

**FACTUAL SUMMARY
OF OI No. 2-2006-017**

On April 20, 2006, an investigation was initiated by the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI), Region II (RII) to determine whether on March 7, 8, and 9, 2006, [REDACTED] of Nuclear Fuel Services Inc., (NFS) willfully violated the provisions of the NFS Fitness for Duty (FFD) procedure by consuming alcohol within the prohibited five hour time period prior to coming to work on one or all of the above listed dates. Additionally, the investigation sought to determine whether other employees of NFS willfully failed to follow procedural and regulatory requirements during NFS' review and response to this matter.

On the night of March 7, 2006, during a force-on-force exercise, [REDACTED] thought he smelled alcohol on the breath of [REDACTED], but was not certain. The next day, on March 8, 2006, [REDACTED] reported to [REDACTED] that [REDACTED] thought he may have smelled alcohol on the breath of [REDACTED] the previous night. [REDACTED] instructed [REDACTED] to monitor [REDACTED] during the two remaining force-on-force exercises. [REDACTED] accompanied [REDACTED] during the March 8, 2006, force-on-force exercise and testified that he was 50% sure that he detected the smell of alcohol on the breath of [REDACTED] during that force-on-force exercise. [REDACTED] later told [REDACTED] that [REDACTED] smelled alcohol [REDACTED] on March 8. [REDACTED] accompanied [REDACTED] during the March 9, 2006, force-on-force exercise, and testified that he was 90% sure that he smelled alcohol on [REDACTED] breath during that exercise. [REDACTED] did nothing to remove or initiate removal of [REDACTED] for testing. [REDACTED] testified that he was uncertain about what he should have done and that he did not know if the 5 hour abstinence rule applied to [REDACTED] because [REDACTED] did not know whether [REDACTED] presence was a scheduled working tour, or whether the rule applied to regular duty. [REDACTED] understood that the NFS Fitness for Duty policy requires for cause testing of armed guards if alcohol is detected on their breath, and had sent an armed guard to for cause testing solely because the smell of alcohol had been detected on the guard, but [REDACTED] did not know if other employees were treated the same or differently under the policy. [REDACTED] did not review the NFS policy or otherwise seek guidance to determine whether to send [REDACTED] to for cause testing.

[REDACTED] smelled a strong odor of alcohol on [REDACTED] around midnight on March 9, 2006, during the post-exercise critique at the NFS Training Center, approximately 5 hours after [REDACTED] had entered the NFS Protected Area. [REDACTED] also observed [REDACTED] engage in an unprovoked, angry, inappropriate outburst at an NRC inspector. However, [REDACTED] took no action to remove [REDACTED] or initiate for cause testing of [REDACTED]. [REDACTED] testified that he did not remove [REDACTED] or initiate for cause testing of [REDACTED] because the outburst was typical behavior for [REDACTED] and, therefore, did not constitute aberrant behavior. [REDACTED] also testified that he did not send [REDACTED] to for cause testing because the smell of alcohol alone is not enough to send an employee to for cause testing, and because he was not sure if [REDACTED] was the source of a very faint odor of alcohol when [REDACTED] was sitting next to [REDACTED]. [REDACTED] testified that he did not want to think that [REDACTED] behavior might have been the result of alcohol, but that if [REDACTED] had smelled alcohol on [REDACTED], [REDACTED] would

probably have asked [REDACTED] to submit to a test. However, on March 10, 2006, [REDACTED] told [REDACTED] that he assumed the smell of alcohol came from [REDACTED] and told [REDACTED] of the U.S. Naval Nuclear Propulsion Program, that [REDACTED] could smell alcohol all over [REDACTED] and that [REDACTED] inappropriate conduct was the alcohol talking. On March 10, 2006, [REDACTED] apologized to the NRC Resident Inspector [REDACTED] behavior of the previous evening, and said that [REDACTED] hoped it was not the alcohol talking. Sometime between March 19 and 26, 2006, [REDACTED] told [REDACTED] that [REDACTED] smelled alcohol on [REDACTED] breath during the post-exercise critique at the Training Center.

In response to a March 31, 2006, NRC inquiry concerning the detection of alcohol on [REDACTED] of NFS during the March 2006 force-on-force exercises, [REDACTED] submitted correspondence to the NRC which stated, in an attachment to a letter signed by [REDACTED], that [REDACTED] had entered a substance abuse rehabilitation program, when in fact [REDACTED] had not done so. [REDACTED] testified that he did not prepare the attachment, but was sure that he reviewed the attachment before signing the letter. [REDACTED] testified that, at the time, he did not know whether or not [REDACTED] had entered a substance abuse program, and that no one told him that [REDACTED] had done so. [REDACTED] testified that he learned sometime after [REDACTED] returned to duty in May 2006 that [REDACTED] had not entered a substance abuse rehabilitation program. [REDACTED] testified that his correspondence was a mischaracterization of what actually took place but that it was not intentional.