeling and placarding of the packages and the failure to adequately describe the material on shipping papers causing a significant failure to identify the type, quantity, or form of material.

6. Application of Enforcement Policy

a. Enforcement/Performance History:

No escalated enforcement activities in the last two years. Last two (routine) inspections showed no violations identified, Report Nos. 2000-002 & 2000-003. Inspection in February 2000 (Report No. 2000-001) identified one violation involving contamination control. Licensee was cited in June 1998 for failure to properly transport

b. Is Credit Warranted for Identification? Explain: NA

The licensee identified the violations through an event, but there were precursors, the licensee had two opportunities to identify that the material was missing in their inventory. This is the first potentially escalated action for the licensee in the last two inspections. However, in December 1998, the licensee was cited for shipping six fuel assemblies off-site but failed to update the item control database until identified by the NRC inspectors.

c. Is Credit Warranted for Corrective Actions? Explain: Yes

The licensee's corrective actions were prompt. The licensee shipped the container off to Sweden on 5/22/2000. On 6/14/2000 Atom in Sweden notified CE regarding the material found in the shipping container. On 6/16/2000 the NRC (Region III) was notified via a courtesy call. The licensee immediately formed an investigation team to determine the Root Cause(s). note- a copy of the report is available in Region III and NMSS. The licensee took immediate corrective actions that included a "stop order" on all source material shipping containers, a visual inspection of all sealed shipping containers and complete inventory of all 2901 shipping containers, and increased supervisory and peer reinforcement along with revisions to its procedures.

d. Should Discretion Be Exercised to Mitigate or Escalate Sanction?
No.

7. Is action being considered against individuals? No

8. Non-Routine Issues/Additional Information/Relevant Precedent/Lessons Learned:
None

I. Violation assessed a Civil Penalty

10 CFR 71.5(a) requires that a licensee who transports licensed material outside of the site of usage, as specified in the NRC license, or where transport is on public highways, or who delivers licensed material to a carrier for transport, comply with the applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation (DOT) in 49 CFR parts 170 through 189.

49 CFR 171.2(a) prohibits any person from offering hazardous material for transportation unless, among other requirements, the hazardous material is properly classified, described, marked and labeled as required or authorized under the Hazardous Material Regulations (49 CFR parts 171-177).

Contrary to the above, on May 22, 2000, the licensee failed to properly classify, describe, mark and label a package that was inadvertently shipped with 37.4 kilograms of natural uranium/gadolinium pellets, a hazardous material, to an overseas location in Barseback Kraft, Sweden. Specifically:

1. The licensee classified the shipment as non-hazardous and described the package as empty, when in fact, 37.4 kilograms of natural uranium/gadolinium pellets were present in the shipping drum;
2. The licensee failed to properly mark the package with the proper shipping name and UN number, and failed to label the package as "Yellow II"; and
3. The licensee failed to include on the shipping papers the proper shipping name, proper UN number, the category of label applied to the package, transport index (TI), and a description of the hazardous material; and
4. The licensee failed to perform the required radiation surveys, in that the licensee failed to determine that the radiation level on the external surface of the package does not exceed 0.5 millirem per hour, and offered the package to a carrier for transport, labeling the package as "EMPTY".

This is a Severity Level ____ Violation (Supplement V).

II. Violations not assessed a Civil Penalty

10 CFR 40.64(a) requires each specific licensee who transfers, receives, or adjusts the inventory, in any manner, of uranium or thorium source material of foreign origin by 1.0 kilogram or more or who imports or exports 1.0 kilogram of uranium or thorium source material of any origin shall complete a Nuclear Material Transaction Report in accordance with the instructions in NUREG/BR-0006 and NMSS Report D-24 "Personal computer Data Input for NRC Licensees", no later than the close of business the next working day.

Contrary to the above, on May 22, 2000 the licensee exported 37.4 kilograms of natural uranium pellets to Sweden and failed to complete a Nuclear Material Transaction Report until August 9, 2000.

This is a Severity Level ____ Violation (Supplement VI).material.