

February 14, 2013

Mr. Dealis W. Gwyn, Licensing Manager
Shaw AREVA MOX Services
P.O. Box 7097
Aiken, SC 29804-7097

SUBJECT: USE OF NON-CITED VIOLATIONS FOR THE MIXED OXIDE FUEL
FABRICATION FACILITY

Dear Mr. Gwyn:

The Nuclear Regulatory Commission (NRC) Enforcement Policy was revised on January 28, 2013, which allows for licensees and non-licensees to receive non-cited violations in lieu of cited violations, if certain criteria are met. The most significant of these criteria is that the licensee or non-licensee has a Corrective Action Program (CAP) that has been inspected and found to meet regulatory guidance, industry standards, or both.

MOX Services is required to describe the quality assurance program to be applied to the design, fabrication, construction, testing and operation of the structures, systems, and components of the Mixed Oxide Fuel Fabrication Facility (MFFF), under construction on the Savannah River Site in Aiken, South Carolina. The quality assurance program is required to meet the criteria in Appendix B of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50 in accordance with 10 CFR 70.22(a)(9)(f). The quality assurance program for the MFFF is implemented through the MOX Project Quality Assurance Plan (MPQAP) which has been reviewed and approved by the NRC. The MPQAP outlines the commitments for MOX Services' CAP.

The NRC has performed annual programmatic inspections of MOX Services' CAP, since nuclear construction began in 2007. Additionally, the resident inspectors routinely review various corrective action documents and perform oversight and inspection activities. These inspections have been documented in quarterly inspection reports to MOX Services. Based on input from these inspections, the NRC staff determined that MOX Services has established a CAP that is consistent with the commitments in the NRC-approved MPQAP and meets Appendix B to 10 CFR Part 50. The NRC staff also determined that MOX Services has successfully demonstrated the ability to identify, document, evaluate, and correct problems and prevent their recurrence.

Specifically, NRC inspectors verified that:

- a) MOX Services' CAP implementing procedures and program documents appropriately incorporated the commitments identified in the NRC-approved MPQAP and were consistent with the regulatory requirements of Appendix B to 10 CFR Part 50.
- b) Procedures contained provisions for identifying, reporting and documenting conditions adverse to quality and for ensuring timely implementation of corrective actions. Inspectors found that MOX Services' procedures also contained adequate

descriptions of the follow-up, closure and trending processes used at the MFFF and that a system was in place to track and monitor the timeliness of corrective actions.

- c) MOX Services promptly identified conditions adverse to quality and significant conditions adverse to quality, entered these issues into the CAP, and classified them consistent with the MPQAP and regulatory requirements.
- d) MOX Services' personnel, as required, determined the root cause of conditions and implemented compensatory actions until comprehensive corrective actions could be implemented.
- e) MOX Services had properly established a process for documenting conditions adverse to quality and notifying affected personnel as well as appropriate levels of management.
- f) MOX Services periodically performs trending of CAP issues and reviews audit reports, internal surveillance reports, corrective action reports, and management assessments to determine the need to enter items into the CAP.

Based on the inspection results identified above, the NRC staff has determined that MOX Services has established a documented CAP as part of its MPQAP that complies with Appendix B to 10 CFR Part 50. The change in Enforcement Policy will allow NRC identified Severity Level IV violations to be treated as non-cited violations. This change will be implemented in future inspection reports. If you have any questions, please let me know at (301) 492-3229.

In accordance with 10 CFR 2.390 of NRC's Rules of Practice, a copy of this letter and its enclosures will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Sincerely,

/RA/

David Tiktinsky, Senior Project Manager
Conversion, Deconversion
and MOX Branch
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

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