



NUCLEAR FUEL SERVICES, INC.

a subsidiary of The Babcock & Wilcox Company

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CERTIFIED MAIL
RETURN RECEIPT REQUESTED

21G-09-0148
GOV-01-55-04
ACF-09-0296

October 13, 2009

U.S. Nuclear Regulatory Commission
Attention: Document Control Desk
Washington, DC 20555

- References:
- 1) Docket No. 70-143; SNM License 124
 - 2) NRC Inspection Report No. 70-143/2008-003 and Notice of Violation, dated October 30, 2008
 - 3) NFS Letter B. M. Moore to NRC, "Reply to Notice of Violation No. 70-143/2008-003-02," 21G-08-0196, dated November 25, 2008

Subject: Corrected Reply to Notice of Violation No. 70-143/2008-003-02

Dear Sir:

After the Nuclear Regulatory Commission (NRC) 2009 annual inspection of the Nuclear Fuel Services, Inc. (NFS) Fire Protection Program, it was discovered that our reply to the subject violation contained an inaccurate statement (Reference 3). We therefore are providing herein a corrected reply to the Notice of Violation. Upon discovery of this error, we took actions to strengthen our process to assure the accuracy of our correspondence to the NRC, and began cause investigations to prevent any recurrence.

In the corrected reply (Attachment 1) to the subject violation, the incorrect information has been replaced with information that would have been correct at the time of the original submittal. However, one exception to this approach is the information in the section "The Date When Full Compliance Will Be Achieved." NFS has modified that section to reflect current knowledge of when full compliance is expected to be achieved. Margin marks indicate those sections that have been revised. Actions taken since the date of the original submittal to address the violation are described in Attachment 2. In addition, you will find in Attachment 2 a description of those actions underway to address the issue of submitting incorrect information to the NRC. Results of the ongoing investigation and reviews described in Attachment 2 will be made available to the NRC after they have been completed.

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If you or your staff have any questions, require additional information, or wish to discuss this matter further, please contact me, or Ms. Marie Moore, Safety and Regulatory Director, at (423) 743-1737. Please reference our unique document identification number (21G-09-0148) in any correspondence concerning this letter.

Sincerely,

NUCLEAR FUEL SERVICES, INC.



David L. Kudsin
President

JKW/pdj
Attachments

copy:

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Attachment 1

**NFS Corrected Reply to Notice of Violation
No. 70-143/2008-003-02**

Attachment 1

Restatement of Violation

During an NRC inspection conducted from August 25-29, 2008, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Safety Condition S-1 of Special Nuclear Materials (SNM) License No. SNM-124, authorizes the use of licensed materials in accordance with the statements, representations, and conditions in the License Application and Supplements.

Section 2.7 of the License Application states in part that SNM operations and safety function activities shall be conducted in accordance with approved written procedures.

Section 5.5 of NFS-GH-22 "Fire Door, Barrier and Damper Inspection and Maintenance," states that an annual fire damper inspection will be conducted during the last quarter of the year by Maintenance.

Contrary to the above, as of the 4th quarter of 2006, the licensee failed to perform an annual fire damper inspection during the last quarter of the year.

This is a Severity Level IV violation (Supplement VI).

The Reason for the Violation, or, if Contested, the Basis for Disputing the Violation or Severity Level

The NFS-GH-22 "Fire Door, Barrier and Damper Inspection and Maintenance," procedure requires annual inspection of the fire dampers under Section 5.5 Fire Barrier Inspections. Section 5.5.1 states "An annual Fire Damper inspection will be conducted during the last quarter of the year by Maintenance in accordance with Attachment C." The procedure also has a one year record retention requirement under Section 8.0 Records.

NFS was unable to produce documentation that showed the fire damper inspections had been completed for 2006. Even though the missing inspection records were beyond the one year retention requirement, it was determined the inspections had not been completed and documented in 2006.

The inspection procedure is not specific as to how Maintenance is supposed to be notified to conduct the inspections. The inspections are not set up in the Safety Related Equipment (SRE) or Preventative Maintenance (PM) programs. In order for Maintenance to conduct the inspections, a maintenance work request would have been needed. Since the work request requirements are not spelled out in the NFS-GH-22 "Fire Door, Barrier and Damper Inspection

and Maintenance,” procedure, there is the possibility that the work request was not written and Maintenance did not complete the inspections per the procedure.

The Corrective Steps That Have Been Taken and the Results Achieved

Following the NRC inspection exit meeting, a Commitment (Reference PIRCS Commitment ID# 7283) was entered into the NFS Problem Identification, Resolution, and Correction System (PIRCS) to determine whether fire dampers should be included in the SRE or PM programs. This review was completed on November 21, 2008, and it was concluded that all fire dampers listed as IROFS will be added to the SRE program and all other fire dampers will be added to the PM program.

Subsequent to the identification of this issue by the NRC, all but twelve (12) of the fire dampers listed in the NFS-GH-22, Revision 6, procedure were fully inspected in September of 2008, and passed the inspection. Five of these twelve dampers were visually inspected but did not receive the “drop test” required by the procedure. It was determined that the arrangement of the access door impaired the inspection for three of these five dampers. The reason for not conducting the “drop test” on the other two visually-inspected dampers was not documented. According to the inspection notes, one of the twelve dampers could not be physically accessed to inspect at all, and two dampers could not be located by the individual conducting the inspections. Two other dampers were noted as “removed from service” and “no inspection required.” The two remaining dampers did not require inspections due to being installed in a wall that Safety does not take credit for as a fire barrier.

The Corrective Steps That Will Be Taken to Avoid Further Violations

NFS will take multiple steps to ensure fire damper inspections are completed and properly documented in the future.

The NFS-GH-22 “Fire Door, Barrier and Damper Inspection and Maintenance,” procedure will be revised to reflect the SRE and PM fire damper inspection frequency criteria. The procedure has been revised and is circulating for approval.

The fire dampers installed in IROFS fire barrier walls will be added to the SRE system prior to the next routine scheduled inspections. The process of creating SRE tests for the dampers has been initiated.

The fire dampers installed in non-IROFS fire barrier walls will be added to the facility’s PM program prior to the next routine scheduled inspections. The process of adding them to the PM program has been initiated.

Records of the inspections will be kept in accordance with the established SRE and PM Programs.

The Date When Full Compliance Will Be Achieved

NOTE: This information is based on current knowledge as of October 13, 2009.

Procedure NFS-GH-22 was revised and approved by December 31, 2008, to more clearly define the fire damper inspections that fall under the SRE and PM Management Systems and their respective inspection frequencies. However, it has now been determined that the procedure revision did not result in full compliance and will need another revision to allow for planned implementation of the new requirements. Full compliance will be achieved when the procedure has been appropriately revised, approved, and implemented, and all fire dampers listed in the revised procedure have been fully tested and the results adequately documented. This is expected to be completed by December 15, 2009.

Attachment 2

**Supplemental Information
Regarding the NFS Reply to NOV
No. 70-143/2008-003-02**

Attachment 2

Status of Corrective Actions Addressing the Violation

1. The current status of the twelve (12) fire dampers for which the 2008 inspections were not completed is as follows:
 - 4 fire dampers (# 304-FD-004, 333-FD-003, 333-FD-007, 311-FD-002)
 - Inspections completed successfully on September 25, 2009.
 - 1 fire damper (# 311-FD-001)
 - A field walk-down on September 24, 2009, revealed the fire damper to be in the closed position due to a broken fusible link (PIRCS P21086).
 - The safety function is intact with the fire damper closed, so no compensatory measures are needed.
 - A fusible link has been ordered, and the inspection will be completed after the new fusible link is installed.
 - 1 fire damper (# 307-FD-001)
 - A field walk-down on September 24, 2009, revealed that this damper currently has no access points to perform an inspection.
 - Minimal risk is presented because this damper vents to the outside; therefore, there is no concern about potential fire/smoke propagation into this operational area or from an adjacent operational area.
 - Engineering is currently investigating whether or not the damper is needed.
 - 1 fire damper (# 107-FD-004)
 - Inspection completed successfully on October 12, 2009.
 - 1 fire damper (# 107-FD-002)
 - Inspection completed successfully on October 13, 2009.
 - 4 fire dampers
 - # 302-FD-001: fire damper removed from service, opening is now sealed.
 - # 302-FD-005: fire damper removed from service, fire collar is installed to allow a Process Off-Gas line to pass through the wall.
 - # 304-FD-001, 304-FD-002: not required to function as fire dampers due to being located in an interior wall within a larger fire area.
2. Procedure NFS-GH-22, "Fire Door, Barrier and Damper Inspection and Maintenance," was revised to more clearly define the fire damper inspections that will fall under the SRE and PM Management Systems. The approved procedure was implemented on December 31, 2008. However, the procedure must be further modified to provide an inspection form that will be used to document fire damper inspections that are conducted prior to being fully implemented as SRE or a PM, in addition to removing the fire dampers (from Attachment C) noted in #1 above that do not require inspection. Inspections are currently being documented under LOA-MISC-09-056 that was approved and effective on September 25, 2009.

3. The fire dampers installed in IROFS fire barrier walls are being added to the SRE Management System (PIRCS C9977). The current planned completion date is September, 2010.
4. The fire dampers installed in non-IROFS fire barrier walls are being added to the PM Program (PIRCS C9978). The current planned completion date is September, 2010.
5. A Full Team TapRoot Investigation to determine the reason/root cause for how the problem with the 2008 fire damper inspections and the initial response occurred (PIRCS I9880) is planned to be complete by October 23, 2009. The results of the investigation will be presented to senior management and the Safety and Safeguards Review Council for evaluation. The NRC Resident Inspector will be made aware of the date and time of this presentation.
6. An Extent of Condition review is underway to review plant drawings to ensure that all fire dampers that need to be periodically inspected are identified in NFS-GH-22 or BLEU-GH-22, "Fire Door, Barrier and Damper Inspection and Maintenance," (PIRCS I9919 and I9920).
7. An Extent of Condition review is underway to verify that the BLEU Complex fire damper inspections required by procedure BLEU-GH-22 have been conducted and documented (PIRCS I9918).
8. An Extent of Condition review is underway to validate that other fire safety equipment is being properly inspected per procedural requirements (PIRCS I9921).
9. An Extent of Condition review is underway to determine if similar Industrial Safety inspections have been conducted and the findings were not entered into PIRCS (PIRCS I9955).
10. An Extent of Condition review is underway to determine if there are any other safety areas where inspections are informal, undocumented, or incomplete (PIRCS I9922).
11. An Extent of Condition review is underway to identify any additional equipment associated with IROFS that should be added to the SRE Program (PIRCS I9937).

Results of the ongoing TapRoot investigation and Extent of Condition reviews mentioned above will be available to the NRC after they have been completed. Updates to NFS-GH-22 and/or BLEU-GH-22 will be made as necessary to address issues identified from the above actions (PIRCS I9992).

Actions Addressing the Submittal of Incorrect Information

The scope of the Full Team TapRoot Investigation (PIRCS I9880) noted above includes a review of the submittal of incorrect information to the NRC in the original NFS reply to the violation. Results of the investigation will be available to the NRC after it has been completed.

A benchmarking effort has been initiated to evaluate the review process for controlling the accuracy of regulatory correspondence (PIRCS C10309). One nuclear utility and one fuel cycle facility have been chosen for the evaluation.

Until the current review process for controlling the accuracy of outgoing responses to NRC Notices of Violation has been validated, or enhancements have been identified and implemented, the NFS Vice President of Operations or the NFS Chief Nuclear Safety Officer will be reviewing such correspondence prior to its submittal.