



NUCLEAR FUEL SERVICES, INC.

a subsidiary of The Babcock & Wilcox Company

■ 1205 banner hill road ■ erwin, tn 37650 ■ phone 423.743.9141
■ www.nuclearfuelservices.com

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

21G-10-0231
GOV-01-55-04
ACF-10-0325

December 15, 2010

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

- References:
- 1) Docket No. 70-143; SNM License 124
 - 2) Reply to Notice of Violation No. 70-143/2008-003-02, dated November 25, 2008 (21G-08-0196)
 - 3) Corrected Reply to Notice of Violation No. 70-143/2008-003-02, dated October 13, 2009 (21G-09-0148)
 - 4) Confirmatory Order (Effective Immediately) [NRC Office of Investigation Report No. 2-2010-001], dated November 16, 2010

Subject: Reply to a Notice of Violation: (EA-10-076)

Dear Sir:

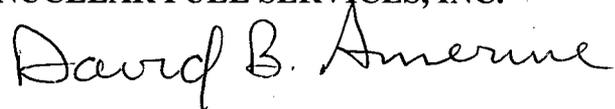
Pursuant to the requirements of 10 CFR 2.201, Nuclear Fuel Services, Inc. (NFS) hereby submits the attached response to the subject violations identified in the referenced NRC report (Reference 4). An alternative dispute resolution (ADR) session was held on October 4, 2010, at the NRC's Region II offices in Atlanta, Georgia, to discuss these violations and NFS' corrective actions. As directed in Reference 4, this letter also serves to respond to the Confirmatory Order.

IEDT
NMSS

If you or your staff have any questions, require additional information, or wish to discuss this further, please contact me at (423) 743-1702, or Mr. Mark Elliott, Director of Quality, Safety & Safeguards, at (423) 743-1705. Please reference our unique document identification number (21G-10-0231) in any correspondence concerning this letter.

Sincerely,

NUCLEAR FUEL SERVICES, INC.



David B. Amerine
President

JKW/smd

Attachment: NFS Reply to a Notice of Violation (EA-10-076)

cc:

Regional Administrator
U.S. Nuclear Regulatory Commission, Region II
245 Peachtree Center Avenue NE, Suite 1200
Atlanta, GA 30303-1257

Mr. Kevin Ramsey, Senior Project Manager
Division of Fuel Cycle Safety and Safeguards
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Mr. John Pelchat, Senior Fuel Facility Inspector
Division of Fuel Facilities Inspection
U.S. Nuclear Regulatory Commission, Region II
245 Peachtree Center Avenue NE, Suite 1200
Atlanta, GA 30303-1257

Mr. Galen Smith, Senior Resident Inspector
U.S. Nuclear Regulatory Commission

ATTACHMENT

**NFS Reply to a Notice of Violation
(EA-10-076)**

Restatement of Violation

During an NRC investigation completed on February 26, 2010, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 70.9(a) requires, in part, that information provided to the Commission by a licensee shall be complete and accurate in all material respects.

Contrary to the above, on two occasions, the licensee provided information to the NRC that was not complete and accurate in all material respects. Specifically,

- a. On November 25, 2008, NFS submitted a Reply to a Notice of Violation to the NRC that was not complete and accurate in all material respects. NFS's reply stated that all fire dampers in procedure NFS-GH-22 were inspected in September of 2008, and passed the inspection, when in fact, 12 of the fire dampers had not been inspected. NFS's submittal of inaccurate information was due, in part, to the actions of a former NFS employee tasked with drafting the written reply to the Notice of Violation. The inaccurate information was material to the NRC because it was used by the NRC to confirm that the required fire damper inspections had been completed.
- b. During an NRC inspection in August 2009, the NRC attempted to verify the corrective actions as documented in NFS's November 25, 2008 Reply to Notice of Violation. In support of the inspection, the former NFS employee created and provided a document to the NRC inspector that indicated all but one of the fire dampers had been fully inspected during 2008, when in fact, more than one of the dampers had not been fully inspected. This information was material to the NRC because it was used during the inspection to confirm that the required fire damper inspections had been completed.

The reason for the violation, or if contested, the basis for disputing the violation

The reasons for the violation related to the inaccurate information in the Reply include insufficient management oversight, specifically the lack of a formal requirement to provide objective evidence with the internal review package for the outgoing correspondence, and the lack of a formal requirement for a peer review or Department Manager review of the internal review package for the outgoing correspondence.

The reasons for the violation related to the inaccurate information provided to inspectors include insufficient questioning attitude, specifically by personnel involved in the inspections of the fire dampers and management; and insufficient or untimely communications.

The corrective steps that have been taken and the results achieved

The following corrective steps address the inaccurate information in the Reply:

1. On September 10, 2009, NFS determined that incorrect information had been included in the Reply to the Notice of Violation submitted to the NRC on November 25, 2008.
2. Oversight of reviews of outgoing regulatory correspondence was immediately enhanced.
3. From September 10 to September 21, 2009, a third party review (independent of the Safety organization) was conducted to evaluate the Reply and to determine the origin of the incorrect information. The review discovered a serious discrepancy while interviewing a staff member of the Industrial Safety group.
4. On September 21, 2009, the issue was entered into NFS' Problem Identification, Resolution, and Correction System (PIRCS) as Problem ID# 20984.
5. From September 21 to October 19, 2009, outside legal counsel conducted an investigation, and a copy of the report was provided to the NRC as input to the OI investigation.
6. From September 25 to November 6, 2009, an investigation was conducted to determine the root causes of providing incorrect information in the Reply (Refer to PIRCS Investigation 9880).
7. On October 13, 2009, a corrected Reply was submitted to the NRC, and it included a description of additional actions being taken to address the fire damper inspections that had not been completed and to address the issue of submitting incorrect information to the NRC (Refer to Reference 3 and PIRCS Corrective Action 10245).
8. On October 30, 2009, the NFS President issued a written communication to the plant population providing an overview of the fire damper issue; and stressing the importance of providing accurate information, accepting accountability for doing the assigned job, and maintaining a questioning attitude.
9. From November 3 to November 6, 2009, "All Employee Briefings" were held to discuss recent incidents, including the fire damper issue, and to re-emphasize company core values.
10. On January 13, 2010, a memo was issued to NFS Management regarding the importance of providing accurate information in regulatory communications.
11. A benchmarking activity on the review process for controlling the accuracy of regulatory correspondence was conducted (Refer to PIRCS Investigation 10183 and Corrective Action 10344).

12. An extent of condition review was performed to confirm the accuracy of replies to Notices of Violation submitted to NRC, as well as other regulatory reports submitted to State or Local agencies (Refer to PIRCS Investigation Number 9991).
13. Procedure NFS-RM-013 was revised to include a requirement to provide objective source information to the reviewers for all material information and statements of fact as part of the internal review package for responses to NRC violations (Refer to PIRCS Corrective Action 11575).
14. Procedures were created or revised to reflect the benchmarking activity (Reference PIRCS Corrective Actions 10713 and 11207). The procedures define Material Information, Source Documentation, Substantive Information, and Verification requirements. Reviews for technical accuracy are required by an internal peer reviewer and the Department Manager. Reviews for comprehensiveness and completeness are also required.

The following corrective steps address the inaccurate information provided to NRC inspectors:

1. On September 3, 2009, NFS became aware that inaccurate information was given to NRC inspectors. NFS Senior Management was informed of the situation.
2. On September 4, 2009, the NFS employee was interviewed and reinstructed, and an internal review of the employee's actions and performance issues was initiated.
3. A Personal Accountability Review was conducted.
4. An offer of resignation in lieu of termination was provided to the employee involved.
5. Extent of condition reviews were performed for inspections of other fire or safety equipment (Refer to PIRCS Investigation Numbers 9918, 9919, 9920, 9921, 9922, 9937, 9955, 9992, and 9993).
6. Procedure NFS-GH-22 has been added to the appropriate jobs in the Training & Qualification system (Refer to PIRCS Corrective Actions 10346 and 10348).
7. Fire dampers that are IROFS have been added to the Safety Related Equipment (SRE) Program, and the SRE Tests have been completed (Refer to PIRCS Corrective Actions 10671 and 12969).
8. Fire dampers that are not IROFS have been added to the Preventive Maintenance Program (Refer to PIRCS Corrective Action 10672).
9. Procedure NFS-GH-22 was revised to include a requirement for making a PIRCS entry when a fire damper cannot be tested or fails an inspection (Refer to PIRCS Corrective Action 10535).
10. Procedure NFS-GH-22, Attachment C, was revised to include changes identified during field walk-downs of the fire dampers (Refer to PIRCS Corrective Action 10589). Field labels were replaced if found to be missing during the walk-downs (Refer to PIRCS Corrective Action 10590).

11. Procedure BLEU-GH-22 was revised to clarify the test frequencies for fire dampers (Refer to PIRCS Corrective Action 10993).

The following corrective steps address Employee Awareness of the fire damper issue:

1. On October 30, 2009, the NFS President issued a written communication to the plant population providing an overview of the fire damper issue; and stressing the importance of providing accurate information, accepting accountability for doing the assigned job, and maintaining a questioning attitude.
2. From November 3 to November 6, 2009, "All Employee Briefings" were held to discuss recent incidents, including the fire damper issue, and to re-emphasize company core values.
3. From December 8 to December 14, 2009, a multi-level and multi-discipline team developed Conduct of Operations improvements.
4. On December 15, 2009, the Chairman of the NFS Board of Directors held "Management Expectations" meetings with professional staff.
5. From January 18 to January 20, 2010, NFS rolled out a new communications strategy, "The Path Forward", held cross-cutting small group meetings, and held "All Employee Meetings".
6. In January, 2010, and March, 2010, an All Employee survey was conducted to measure awareness of expected behaviors, including lowering the threshold for uncertainty, and ownership/accountability.
7. On March 24, 2010, a pre-restart "Walk Around" survey was conducted that presented scenario-based questions to a cross-section of all NFS work groups focusing on lowering the threshold for uncertainty, ownership/accountability, and communication.
8. In March, 2010, "General Employee Training" was updated to include 2009 Lessons Learned, including the fire damper issue.
9. From May 10 to June 10, 2010, "2009 Lessons Learned" training sessions were held with technical Engineering/Safety staff and Operations management, including a written test with scenario-based questions.

A Safety Culture Implication Review was conducted from October 13 to November 11, 2009. In addition to endorsing the Root Cause recommendations, several corrective actions were assigned. The company position on Safety priorities was clarified for the Industrial Safety group in staff Performance Agreements (Refer to PIRCS Corrective Actions 11209 and 11577). "General Employee Training" and the "Annual Safety Refresher" training were reviewed to ensure that the positions on Safety priorities were included (Refer to PIRCS Corrective Actions 11210 and 11577). Plant-wide communications regarding the fire damper issue were reviewed to determine if additional communications were warranted given the safety culture implications identified (Refer to PIRCS Corrective Action 11213).

Finally, an Extent of Cause Review was conducted from January 2 to January 11, 2010, to determine if a method is in place to adequately review regulatory correspondence for inaccurate information. The review endorsed the Root Cause and Safety Culture Implication Review recommendations.

Based on the above corrective steps, the inspections for fire dampers are up-to-date, the process for reviewing outgoing regulatory correspondence has been improved, and employees have been made aware of the importance of providing accurate information to the NRC. No other issues of this type have been identified.

The corrective steps that will be taken

Refer to the corrective steps taken above. No additional corrective steps are planned.

The date when full compliance will be achieved

Full compliance was achieved on October 13, 2009, when the corrected Reply was submitted to the NRC. The information provided therein on the status of the fire damper inspections was complete and accurate in all material respects.