



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION II
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW, SUITE 23T85
ATLANTA, GEORGIA 30303-8931

March 10, 2006

EA-05-186
NMED 050102

Mr. Mark Fecteau
Manager, Columbia Plant
Westinghouse Electric Company
Commercial Nuclear Fuel Division
Drawer R
Columbia, SC 29250

SUBJECT: CONFIRMATION OF CLOSED PRE-DECISIONAL ENFORCEMENT
CONFERENCE (NRC INSPECTION REPORT NO. 2005-002 AND
INVESTIGATION REPORT NOS. 2-2005-007 AND 2-2005-011)

Dear Mr. Fecteau:

This letter confirms the telephone conversation with Mr. Sam McDonald of your staff on February 27, 2006, concerning a Pre-decisional Enforcement Conference that has been scheduled for April 13, 2006, at 8:00 a.m., at the Westinghouse Columbia facility. The purpose of the Pre-decisional Enforcement Conference is to discuss an apparent violation that occurred in February-March 2005, involving multiple examples in which Westinghouse Electric Company (WEC) chemical process operators failed to take appropriate composite samples of calcined uranium powder in the conversion process, as required by procedure. This issue was first documented as an unresolved item in NRC Inspection Report No. 2005-02, dated April 4, 2005.

This letter is also in reference to multiple investigations completed by the NRC's Office of Investigations (OI). The purpose of the OI investigations was to determine whether the above apparent violation was due to the willful actions of WEC employees. Based on the evidence developed during the investigation, the NRC concluded that certain of these activities were willful. A factual summary that provides additional details of the OI investigations and subsequent apparent violation is enclosed.

This conference will be closed to the public because the preliminary conclusions are based on an NRC OI investigation that has not been publicly released. However, as discussed during the telephone conversation with Mr. McDonald, the NRC would like to ensure that the significance of the apparent violation, and the appropriate level of Agency concern, will be properly communicated to the WEC staff, including the chemical process operations staff. As such, the NRC desires WEC management to consider the level of attendance from the staff, e.g., chemical process operators, engineers, and first line supervision, that may benefit from attending the conference.

Based on the findings from the inspection and investigations, this apparent violation is being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's website at www.nrc.gov/OE.

The decision to hold a pre-decisional enforcement conference does not mean the NRC has determined that a violation occurred or that enforcement action will be taken. This conference is being held to obtain information to assist the NRC in making an enforcement decision. This may include information to determine whether violations occurred, information to determine the significance of the violations, information related to the identification of the violations, and information related to any corrective actions that were taken or planned. The conference also will provide you an opportunity to provide your perspective on these matters and any other information you believe the NRC should take into consideration in making an enforcement decision. In particular, the NRC staff is interested in your assessment of the safety significance of the issue and the potential for an accidental criticality. In presenting your corrective actions, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violation. The guidance contained in NRC Information Notice 96-28, "SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION", may be helpful and is available on the NRC's Web site.

Since the NRC has not made a final determination in this matter, no Notice of Violation is being issued for the inspection and investigative findings at this time. In addition, please be advised that the number and characterization of the apparent violation described in the referenced inspection report may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations in this matter. No response regarding the issue is required at this time.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room).

Sincerely,

/RA/

Douglas M. Collins, Director
Division of Fuel Facilities Inspection

Docket No. 070-1151
License No. SNM-1107

Enclosure: Factual Summary

cc w/encl: (See page 3)

M. Fecteau

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cc w/encl:

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FACTUAL SUMMARY

On February 23, 2005, Westinghouse Electric Company's Columbia Fuel Site management (WEC) informed the NRC that chemical process operators failed to take appropriate composite samples of calcined uranium powder in the conversion process, as required by WEC procedure. Additional details of WEC's identification and review of this issue resulted in an NRC inspection and initiation of an investigation by the NRC's Office of Investigations (OI). The investigation was conducted to determine if four chemical process operators at WEC willfully failed to perform composite sampling per procedure on February 18 and 19, 2005. The NRC's OI initiated a second investigation on March 16, 2005, to determine if another chemical process operator at WEC willfully failed to utilize the correct sampling tool. OI also completed a supplemental investigation on January 9, 2006, which reviewed additional details of the matter.

Based on the NRC staff's review of the OI investigations, it has been concluded that an apparent violation with three examples occurred. Safety Condition No. S-1 of Special Nuclear Material License No. 1107, requires that material be used in accordance with statements, representations, and conditions in the License Application. Section 3.4.1 of the License Application provides that operations to assure safe, compliant activities involving nuclear material will be conducted in accordance with approved procedures. Chemical process operations involving nuclear material were not conducted in accordance with approved procedures, as evidenced by the following three examples:

- A. Chemical Operating Procedure (COP) 811001, Fitzmill, Revision 35, dated July 8, 2004, Section II.1.13, Routine Operation, requires the operator to remove the lid from full packs and sample per CF-81-900, ADU Conversion Line Sample Schedule.

On February 19, 2005, operators willfully failed to remove the lid from full packs and sample per CF-81-900, ADU Conversion Line Sample Schedule.

- B. COP 811001, Fitzmill, Revision 35, dated July 8, 2004, Section II.1.13, Routine Operation, requires the operator to allow powder to cool for approximately ten minutes before sampling.

On February 19, 2005, an operator willfully failed to allow powder to cool for approximately ten minutes before sampling.

- C. COP 811001, Fitzmill, Revision 35, dated July 8, 2004, Section II.1.13, Routine Operation, requires the operator to remove the lid from full packs and sample per CF-81-900, ADU Conversion Line Sample Schedule. CF-81-900, ADU Conversion Line Sample Schedule requires the operator to use a specified tool to collect the samples.

On February 19, 25, and 28, 2005, operators willfully failed to use the sampling tool specified by the procedure, and instead, used a polypack lid to collect the samples.

The NRC concluded that the actions of the operators were willful, because of initial and periodic updated training provided to the operators on the requirements of the above procedures, the operators' expressed understanding of the procedures, and specific training on the use of different sampling tools. In addition, some operators were challenged and reminded by WEC supervision after being observed not following procedures, and were subsequently observed by WEC supervision the same day or shortly thereafter not following procedures again.

Enclosure