



■ 1205 banner hill road ■ erwin, tn 37650 ■ phone 423 743 9141  
■ www.nuclearfuelservices.com

21G-11-0029  
GOV-01-55-19  
ACF-11-0047

February 16, 2011

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

References: 1) Docket No. 70-143; SNM-124  
2) Letter from Victor McCree, NRC, to David Kudsin, NFS, dated  
November 23, 2009

**Subject: Response to the Confirmatory Order dated November 23, 2009 (EA  
08-321)**

Nuclear Fuel Services, Inc. (NFS) hereby submits the attached response to the Confirmatory Order EA 08-321; NRC Office of Investigation Report No. 2-2008-032. This attachment provides the basis for concluding that the Confirmatory Order has been satisfied as required by Section V (9) of the Order.

If you or your staff have any questions, require additional information, or wish to discuss this further, please contact me, or Ms. B. Marie Moore, Environmental Protection & Industrial Safety Manager at (423) 743-1737. Please reference our unique document identification number (21G-11-0029) in any correspondence concerning this letter.

Sincerely,

**NUCLEAR FUEL SERVICES, INC.**

A handwritten signature in black ink, appearing to read 'Mark P. Elliott', written over a white background.

Mark P. Elliott, Director  
Quality, Safety, and Safeguards

BMM/pdj

**Attachment: Response to the Confirmatory Order, Section V, EA 08-321; NRC  
Office of Investigation Report No. 2-2008-032**

Copy:

Director, Office of Nuclear Material  
Safety and Safeguards  
U.S. Nuclear Regulatory Commission  
Attention: Document Control Desk  
Washington, DC 20555

Mr. John Pelchat  
Project Inspector  
U.S. Nuclear Regulatory Commission  
Region II  
245 Peachtree Center Avenue NE,  
Suite 1200  
Atlanta, GA 30303-1257

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

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

**Attachment**

**Response to the  
Confirmatory Order, Section V  
EA 08-321; NRC Office of Investigation Report No. 2-2008-032**

4 pages to follow

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**Response to the  
Confirmatory Order, Section V  
EA 08-321; NRC Office of Investigation Report No. 2-2008-032**

**Section V**

- (1) **NRC acknowledged NFS' ongoing efforts in implementation of the Safety Culture Improvement Plan (SCIP) as prescribed in the NRC's Confirmatory Order of February 21, 2007, and its benchmarking efforts and Corrective Action Program (CAP) improvements. However, NFS also agrees to assess why the incident referenced in Section II was not entered into its CAP and why a formal root cause evaluation was not completed. Based on this review, NFS will implement corrective actions to ensure that the CAP thresholds for conducting root cause evaluations are appropriate. As part of the above assessment, NFS agrees to additional benchmarking efforts, as warranted, to identify and implement best practices, including the area of root cause analysis, thresholds, and processes.**

**Response:**

NFS conducted a review of the incident described in Confirmatory Order EA-08-321 and determined that the incident was entered into the NFS Corrective Action Program (CAP), called Problem Identification, Resolution, and Correction System (PIRCS), after the incident was identified by NFS (Problem 12808). From this entry into the CAP on February 29, 2008, an Apparent Cause Investigation was assigned and completed on March 24, 2008, (Investigation 7234). NFS has modified and/or developed procedures to define CAP thresholds for conducting root cause evaluations and the appropriate investigation protocol for various thresholds. NFS determined that additional benchmarking was not warranted since a number of benchmarking activities had already been completed to determine best practices. Refer to PIRCS Corrective Action 10885 and Corrective Action 10886.

- (2) **NFS agrees to initiate and complete actions to ensure an understanding of the extent of condition (including vulnerability of other physician certified processes such as respirator qualification).**

**Response:**

NFS initiated and completed an extent of condition review of other physician-certified processes regulated by NRC on February 6, 2010. The review specifically was conducted on the Respiratory Protection Program, Physical Exam Policy, 10 CFR Part 20, Radiation Protection, and Fitness for Duty Program. Recommendations from this review have been input into the NFS CAP for tracking and documentation. Refer to PIRCS Corrective Action 10887.

- (3) NFS agrees to benchmark other licensees in their oversight of services provided by any primary physician for licensed activities, to identify and implement best practices and enhancements to ensure the quality and accuracy of licensed physician services.**

**Response:**

NFS conducted benchmarking activities with two other licensees relative to their oversight of services provided by a primary physician. Both licensees used auditing as a primary tool for oversight. As a result of the benchmarking activities, NFS has added security and respirator program physicals to the annual QA Audit schedule. Refer to PIRCS Corrective Action 10888.

- (4) For a period of one year after issuance of the Confirmatory Order, NFS will ensure that the primary physician responsible for licensed activities meets at least quarterly with a physician engaged in NRC-regulated activities, to review unique or noteworthy issues relevant to compliance with NRC regulations. At the conclusion of the one year period, NFS will determine the appropriate frequency for continuing such interactions.**

**Response:**

NFS participated in each quarterly meeting with Dr. Fernando to ensure compliance with the Order. Four meetings were held with Dr. Donald Branson, the B&W Nuclear Operations Group (NOG) [Lynchburg, VA] physician, to review unique or noteworthy physician-related issues relevant to compliance with NRC regulations. In addition, the mutual review of physician-related processes and procedures required under Item #5 below was held with Dr. Fernando's B&W NOG counterpart, Dr. Branson, during the first two quarterly meetings.

The date, location, participants, and subject matter for each meeting are as follows:

- ❖ The first quarterly meeting and the first half of the required mutual review of physician processes and procedures occurred on January 25, 2010, at the NFS facility in Erwin, TN. Attending the meeting in person were Dr. Fernando; Dr. Branson; Gregg Tipton, the NFS FFD Coordinator; Aaronda Horton, an NFS Medical Specialist; and Marie Moore, the NFS Environmental Protection and Industrial Safety Manager. The meeting included a discussion of unique and noteworthy physician- and medical-related issues and a discussion of the NFS medical program. The participants toured the medical facilities at the NFS facility and discussed the processes and procedures related to the physician function.

- ❖ The second quarterly meeting and the second half of the required mutual review of physician processes and procedures occurred on April 6, 2010, at the B&W NOG facility in Lynchburg, VA. Attending the meeting in person were Dr. Fernando; Dr. Branson; Mr. Tipton; Ms. Moore; and Jamie Grassano, the then B&W NOG FFD Coordinator. The meeting included a discussion of unique and noteworthy physician issues and other NRC-regulated activities, such as security personnel physicals, and a discussion of the B&W NOG medical program. The participants toured the medical facilities at the B&W NOG Lynchburg facility and discussed the processes and procedures related to the physician function.
- ❖ The third quarterly meeting occurred on July 20, 2010, by teleconference. Attending the teleconference were Dr. Fernando; Dr. Branson; Mr. Tipton; Ms. Moore; and John Carter, the new B&W NOG FFD Coordinator. The teleconference participants discussed unique and noteworthy physician issues and other NRC-regulated activities since the previous meeting.
- ❖ The fourth quarterly meeting occurred on October 12, 2010, by teleconference. Attending the teleconference were Dr. Fernando, Dr. Branson, Mr. Tipton, Ms. Moore, and Mr. Carter. The teleconference participants discussed unique and noteworthy physician issues and other NRC-regulated activities since the previous meeting.

The quarterly meeting participants agree that these meetings and exchanges of information between NFS and B&W NOG have been very beneficial. Accordingly, the participants have decided to continue these meetings on an annual basis. Refer to PIRCS Corrective Action 10889.

- (5) NFS will ensure that the primary physician for licensed activities initiates a one time, mutual review of processes and procedures with an industry counterpart involved with applicable NRC-regulated activities. The results of this review will be documented and made available for NRC review. NFS will consider corrective actions and enhancements based on the review.**

**Response:**

NFS and the primary physician for licensed activities conducted a mutual review of the processes and procedures with B&W NOG as a part of the first and second quarterly meetings. See response to Item #4. Corrective actions were not identified; however, recommended enhancements were considered. Refer to PIRCS Corrective Action 10890 for more details.

- (6) NFS will establish appropriate standards for the primary physician for licensed activities and other contract medical specialists. These standards will include applicable regulatory requirements,**

**continuing education requirements (such as industry peer group membership and certification), and an NFS specific lesson plan.**

**Response:**

NFS established and implemented appropriate standards for the primary physician and the appropriate Unicoi County Memorial Hospital (UCMH) management for licensed activities. Specific training on the revised medical form and on the types of physical requirements for the security officers were provided to the physician and his administrative assistant on November 13, 2009. In addition, a lesson plan was developed and used to train on November 17, 2010, the other contract medical personnel who perform or assist in performing physicals for security officers. Refer to PIRCS Corrective Action 10891, Corrective Action 10892, and NFS lesson plan SA1042-10.

- (7) NFS will formalize its administrative check used to ensure all required information is annotated on the incoming physical exam forms by revising procedure NFS-SEC-008.**

**Response:**

NFS revised NFS-SEC-008 to incorporate the requirement for an administrative check to verify that all required information is contained on the incoming physical exam forms conducted by the contract physician. Refer to PIRCS Corrective Action 10893 and NFS procedure NFS-SEC-008, Revision 002, dated January 28, 2010.

- (8) NFS agrees to complete the items listed in Section V within 12 months of issuance of the Confirmatory Order.**

**Response:**

NFS completed all commitments in Items 1-7 of Section V within twelve months of the Order's issue date of November 23, 2009. Refer to the responses in Items 1-7 above.

- (9) Within three months of completion of the terms of the Confirmatory Order, NFS will provide the NRC a letter discussing its basis for concluding that the Confirmatory Order has been satisfied.**

**Response:**

This NFS letter, dated February 16, 2011, provides the basis for concluding that this Confirmatory Order has been satisfied.