



September 28, 2010

U.S. Nuclear Regulatory Commission
Attention: Document Control Desk
Washington, D.C. 20555-0001

Subject: Reply to a Notice of Violation (99901365/2010-201-01)

Reference: NRC Inspection Report No. 99901365/2010-201-01 and Notice of Violation, Patrick L. Hiland (USNRC) to Richard Gallagher (August 30, 2010)

By the referenced correspondence, the U.S. Nuclear Regulatory Commission (NRC) issued Inspection Report Number 99901365/2010-201-01 concerning the July 20-22, 2010 inspection conducted at the offices of Bechtel Power Corporation (BPC) in Frederick, Maryland.

The inspection report identified one Severity Level IV violation involving the adequacy of the BPC procedures that address the requirements of 10 CFR Part 21. In response to the referenced communication, BPC has undertaken modifications to our procedures to more clearly reflect our responsibility to evaluate deviations and failures to comply associated with substantial safety hazards as soon as practical, and, except as provided in paragraph (a)(2) of 10 CFR Part 21, Section 21.21, in all cases within 60 days of discovery.

Enclosure 1 provides the BPC response to the Notice of Violation. A listing of the documents that have been modified to address the violation is provided in Enclosure 2 to this correspondence.

If questions arise concerning this response, please contact me at (301) 228-7603.

Sincerely,

Richard E. Gallagher, Manager
Quality Services
Bechtel Power Corporation

IE07
NRR

CC: (all with Enclosures)

Mr. Patrick L. Hiland
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Enclosure 1
Bechtel Power Corporation (BPC)
Reply to a Notice of Violation
NOV 99901365/2010-201-01

Restatement of NOV 99901365/2010-201-01

The following description was provided in Inspection Report No. 99901365/2010-201

10 CFR Part 21, Section 21.21(a)(1), "Notification of failure to comply or existence of a defect and its evaluation," requires in part that, "Each individual, corporation, partnership, dedicating entity, or other entity subject to the regulations in this part shall adopt appropriate procedures to evaluate deviations and failures to comply to identify defects and failures to comply associated with substantial safety hazards as soon as practicable, and, except as provided in paragraph (a)(2) of this section, in all cases within 60 days of discovery, in order to identify a reportable defect or failure to comply that could create a substantial safety hazard, were it to remain uncorrected."

Contrary to the above, as of July 22, 2010:

BPC's Procedure No. 1CM-M01G-00110, "Reporting of Defects and Noncompliance to the Nuclear Regulatory Commission (10 CFR Part 21)," Revision 000, dated February 15, 2010, was not an appropriate procedure to ensure evaluation of deviations and failures to comply associated with substantial safety hazards within 60 days of discovery. Specifically, the 60-day evaluation period did not commence from the time a deviation was initially identified (discovery) in BPC's Corrective Action, Nonconformance, or Engineering Error Reporting processes.

BPC Reply to the NOV 99901365/2010-201-01

1. The reason for the violation

The violation occurred via an interpretation of the requirements within 10 CFR Part 21; specifically, the definition of *Discovery*, which includes the phrase "...completion of the documentation first identifying the existence of a deviation or failure to comply..." was not implemented within the BPC documentation per the NRC expectations.

2. Corrective steps taken and results achieved

Management instructions and departmental procedures that address the BPC reporting obligations under 10 CFR Part 21 have been examined and modified, as necessary, to address the definition of "discovery" and the 60-day evaluation period provided for by the regulation. A summary of the changed documents is provided in Enclosure 2 of this correspondence.

3. Corrective steps that will be taken to avoid further violations

As noted above, an extensive review of management instructions and departmental procedures was conducted to identify the condition addressed by the violation. All affected instructions and procedures have been modified as summarized in Enclosure 2.

4. Date when full compliance will be achieved

Enclosure 2 is a list of all procedures which have been revised to reflect the updated requirements and the effective date of each revision.

In the process of preparing this response, we examined several available resources related to the classification of procedural discrepancies and the latitude available to the staff in these determinations. For example, NUREG-1600ⁱ states,

“The Commission recognizes that there are other violations of minor safety or environmental concern that are below the level of significance of Severity Level IV violations. While licensees must correct these minor violations, they don't normally warrant documentation in inspection reports or inspection records and do not warrant enforcement action. To the extent such violations are described, they will be noted as violations of minor significance that are not subject to enforcement action.”

Similarly, an NRC enforcement guidance memorandumⁱⁱ notes that, “Issues that represent isolated failures to implement a requirement and insignificant safety or regulatory impact should normally be categorized as minor violations.”

Due to the absence of other issues in the reference inspection report and the fact that there have been no instances in the history of our processing/reporting activities that violated the time limitations prescribed by Part 21, we believe the staff could have chosen the lower, minor classification in this instance, and we request that a reclassification of this violation be considered. In part, a lower classification seems to be supported by the inspection report details, which note thatⁱⁱⁱ, “...with the points of discovery...and the added times from the CAR, NCR, and EER processes, BPC may be [versus “was”] unable to comply with the 60-day requirement of Part 21.”

ⁱ NUREG-1600, “General Statement of Policy and Procedure for NRC Enforcement Actions,” Enforcement Policy (May 1, 2000).

ⁱⁱ Memorandum, R. W. Borchardt to Distribution, “Guidance For Classifying Violations As Minor Violations,” September 29, 1999.

ⁱⁱⁱ Vendor Inspection Report, Report Details, Section 1.b., Observations and Findings.

Enclosure 2

Bechtel Power Corporation (BPC)

Reply to a Notice of Violation

NOV 99901365/2010-201-01

Document Number	Revision	Title	Effective Date
1-CM-M01G-00110	001	Reporting of Defects and Non Compliances to the Nuclear Regulatory Commission (10 CFR Part 21)	27 September 2010
2QP-Q01G-C0353	000	Corrective Action (Note - Replaces 2QP-Q01N-1661)	20 September 2010
3DP-G04-00038	007	Computer Program Error Notification	29 September 2010
3DP-G04G-00061	003	Nonconformance Reports (NCRs)	29 September 2010
3DP-G04G-00062	001	Request for Information/Field Change Document	29 September 2010
3DP-G04G-00065	003	Processing of Technical Errors Discovered in Completed Documents	29 September 2010
3DP-G04G-00066	003	Reporting Deviations, Defects, and Noncompliance to the NRC	29 September 2010
3DP-G04G-00074	001	Problem Investigation Request (PIR) Process	29 September 2010
3DP-G04G-00086	001	Documenting Issues, Adverse Conditions, Recommendations, Suggestions, and Opportunities for Improvement	29 September 2010
3DP-G06G-00012	004	Supplier Deviation Disposition Requests (SDDRs)	29 September 2010
4MP-T81-N7104	003	Control of Nonconforming Items	17 September 2010
2PP-P30-04003	006	Computer Program Error Notification	28 September 2010