

70-1201



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 4, 1997

EA 96-538

B&W Fuel Company
Commercial Nuclear Fuel Plant d/b/a
Framatome Cogema Fuels
ATTN: Mr. Charles W. Carr, Vice President
Manufacturing and Field Services
P.O. Box 11646
Lynchburg, VA 34506-1646

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY -
\$12,500 (NRC Inspection Report No. 70-1201/96-202)

Dear Mr. Carr:

This refers to the special team inspection conducted on November 13 - 15, 1996, at the B&W Fuel Company (B&W) facility in Lynchburg, Virginia. The inspection included a review of circumstances that led to the reported event on November 13, 1996, of an unaccounted for low-enriched, unirradiated fuel assembly. Confirmatory Action Letter, its addendum, and a response letter were issued to your staff on November 20, 1996, December 3, 1996, and January 22, 1997, respectively, concerning your root cause analysis and corrective action plan, future receipts of the assembly sea-vans, and resumption of fuel assembly downloading operation. The inspection report was issued on January 13, 1997. A predecisional enforcement conference to discuss the apparent violations, their causes, and your corrective actions was held at the NRC Headquarters on January 27, 1997. A summary of this conference was sent to your staff by letter dated February 10, 1997.

Based on the information developed during the inspection and the information that you provided during the conference, the NRC has determined that violations of NRC requirements occurred. These violations are cited in the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice), and the circumstances surrounding them are described in detail in the subject inspection report. Specifically, the violations included B&W's failure to: (1) follow its procedures for the downloading operation; (2) provide adequate procedures for the downloading operation; (3) conduct a reasonable survey of container #440/70-30, which contained the fuel assembly; (4) comply with numerous requirements for the shipment of licensed material; and (5) adequately implement material control and accounting (MC&A) procedures and practices to verify the presence of fuel assembly #31908.

Collectively, these violations are a significant regulatory concern because they are indicative of inadequate B&W management attention and involvement with all aspects of the downloading operation. The lack of management oversight is evidenced by the fact that opportunities were missed that could have prevented the event. As a result of B&W's

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failure to confirm the presence of special nuclear material (SNM) in the shipping container and to identify in a timely manner that SNM was missing from its inventory, the unirradiated fuel assembly was inadvertently returned in its original shipping container to its point of origin in Greifswald, Germany. In light of the loss of control of unirradiated radioactive fuel, the number of violations that are related to this single event, and the number of opportunities available that could have prevented the event, the violations have been classified in the aggregate in accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, as a Severity Level III problem.

The NRC acknowledges B&W's actions in response to this event and subsequent corrective actions. Specifically, your corrective actions described during the predecisional enforcement conference included: (1) initiation of a management oversight team and a self assessment team to assure that effective investigation would be performed and comprehensive corrective actions taken; (2) institution of a formalized examination and modification of administrative controls, procedures, and methods with emphasis on evaluation of risk in situations where conditions are changing or are non-standard; (3) revision of employee training syllabus to emphasize the need and importance of adequate procedures and strict adherence to procedures; (4) establishment of procedural requirements through full authority and control of a quality assurance plan for all operations involving SNM; (5) revision of all procedures relating to the downloading operation, radiation protection and survey, and shipping of licensed materials, to provide necessary details, independent verification, and sign-offs; and (6) revision of the Fundamental Nuclear Material Control Plan to correct deficiencies in the control program of SNM.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$12,500 is considered for a Severity Level III problem. Because your facility has been the subject of escalated enforcement actions within the last 2 years¹, the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section VI.B.2 of the Enforcement Policy. The NRC determined that your initiative in identifying the problem requiring corrective action is noteworthy.

However, given the ease of discovery of the problem, the prior opportunities that existed to identify the problem, and the fact that the violations were not identified as a result of a licensee self-monitoring effort, the NRC has determined that credit for *identification* is not warranted. Credit for your *corrective actions*, however, is warranted because your actions noted above were prompt and comprehensive.

Therefore, to emphasize the importance of management oversight of operations involving control of licensed material and the need for identifying the problems before they occur, I have been authorized, after consultation with the Director, Office of Enforcement, to issue the enclosed Notice in the base amount of \$12,500 for the Severity Level III problem described above.

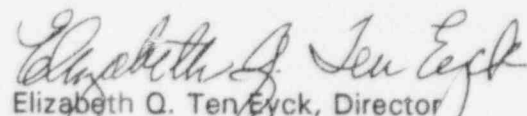
¹ A Severity Level III problem with a \$12,500 civil penalty was issued on January 30, 1996, for violations involving a failure to use shipping packages that conformed to the Certificates of Compliance, as documented in NRC Inspection Report No. 70-1201/95-02.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In addition, given the fact that a broad spectrum of violations in your shipping program were identified, the NRC is concerned that such performance could occur in similar and other operations of the B&W Fuel Company. Therefore, in your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. After reviewing your response to this Notice, the NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

During the special team inspection, an apparent violation was identified for failure to adhere to procedures involving event notification to the NRC. This violation is not being cited because the NRC determined that, under the event circumstances, B&W's interpretation and actions related to reporting requirements were not unreasonable in view of the guidance provided in NUREG-1065, "Acceptable Standard Format and Content for the Fundamental Nuclear Material Control Plan (FNMCP) Required for Low-Enriched Uranium Facilities." However, the requirements in this area are being reviewed and will be the subject of a separate correspondence.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response will be placed in the NRC Public Document Room (PDR). To the extent possible, as provided in the enclosed Notice, your response should not include any personal privacy, proprietary, or Safeguards Information so that it can be released to the public and placed in the PDR without redaction.

Sincerely,


Elizabeth Q. Ten Eyck, Director
Division of Fuel Cycle Safety
and Safeguards, NMSS

Docket No. 70-1201
License No. SNM-1168

Enclosure: Notice of Violation and Proposed Imposition of Civil Penalty

cc w/encl:
Mr. Robert B. Hoffman, President
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3315 Old Forest Road
P.O. Box 10935
Lynchburg, VA 24506-0935

Ms. Gayle F. Elliott, Manager
Safety and Licensing
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