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U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555-0001

**Ref: USNRC Inspection Report 99901098/2009-201
Reply to Notices of Nonconformance;
99901098/2009-201-01**

NOTICE OF NONCONFORMANCE 99901098/2009-201-01

Nonconformance 99901098/2008-201-06 - Criterion XVI, "Corrective Action," of Appendix B to 10 CFR Part 50 states, in part, that measures shall be established to assure that conditions adverse to quality, such as failures, malfunctions, deficiencies, deviations, defective material and equipment, and nonconformance are promptly identified and corrected.

Contrary to the above, as of October 22, 2009, ESSC failed to implement the appropriate measures to process corrective actions in a timely manner. Specifically, ESSC had 24 corrective action reports that exceeded the due date with adequate justification to extend the completion date as allowed by ESSC program.

This is identified as Nonconformance 99901098/2009-201-01.

REPLY TO NOTICE OF NONCONFORMANCE 99901098/2009-201-01:

Reason For Noncompliance

Investigation resulted in finding that inadequate formal documenting of reviews or extensions was due to oversight of expectation. Review results commentary objective evidence was not considered on CPA 1043. In explanation of process oversight; In the electronic Unipoint CPA system If "origination" tab is completed and closed, the corrective action due date cannot be changed by personnel other than originator which causes originator to have re-open "origination" and reclose in order to update due date in report header. With the newer feature in Unipoint for multiple tasks, it has been found that completed originations that had been closed prior to Unipoint software update cannot be re-open by the originator either.

Corrective Steps Taken

Corrective Action CPA 1098 was issued to address the nonconformance and in result of actions taken all due corrective action reports have been completed and closed. The current corrective action report status is as follows:

- Three vendor audit findings (CPAs 1089, 1090, 1091) with vendor request for extension to 1/22/10.
- One CAR (CPA 1094) issued to vendor for corrective action to preclude repetition with vendor request for extension to 1/22/10.
- One CAR (CPA 1099) issued 1/7/2010 in process of closure and not due until 2/7/2010.

There currently are no overdue corrective actions.

JED9
NRW

Corrective Steps to Avoid Noncompliance

CPA-1098

Monthly NC/CPA Status and Trend Reports continue to be issued to the President and in addition all department managers for review. This has been found to be effective in raising awareness to all departments of nonconformance and corrective action issues and their status.

Periodic corrective action report status reviews are now documented by the VPQA or QA/QC Supervisor on the Unipoint electronic system CPA "Review Tab Notes" as record of review and any actions taken such as due date extension. Where a paper record of full text is necessary, the review report is printed and attached to the corrective action report, otherwise the review is documented electronically and appended onto the end of the corrective action report.

Corrective Action individual tasks may be closed by the individual upon completion of the task; however the corrective action section (e.g. Investigation and Action Plan sections) will not be closed until all tasks are completed allowing that addition of updates and documented extensions.

Date When Corrective Action Will Be Completed

Corrective Actions have been completed.

Energy Steel views these matters with the utmost seriousness and is committed to be in full conformance with the regulatory and industry requirements. We are confident that the corrective measures taken will prevent further nonconformance.

Sincerely,



Robert J. Paton
Vice President,
Quality Assurance

CC: Richard A. Rasmussen, Chief, Quality and Vendor Branch 2, Division of
Construction Inspection and Operational Programs, Office of New Reactors

CPA Report - Corrective Action

QA File

CPA# 1098

Origination

Origination Complete

| | | | | | | | |
|---------------|--|------------|----------------------|---------------------|----------|-------------|----------------|
| CPA Date | 10/29/2009 | Category | Quality Program | Division | | Manager | BOBP |
| Status | Closed | Type | Corrective Action | Department | QA | Assigned To | BobP and Wendy |
| Priority | 1 | Origin | Audit - Code Regltry | Date for Completion | 1/8/2010 | Customer | |
| Description | 10CFR50B-XVI C/A NRC NON99901098/2009-201-01 | | | | | Vendor | |
| Originated By | BOBP | Close Date | 1/8/2010 | | | | |

Tasks

| Description | Origination | Status | Complete | Due Date | 1/8/2010 12:00:00AM |
|---|-------------|----------------|----------|----------|---------------------|
| <p>Per CPA 1043: Requirement: 10CFR50B Criteria XVI Corrective Action, ESSC Procedure Q16.1 R.2 Para. 5.2.2 Contrary to requirement per NC-1449: During NRC Audit CPA review it was discovered that the timeliness in closing CPA's is not in compliance with ESSC Procedure Q16.1 R.2 Para. 5.2.2 which states "CPA reports found to be open for more than 30 business days of issue without schedule or reason shall require immediate additional actions to address prompt corrective action as follows" ESSC CPA reports were found to exceed this time frame and were not extended or given attention as allowed by Para. 5.2.2.1 and 5.2.2.2. CPA Revised to include text as written in NRC Report Nonconformance 99901098/2008-201-06. Contrary to the above, as of July 25, 2008, four ESSC corrective action reports (CPAs) – CPA-1031, CPA-1028, CPA-1027, and CPA-1024 – were found to exceed the 30 business day time frame without documenting the justification of the extension of the completion dates.</p> <p>CPA 1043 was closed on 2/12/09, however NRC follow-up inspection performed 10/22/09 found that the implementation of the corrective action for CPA 1043 was in-effective. Results of review were documented in NRC Inspection Report issued 12/8/2009 as Nonconformance No. 99901098/2009-201-01 as follows: "Contrary to the above, as of October 22, 2009, ESSC failed to implement the appropriate measures to process corrective actions in a timely manner. Specifically ESSC had 24 corrective action reports that exceeded the due date with adequate justification to extend the completion date as allowed by the ESSC program."</p> <p>NRC Report No. 999-01098/2009-2011 was received 12/9/09. Due date for this CPA extended 30 days for response to 1/8/2010.</p> | | | | | |
| User: | BOBP | Complete Date: | 1/8/2010 | | |

Investigation

Investigation Complete

| | | | | | |
|-----------------|------|--------------------|----------|--|--|
| Investigated By | BOBP | Investigation Date | 1/8/2010 | | |
|-----------------|------|--------------------|----------|--|--|

Tasks

| Description | Root Cause | Status | Complete | Due Date | 1/8/2010 12:00:00AM |
|---|------------|----------------|----------|----------|---------------------|
| <p>Results of review have found the following: 1. There was no objective evidence of weekly NC/CPA review results documented other than the listing of NC/CPAs with occasional hand notes. 2. CPA Corrective Action Reports were not consistently formally updated to extend due dates.</p> <p>Root Cause: 1. Review results commentary objective evidence was not not considered on CPA 1043. 2. If "origination" tab is completed and closed, the corrective action due date can not be changed by personnel other than originator which causes originator to have re-open "origination" and reclose. With the newer feature in Unipoint for multiple tasks, it has been found that some old origination that have been closed can not be re-open by the originator either.</p> <p>Above Root Cause completed 10/29/09 RJP. Extend due date to 30 days from receipt of NRC report for document reference consistency.</p> <p>NRC Report received 12/9/09 via e-mail as NRC Nonconformance 99901098/2009-201-01. Formal due date of CPA 1098 extended to 1/8/10.</p> | | | | | |
| User: | BOBP | Complete Date: | 1/8/2010 | | |

| Description | Root cause investigation | Status | Complete | Due Date | |
|---|--------------------------|----------------|----------|----------|--|
| <p>Additional root cause investigation results revealed that the issues involving formally documenting due dates and extensions for corrective action reports and reviews within the Unipoint electronic system were not fully understood and solution tested. It was found through exploratory use that the recent updates to the system could address the issues but were not fully realized due to lack of attention to the formal documenting of reviews.</p> | | | | | |
| User: | BOBP | Complete Date: | 1/8/2010 | | |

Action

Action Complete

| | | | | | |
|-----------|------|-------------|----------|--|--|
| Action By | BOBP | Action Date | 1/8/2010 | | |
|-----------|------|-------------|----------|--|--|

CPA Report - Corrective Action

CPA# 1098

Tasks

| Description | Corrective Action Plan | Status | Complete | Due Date |
|---|------------------------|----------------|----------|----------|
| 1. During CPA reviews performed on 10/21-22 it was discovered that a specific review report form could print the documented review results dialog. 2. Document extensions in review notes. Print copy for review book and copy to be attached to CPA. Should the "Origination" section of the CPA be still open, change date there. 3. During review set-up recurring review tool to automatically designate the next review timer period. RJP update - NRC Inspection Nonconformance Report identifying the issues was received 12/9/2009 allowing extending closure due date 30 days from date of letter 12/8/09. Additional system functions follow-up found that in addition to the above, the new individually assigned multiple "Tasks" within the Investigation and Action sections of the Unipoint electronic Corrective Action Reports (CPA) can be assigned to individuals for specific tasks, closed by the individual as a task and additional tasks added to update the status of the section showing task completion without closing the section thus allowing the updating of the section by other than those that closed individually assigned tasks. This new feature will provide more descriptive and protected documenting of progress and task completions as well as providing a documented method for due date extension justification. In summary actions to preclude repetition are as follows: 1. Periodic corrective action report status reviews shall be documented by the VPQA or QA/QC Supervisor on Unipoint electronic system CPA Review Tab Notes as record of review and any actions taken such as due date extension. Where a paper record of full text is necessary, the review report is printed and attached to the corrective action report, otherwise the review is documented electronically onto the end of the corrective action report. 2. Corrective Action individual tasks may be closed by the individual upon completion of the task, however the corrective action section (e.g. Investigation and Action Plan sections) shall not be closed until all tasks are completed allowing that addition of updates and documented extensions. | | | | |
| User: | BOBP | Complete Date: | 1/8/2010 | |

| Description | 10CFR21 Applicability | Status | Complete | Due Date |
|--|-----------------------|----------------|----------|----------|
| Has the item shipped to the customer? [] Yes, [X] No Does the nonconforming condition affect other items that may have shipped? [] Yes, No [X] IF YES TO EITHER OF THE ABOVE IS THIS POTENTIALLY 10CFR21 REPORTABLE? () YES. (X) NO. Programmatic issue not affecting equipment or material. RJP 10/29/09 | | | | |
| User: | BOBP | Complete Date: | 1/8/2010 | |

| Description | Corrective Action Plan Approval | Status | Complete | Due Date |
|---|---------------------------------|----------------|----------|----------|
| CORRECTIVE ACTION APPROVALS CUSTOMER APPROVAL REQUIRED: () Yes, (X) No. _____ QA REVIEW & APPROVAL RJP 1/8/10 <i>[Signature]</i> | | | | |
| User: | BOBP | Complete Date: | 1/8/2010 | |

Implementation

Implementation Complete

| | | | | |
|------------|------|--------------|----------|--|
| Implem. By | BOBP | Implem. Date | 1/8/2010 | |
|------------|------|--------------|----------|--|

Verification

Action Implemented

Action Effective

Verification Complete

| | | | | |
|-----------------|------|-------------------|----------|--|
| Verification By | BOBP | Verification Date | 1/8/2010 | |
|-----------------|------|-------------------|----------|--|

CPA Report - Corrective Action

CPA# 1098

Tasks

| Description | C/A Verification/Closure Approval | Status | Complete | Due Date | 1/8/2010 12:00:00AM |
|---|-----------------------------------|----------------|----------|----------|---------------------|
| <p>Implementation verification:</p> <p>1. Periodic corrective action report status reviews are documented by the VPQA or QA/QC Supervisor on Unipoint electronic system CPA Review Tab Notes as record of review and any actions taken such as due date extension. Where a paper record of full text is necessary, the review report is printed and attached to the corrective action report, otherwise the review is documented electronically onto the end of the corrective action report.</p> <p>2. Corrective Action individual tasks are closed by the individual upon completion of the task, however the corrective action section (e.g. Investigation and Action Plan sections) are not closed until all tasks are completed allowing that addition of updates and documented extensions.</p> <p>Evidence examined includes various reports recently completed inclusive of this report as evidenced by content.</p> <p>In addition to the above current corrective action status report indicates that there are no overdue corrective action reports open with the properly documented due date extensions. Current status of all open corrective action reports (qty 6) are as follows:</p> <p>Three vendor audit findings (CPAs 1089, 1090, 1091) with vendor request for extension to 1/22/10. One CAR (CPA 1094) issued to vendor for corrective action to preclude repetition with vendor request for extension to 1/22/10. One CAR (CPA 1099) issued 1/7/2010 in process of closure and not due until 2/7/2010. This CAR (CPA 1098) which is in the process of closure today.</p> <p>All corrective actions other than the above have been closed.</p> <p>CORRECTIVE ACTION CLOSURE APPROVALS</p> <p>AI/ANI NOTIFICATION REQUIRED? ()Yes, _____ (X)NO</p> <p>VPQA OR QA SUPERVISOR APPROVAL _RJP 1/8/10 <i>[Signature]</i></p> <p>PRESIDENT APPROVAL (Internal QA Prog CPAs)</p> | | | | | |
| User: | BOBP | Complete Date: | 1/8/2010 | | |

Associated Items

| Assoc Type | No | Date | Type | Material / Desc |
|------------|----|------|------|-----------------|
| | | | | |

Reviews

| Description | Frequency | Next Date | Complete Date | Completed By | Status |
|-------------------|-----------|-------------|---------------|--------------|-----------|
| Review for status | None | 30-Dec-2009 | 30-Nov-2009 | BOBP | Completed |
| Review for status | None | 08-Jan-2010 | 04-Jan-2010 | BOBP | Completed |

Review Report

CPA # 1098

| | | | |
|-------------|-------------------|----------------|------------|
| Description | Review for status | Completed Date | 11/30/2009 |
| Next Date | 12/30/2009 | Status | Completed |
| | | Completed By | BOBP |

Scope:

Results:

Extend due date for receipt of NRC report.

Review Report

CPA # 1098

| | | | |
|-------------|-------------------|----------------|-----------|
| Description | Review for status | Completed Date | 1/4/2010 |
| Next Date | 1/8/2010 | Status | Completed |
| | | Completed By | BOBP |

Scope:

Results:

CPA review have found that issues have been addressed through;

1. Changes in Unipoint electronic CPA system for assigning individual tasks with due dates for each process. This now allows formal documenting of extensions where necessary without having to unlock and re-assign "Origination" responsibility which would be required to change the due date in the CPA "Origination" header, which also changes the Origination date when closing this step.

2. Changes in the Unipoint electronic CPA system which now contains a more user friendly and descriptive "Review" process for the whole C/A itself allowing documentation of "Review Status - Pending or Complete" with date inputs for each, assignment of review responsibility and electronically identifying the user that completed the review task, as well as function for entry of review results notes and ability to print a formal review report.

The above new functions are to be illustrated in the "Sample" CPA for user instructional purposes. Both the VPQA and QA/QC Supervisor are now utilizing the new functions with expectations that the issues raised in this C/A (1098) are now resolved.

Completion of tasks for this C/A 1098 are pending for 1/8/10 closure which include formatting of "CPA SAMPLE" for illustration.



CPA Listing

Type: Corrective Action
Status: Not Closed
From: To:

| CPA | CPA Date | Description | Status | Assigned To | Dept | Date for Comp. |
|-----------|----------|---|---------------|-------------|------|----------------|
| 1099 | 1/7/2010 | Incorrect material supply | Verification | [REDACTED] | QA | 2/8/2010 |
| 1094 | 9/9/2009 | Inadequate Machining and maintenance of toleran | Investigation | [REDACTED] | QA | 1/22/2010 |
| 1091 | 8/6/2009 | Vendor Audit Finding 2269-0901-F3 (Huron Tool) | Origination | [REDACTED] | QA | 1/15/2010 |
| 1090 | 8/6/2009 | Vendor Audit Finding 2269-0901-F2 (Huron Tool) | Origination | [REDACTED] | QA | 1/22/2010 |
| 1089 | 8/6/2009 | Vendor Audit Finding 2269-0901-F1 (Huron Tool) | Origination | [REDACTED] | QA | 1/22/2010 |
| # Records | | 5 | | | | |