

February 22, 2010

Douglas Vickery, Director of Quality
Dubose National Energy Services, Inc.
900 Industrial Drive
Clinton, NC 28328

SUBJECT: NRC INSPECTION REPORT NO. 99900861/2009-201, AND NOTICE OF VIOLATION

Dear Mr. Vickery:

On December 7-11, 2009, the U.S. Nuclear Regulatory Commission (NRC) staff conducted an inspection at the DuBose National Energy Services Inc. (DNES) facility in Clinton, North Carolina. The purpose of the inspection was to perform a limited scope inspection to assess DNES's compliance with the provisions of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 21, "Reporting of Defects and Noncompliance." The enclosed report presents the results of this inspection. This inspection report does not constitute NRC endorsement of your 10 CFR Part 21 programs.

Based on the results of this inspection, the NRC has determined that one Severity Level IV violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the subject inspection report. The violation in the Notice is being cited because DNES failed to provide procedural guidance for performing evaluations of deviations and failures to comply of basic components drop shipped associated with Substantial Safety Hazards in two Quality Control procedures (QCP), and failed to perform evaluations of deviations in basic components delivered to purchasers for use in a facility or an activity subject to the requirements of 10 CFR Part 21, for seven (Customer) Complaint Forms reviewed during this inspection.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request that such material is withheld from public disclosure, you must specifically identify the portions of your response that you seek to have

withheld and provide in detail the bases for your claim (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

Sincerely,

/RA/

Richard A. Rasmussen, Chief
Quality and Vendor Branch B
Division of Construction Inspection
& Operational Programs
Office of New Reactors

Docket No. 99900861

Enclosures:

1. Notice of Violation
2. Inspection Report 99900861/2009-201 and Attachment

withheld and provide in detail the bases for your claim (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

Sincerely,

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Richard A. Rasmussen, Chief
Quality and Vendor Branch B
Division of Construction Inspection
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Docket No. 99900861

Enclosures:

1. Notice of Violation
2. Inspection Report 99900861/2009-201 and Attachment

DISTRIBUTION:

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ADAMS Accession No.: ML100351249

OFFICE	NRO/DCIP/CQVB	NRO/DCIP/CQVB	NRO/DCIP/CAEB
NAME	JOrtega-Luciano	DPasquale	TFrye
DATE	2/17/10	2/17/10	2/19/10
OFFICE	NRO/DCIP/CQVB/BC		
NAME	RRasmussen		
DATE	2/22/10		

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

DuBose National Energy Services
900 Industrial Drive
Clinton, NC 28328

Docket Number 99900861
Inspection Report Number 2009-201

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted at the DuBose National Energy Services Inc. (DNES) facility in Clinton, North Carolina, on December 7-11, 2009, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

- A. Title 10, Section 21.21, "Notification of Failure to Comply or Existence of a Defect and Its Evaluation," of the *Code of Federal Regulations* (10 CFR 21.21), paragraph 21.21(a), requires, in part, that each individual, corporation, partnership, or other entity subject to 10 CFR Part 21, "Reporting of Defects and Noncompliance," shall adopt appropriate procedures to evaluate deviations and failures to comply associated with substantial safety hazards.

Contrary to the above, as of December 11, 2009, DNES failed to include appropriate procedural guidance in two Quality Control procedures (QCP), and in seven instances failed to evaluate the (Customer) Complaint Reports for deviations in basic components delivered to purchasers, to assure these deviations were not substantial safety hazards. Specifically, DNES did not:

1. Provide procedural guidance for performing evaluations of deviations and failures to comply associated with Substantial Safety Hazards in QCP 1-7, "Procedure for Compliance with 10 CFR 21," Revision 9, dated May 29, 2009, and did not provide procedural guidance for the performance of evaluations of deviations and failures to comply for basic components drop shipped from DNES sub-supplier's which were subsequently rejected during customer receipt inspection activities in QCP 1-10, "Customer Complaint/Return Procedure," Revision 1, dated August 28, 2007.
2. Perform evaluations of deviations in basic components delivered to purchasers, to assure these deviations were not substantial safety hazards, for the following Complaint Reports:
 - i. Complaint Report dated 12/02/09 Re: Crane PO 47264,
 - ii. Complaint Report dated 11/16/09 Re: T&T Enterprises/Invar PO 34325,
 - iii. Complaint Report dated 11/04/09 Re: Bechtel PO 25494.608,
 - iv. Complaint Report dated 10/20/09 Re: FP&L PO 00122312,
 - v. Complaint Report dated 10/20/09 Re: Shaw Modular PO 56612 OP,
 - vi. Complaint Report dated 10/07/09 Re: APS PO 500536387,
 - vii. Complaint Report dated 07/31/09 Re: Areva PO 1008030104

This issue has been identified as Violation 99900861/2009-201-01.

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

Pursuant to the provisions of 10 CFR 2.201, "Notice of Violation," you are hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555-0001, with a copy to the Chief, Quality and Vendor Branch 2, Division of Construction Inspection and Operational Programs, Office of New Reactors, within 30 days of the date of the letter transmitting this Notice of Violation. This reply should be clearly marked as a "Reply to a Notice of Violation" and should include: (1) the reason for the violation, or, if contested, the basis for disputing the violation; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken to avoid further violations; and (4) the date when full compliance will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. Where good cause is shown, consideration will be given to extending the response time.

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agency-wide Documents Access and Management System (ADAMS), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection, described in 10 CFR 73.21.

Dated this 22 day of February 2010

U.S. NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR REACTOR REGULATION
DIVISION OF ENGINEERING
VENDOR INSPECTION REPORT

Docket No.: 99900861

Report No.: 99900861/2009-201

Vendor: DuBose National Energy Services Inc.
900 Industrial Drive
Clinton, NC 28328
Phone (800) 590-2150

Vendor Contact: Mr. Douglas Vickery, Director of Quality
Phone (910) 590-2151 x139
Doug Vickery 1@comcast.net

Nuclear Industry: DuBose National Energy Services Inc. (DNES) is a supplier of ASME Code and non-code, safety-related and non safety-related fabrication materials and fabrication services to the nuclear power industry

Inspection Dates: December 7-11, 2009

Inspectors: Daniel Pasquale, NRO/DCIP/CQVB Team Leader
Jonathan Ortega-Luciano, NRO/DCIP/CQVB Inspector

Approved by: Richard A. Rasmussen, Chief
Quality & Vendor Branch B
Division of Construction Inspection
& Operational Programs
Office of New Reactors

EXECUTIVE SUMMARY

DuBose National Energy Services Inc.
99900861

The purpose of this inspection was to verify that DuBose National Energy Services Inc. (DNES) implemented an adequate 10 CFR Part 21 program that met U.S. Nuclear Regulatory Commission (NRC) regulatory requirements. The NRC inspectors reviewed portions of the Quality Assurance (QA) program and 10 CFR Part 21 controls that DNES had established and implemented to meet the regulations set forth in 10 CFR Part 21. The inspection was conducted at the DNES facility in Clinton, North Carolina.

The NRC inspection basis was:

- Title 10 of the *Code of Federal Regulations* (10 CFR) Part 21, "Reporting of Defects and Noncompliance"

The NRC staff implemented Inspection Procedure 36100, "Inspection of 10 CFR Part 21 and 50.55(e) Programs for Reporting Defects and Nonconformance," during the conduct of this inspection.

Concurrent with this inspection, the NRC staff also observed the performance of a routine Nuclear Procurement Issues Committee (NUPIC) supplier audit of DNES to assess the quality assurance audit process used for suppliers of components to the nuclear industry. The NRC staff implemented Inspection Procedure (IP) 43005, "NRC Oversight of Third-Party Organizations Implementing Quality Assurance Requirements," for this activity. The trip report of the NRC's observations, including a list of the persons contacted during the trip, is documented in a Trip Report dated February 19, 2010, (ADAMS Accession No. **ML100360120**).

During the NRC inspection at DNES, daily meetings were conducted between the NRC inspectors and DNES staff to discuss observations and/or findings.

There were no NRC inspections performed at DNES's facility in Clinton, NC in the previous five years. The results of this inspection are summarized below.

With the exception of the violation described below, the NRC inspection team concluded that the DNES's QA policies and procedures complied with the applicable requirements of 10 CFR Part 21. The NRC inspection team further concluded that DNES personnel were, with the exception of the examples indicated in the violation described below, implementing these policies and procedures effectively.

10 CFR Part 21

The NRC inspectors identified Violation 99900861/2009-201-01. The basis for this violation is comprised of two separate but related elements: 1) Both QCP 1-7, "Procedure for Compliance with 10 CFR 21," Rev. 9 and QCP 1-10, "Customer Complaint/Return Procedure," Rev. 1, failed to provide a direct connection to the 10 CFR Part 21 program and/or implementing procedures when deviations related to "drop-shipped" material from DNES's sub-suppliers are identified at receiving by licensees and; 2) DNES failed to perform evaluations of deviations in basic

components delivered to purchasers, to assure these deviations were not substantial safety hazards, for seven (Customer) Complaint Reports reviewed during this inspection.

REPORT DETAILS

1. 10 CFR Part 21 Program

a. Inspection Scope

The NRC inspectors reviewed the implementing policies and procedures that govern DNES's 10 CFR Part 21 (Part 21) process to verify compliance with Part 21. These documents included:

- DNES, "Quality Program Manual for ASME Code Section III," Revision 02, dated 02/27/08
- QCP 1-4, "Control of Nonconforming Conditions and Corrective Actions", Rev. 10, dated 07/10/09
- QCP 1-6, "Purchasing Order Entry", Rev 5, dated 03/09/95
- QCP 1-7, "Procedure for Compliance with 10 CFR 21" Rev. 9, dated 05/29/09
- QCP 1-10, "Customer Complaint/Return Procedure" Rev. 1, dated 08/28/07
- DNES Complaint Report Form dated 11/04/09 Re: Bechtel PO 25494.608
- DNES Complaint Report Form dated 12/09/09 Re: Nine Mile PO 7712314
- DNES Complaint Report Form dated 12/02/09 Re: Crane PO 47264
- DNES Complaint Report Form dated 11/16/09 Re: T&T Enterprises/Invar PO 34325
- DNES Complaint Report Form dated 11/13/09 Re: Weir Valve PO 226081
- DNES Complaint Report Form dated 11/04/09 Re: Bechtel PO 25494.608
- DNES Complaint Report Form dated 11/02/09 Re: Tyco Valve PO A08334 Item 1
- DNES Complaint Report Form dated 10/20/09 Re: FP&L PO 00122312
- DNES Complaint Report Form dated 10/20/09 Re: Shaw Modular PO 56612 OP
- DNES Complaint Report Form dated 10/16/09 Re: Curtis Wright POs 445642 & 445643
- DNES Complaint Report Form dated 10/07/09 Re: APS PO 500536387
- DNES Complaint Report Form dated 07/31/09 Re: Areva PO 1008030104
- DNES Corrective Action No. 233, Issued 01/23/09

- DNES Corrective Action No. 237, Issued 11/27/08
- DNES Corrective Action No. 248. Issued 12/07/09
- DNES Nonconformance Report No. 2131, issued 07/24/09
- DNES Nonconformance Report No. 2012, issued 05/01/09
- DNES Nonconformance Report No. 1922, issued 02/13/09
- DNES Purchase Order No. 74537-65, dated 03/12/09 to Western Flange
- DNES Purchase Order No. 75735-51, dated 07/02/09 to Sandvik materials Tech
- DNES Purchase Order No. 76595-51, dated 9/11/09 to Laboratory Testing Inc.

The NRC inspectors also reviewed DNES's log of Corrective Action Reports (CARs) generated in the past three years and reviewed the log of customer complaints for the last two quarters to ensure that DNES's processes were effective in identifying and evaluating conditions adverse to quality that may require entry into the Part 21 process. The inspectors found that DNES had not issued any Part 21 evaluations in the last three years. Therefore, the NRC inspectors were unable to perform a full effectiveness review of DNES's implementation of their Part 21 procedure. The NRC inspectors sampled DNES's Part 21 program implementation activities related to Part 21 postings and procurement documents.

b. Observations and Findings

b.1 10 CFR Part 21 Policies and Procedures

DNES's process for implementing the requirements of Part 21 is presented in QCP 1-4, QCP 1-6, QCP 1-7, and QCP 1-10.

The DNES procedure for initiating and controlling nonconforming conditions, QCP 1-4, was reviewed for adequacy in providing a direct connection to their Part 21 reporting program. The review of this procedure indicated that both the PROBLEM/NON-CONFORMANCE REPORT (NCR), Form D-12 and the CORRECTIVE ACTION REPORT (CAR), Form 11-E, contained a check box to indicate the need to perform a related Part 21 evaluation. The incorporation of this step into their procedure provides the mechanism for evaluating deviations as required by Part 21 once a deviation has been entered into the NCR/CAR system. QCP 1-4 was found to be adequate as written.

The NRC inspectors concluded from a review of the DNES procedure for generating purchase orders to their sub-suppliers, QCP 1-6, that the requirement for invoking Part 21 onto DNES's sub-suppliers of basic components was adequately addressed in DNES's procedure. The NRC inspectors verified that DNES had specified the applicability of Part 21 when issuing safety-related procurement documents to its suppliers. The NRC staff concluded that QCP 1-6 was satisfactory in providing for the transference of requirements associated with Part 21.

The NRC inspector's review of QCP 1-7, DNES' Part 21 procedure, indicated that the procedure adequately invoked the requirements of Part 21 except as noted below.

QCP 1-7 provides the necessary process guidance to satisfy the following regulatory requirements of 10 CFR Part 21: a) processing evaluations in a timely fashion, b) content of the written report, c) notification of customers affected by a 10 CFR Part 21 evaluation, d) record retention of related documentation, e) guidance for NRC notification, f) requirements for the evaluation of a failure to comply or a defect as required by 10 CFR Part 21, and g) the requirements for postings as set forth in Section 21.6 of 10 CFR Part 21.

The NRC inspectors identified that QCP 1-7 failed to provide adequate guidance to DNES authorized personnel on how to perform a Part 21 evaluation of a deviation or failure to comply for some situations. Specifically, for drop shipped items, DNES staff was not able to determine the appropriate process requirements. Drop shipping occurs when the primary supplier (DNES) utilizes a sub-supplier to fill some or all of the material requirements specified on the licensee's purchase order, and rather than sending the product to DNES, the sub-supplier is instructed (by the primary supplier) to ship the product directly to the customer. In the case of DNES's drop shipping process, differences in understanding amongst DNES personnel relating to their roles and responsibilities were evidenced. The Director of QA indicated it would be the sub-supplier's responsibility under that organization's Part 21 program to evaluate deviations and notify the NRC, while other DNES QA management personnel indicated it would be DNES's responsibility.

QCP 1-10, "Customer Complaint/Return Procedure", also provided contributing guidance for implementation of the DNES Part 21 program. The NRC inspectors concluded that, like QCP 1-7, QCP 1-10 also failed to require the generation of a DNES nonconformance report or corrective actions in cases where a basic component, drop shipped from a DNES authorized supplier, is rejected by DNES' customers at receipt inspection. QCP 1-10 requires a (Customer) Complaint Report form to be generated whenever DNES is notified, either verbally or written, of quality related concerns raised by DNES customers for materials or services provided in accordance with their "Quality System Program," but never requires the initiation of an NCR for drop shipped items. The generation and evaluation of an NCR are the first steps in the DNES process for evaluating items for reporting under Part 21. The procedural inadequacy of QCP 1-7 and QCP 1-10 was identified as one example of Violation 99900861/2009-201-01.

The NUPIC Lead Auditor was made aware of this issue during the inspection and actively participated with the NRC inspection team to assess the need for DNES to have issued NCRs for the nonconformances identified on the sample population of complaint forms. Consequently, the NUPIC Lead Auditor issued a finding addressing this deficiency.

b.2 10 CFR Part 21 Implementation

The NRC inspectors performed an assessment of the implementation of DNES's procedure governing the control of non-conforming conditions and corrective actions, QCP 1-4. A sample population consisting of three NCRs, and three CARs, were reviewed to evaluate DNES's implementation of their Part 21 program. From this review, it was concluded that once a deviation is entered into the nonconformance and corrective action program, adequate process controls are in place to provide a direct connection between that process and DNES's Part 21 program. The NRC inspectors also concluded that the results of DNES's evaluations, including the determination not to notify the NRC as required by Part 21, were adequate.

NRC inspectors evaluated DNES's implementation of QCP 1-6, to verify that applicable regulatory requirements, design bases, and other requirements necessary to assure adequate quality controls were included or referenced in the documents for procurement of material. The review focused on DNES's ability to identify the applicability of Part 21 when issuing safety-related procurement documents (PO) to its suppliers, and to effectively pass those requirements onto those suppliers. The NRC inspectors concluded from this review, that, for the three DNES's safety-related POs sampled, the requirement for invoking Part 21 onto their sub-suppliers of basic components was adequately implemented.

Implementation of the posting requirements specified in QCP 1-7, was accomplished by verifying that current copies of the 10 CFR Part 21 document, Section 206 of the Energy Reorganization Act of 1974, and QCP 1-7 were posted in conspicuous locations in the warehouse and office as stated in QCP 1-7. The remaining elements of the DNES Part 21 program specified in QCP 1-7 were evaluated from a procedural perspective only, since DNES had not performed a Part 21 evaluation in more than 5 years.

Implementation of DNES's procedure for processing customer complaints and/or returns, QCP 1-10, was also reviewed. A sample of 11 DNES (Customer) Complaint Reports from the six months just prior to the inspection, were reviewed to determine if DNES had performed evaluations of these deviations in accordance with the requirements of Part 21. Of the eleven Complaint Reports, the NRC inspectors determined that seven reports represented deviations that required further evaluation for the presence of a defect as required by Part 21. Upon further inspection of these seven, it was noted that four were initiated because of shipments from DNES, and three were related to shipments from sub-tier suppliers.

These Complaint Report Forms were identified as not having an NCR:
(*Note the shipped from location designators for each*)

1. Complaint Report dated 12/02/09 Re: Crane PO 47264, [From: DNES]
2. Complaint Report dated 11/16/09 Re: T&T Enterprises/Invar PO 34325, [From: Sub]
3. Complaint Report dated 11/04/09 Re: Bechtel PO 25494.608, [From: Sub]
4. Complaint Report dated 10/20/09 Re: FP&L PO 00122312, [From: DNES]
5. Complaint Report dated 10/20/09 Re: Shaw Modular PO 56612 OP, [From: DNES]
6. Complaint Report dated 10/07/09 Re: APS PO 500536387, [From: DNES]
7. Complaint Report dated 07/31/09 Re: Areva PO 1008030104), [From: Sub]

Consequently, the NRC staff identified this issue as a second example of Violation 99900861/2009-201-01 to document DNES's failure to evaluate these seven deviations for the presence of defects that could represent a substantial safety hazard, as required in 10 CFR Part 21.

c. Conclusions

The NRC inspectors concluded, with the exception of the issues identified in NOV 99900861/2009-201-01, that DNES's Part 21 program requirements were consistent with the regulatory requirements of 10 CFR Part 21 and were being effectively implemented.

2. Entrance and Exit Meetings

On December 7, 2009, the NRC inspection team discussed the scope of the inspection with Mr. Doug Vickery, Director of Quality and with the DNES management and quality assurance staff. On December 11, 2009, the NRC inspection team presented the inspection results and observations during an exit meeting with Mr. Vickery, along with Mr. Carl Rogers, President of DNES, Mr. Dave Stepp, QA Manager, Mr. Earl Estes, Assistant QA Manager, and Ms. Ruth Barber-Rich, QA Compliance Analyst. Lists of entrance and exit meeting attendees is attached to this report.

ATTACHMENT

1. PERSONS CONTACTED

Carl M. Rogers	DNES	President & CEO
Doug Vickery	DNES	Director of Quality
Dave Stepp	DNES	Quality Assurance Manager
Eric Estes	DNES	Asst. Quality Assurance Manager
Ruth Barber-Rich	DNES	Quality Assurance Compliance Analyst
Kevin Johnston	PGN	Technical Specialist
Michael Jasurda	SCE	Auditor
Debra Loudenslager	PGN	Team Lead Auditor
Kevin Schoolcraft	AUE	Auditor
Larry O'Connor	COG	Auditor
Jonathan Ortega-Luciano	U.S. NRC	Inspector
Daniel Pasquale	U.S. NRC	Lead Inspector

2. INSPECTION PROCEDURES USED

Inspection Procedure 36100, "Inspection of 10 CFR Part 21 and 50.55(e) Programs for Reporting Defects and Nonconformance."

3. LIST OF ITEMS OPENED, CLOSED, AND DISCUSSED

There were no previous NRC inspections performed at DNES's facility in Clinton, North Carolina, prior to this inspection.

<u>Item Number</u>	<u>Status</u>	<u>Type</u>	<u>Description</u>
99900861/2009-201-01	Opened	Violation	10 CFR Part 21

4. LIST OF ACRONYMS USED

AUE	AmerenUE
CAR	Corrective/Preventive Action Report
COG	CANDU Owners Group
DNES	Dubose National Energy Services Inc.
NRC	Nuclear Regulatory Commission
PGN	Progress Energy
SCE	Southern California Edison