



**The Shaw Group Inc.**  
128 South Tryon Street, Suite 400  
Charlotte, NC 28202  
704-331-5856  
FAX: 225-987-3970

David P. Barry  
President, Nuclear Division of the Power Group

---

October 4, 2011  
U.S. Nuclear Regulatory Commission  
Attn: Document Control Desk  
Washington, DC 20555-0001

**SUBJECT: REPLY TO A NOTICE OF NONCONFORMANCE  
NRC INSPECTION REPORT NO. 99901387/2011-201**

Attached is the Shaw reply to the Notice of Nonconformance that was identified in NRC Inspection Report No. 99901387/2011-201, dated September 6, 2011. This reply is provided as requested in the notice of nonconformance, which states that Shaw is to provide a written statement of the corrective actions taken within 30 days of the date of the letter transmitting the Notice of Nonconformance.

If you have any questions, please contact Mr. Geoff Grant, Vice President of Licensing, Regulatory Affairs and Compliance.

Sincerely,

David Barry  
President  
Shaw Nuclear Services

cc: Chief  
Quality and Vendor Branch 1  
Division of Construction Inspection and Operational Programs  
Office of New Reactors

Attachment

IEO 9

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

**Bcc:**

Virgil Barton  
Geoff Grant  
Dennis Dreyfus  
David Jantosik  
John Oddo  
Curtis Castell  
Licensing Files

**ATTACHMENT****REPLY TO NOTICE OF NONCONFORMANCE 99901387/2011-201-01**

This is the Shaw Nuclear Services reply to the Notice of Nonconformance identified in NRC Inspection Report No. 99901387/2011-201, dated September 6, 2011.

**NOTICE OF NONCONFORMANCE**

Based on the results of a U.S. Nuclear Regulatory Commission (NRC) inspection conducted at the Shaw Nuclear Services facility in Charlotte, NC, on June 27–28, 2011, certain activities were not conducted in accordance with NRC requirements that were contractually imposed on Shaw Nuclear Services (hereafter referred to as “Shaw”) by NRC licensees:

- A. Criterion XVI, “Corrective Action,” of Appendix B, “Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants,” to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, “Domestic Licensing of Production and Utilization Facilities,” states that measures shall be established to assure that conditions adverse to quality, such as failures, malfunctions, deficiencies, deviations, defective material and equipment, and nonconformances are promptly identified and corrected.

Shaw SWSQAP 1-74A, Section 16, “Corrective Action,” states that the corrective action program shall provide for prompt identification, documentation, classification, and correction of the conditions. Section 16 further states, in part, that corrective action taken to correct deficient conditions discovered by inspection, test, or audits shall be verified by reinspection, retesting, subsequent audits including corrective action audits, and the review of corrective action documentation to assure that corrective actions have been satisfactorily implemented.

Contrary to the above, as of June 28, 2011, Shaw failed to implement corrective actions documented in Corrective Action Report (CAR) No. 2010-04-29-558 that was issued in response to NRC Violation 99901387/2010-201-01. Specifically, Shaw failed to adequately revise QS-16.3, “Identifying and Reporting Defects and Failures to Comply under 10CFR21,” to address NRC-identified deficiencies associated with the evaluation process described in 10 CFR 21.21(a)(1) and (a)(2). The NRC inspection team determined that the QS 16.3 continued to describe the review to determine if a deviation or failure to comply is potentially associated with a substantial safety hazard as part of the discovery process and not part of the 60 day evaluation period in accordance with the NRC requirements. As a result, the revision to QS 16.3 did not correct the deficiency identified in CAR No. 2010-04-29-558, and is not consistent with the definitions and requirements set forth in 10 CFR 21.3 and 10 CFR 21.21(a), respectively.

This issue is identified as Nonconformance 99901387/2011-201-01.

## **REASON FOR THE NONCOMPLIANCE**

NRC Inspection Report 99901387/2010-201, dated April 22, 2010, identified a violation of 10 CFR 21.21. That violation, identified as Violation 99901387/2010-201-01, states that Shaw's implementing procedure Quality Standard (QS) 16.3, "Identifying and Reporting Defects and Failures to Comply Under 10 CFR 21," did not provide procedural guidance for evaluating deviations and failures to comply associated with substantial safety hazards within 60 days of discovery. Specifically, the NRC inspection team determined that procedure QS 16.3 allowed for an evaluation outside of the 60-day evaluation period required by 10 CFR 21.21(a)(1), and included definitions that differed from those provided in 10 CFR 21.3, "Definitions," and altered the intended meaning of the terms.

The correction of this violation was described in the Shaw response letter dated May 13, 2010. That letter states:

"CAR 2010-04-29-558 was written to address evaluations outside the 60 day period. This CAR documents the need to revise QS-16.3 to clarify the evaluation process and ensure the evaluation to identify a reportable defect or failure to comply that could create a substantial safety hazard, is done within 60 days from the time of discovery.

The revision of QS 16.3 removes the words "how it may relate to a Substantial Safety Hazard" to remove any perception that a review or evaluation related to a Substantial Safety Hazard is to be performed. Therefore the Identification Phase is clearly excluded from the 60 day evaluation period.

This results in removing any ambiguity from the standard, regarding the actions taken during the Discovery period and will ensure compliance with 10 CFR Part 21."

During a subsequent NRC inspection being conducted on June 27 and 28, 2011, the NRC concluded that this solution did not resolve the condition.

Investigation of this condition has been conducted and documented in CAR 2011-0457. It has been concluded that the reason for the noncompliance was that Shaw personnel did not completely understand the NRC position associated with the time at which the 60 day evaluation period was considered to commence for a deviation or failure to comply.

## **CORRECTIVE STEPS THAT HAVE BEEN TAKEN AND RESULTS ACHIEVED**

After the NRC inspector identified that Procedure QS 16.3, "Identifying And Reporting Defects And Failures To Comply Under 10 CFR 21," had not been adequately revised, action was immediately taken to correct the condition. Procedure QS 16.3 was changed while the inspection on June 28, 2011, was still in progress. The NRC inspector observed the corrected procedure and had no additional comments or concerns. Therefore, this action has properly implemented the correction to the violation identified in Inspection Report 99901387/2010-201, dated April 22, 2010, and addresses this nonconformance.

The reason for the noncompliance was that Shaw personnel did not completely understand the NRC position associated with the time at which the 60 day evaluation period was considered to commence for a deviation or failure to comply. This circumstance of not completely understanding the NRC position has been resolved by the more thorough communication that occurred during the June 27-28, 2011, inspection activities and resulted in the subsequent revision to procedure QS 16.3 that resolved the condition.

#### **CORRECTIVE STEPS THAT WILL BE TAKEN TO AVOID NONCOMPLIANCE**

As stated previously, the more thorough communication and understanding that was achieved during the June 27-28, 2011, inspection has resulted in correction of the condition that caused the failure to properly correct the procedure in 2010. Additionally, actions to review the process for responding to NRC issues, and to identify and conduct any appropriate training, are planned to be completed by February 28, 2012.

#### **DATE WHEN CORRECTIVE ACTIONS WILL BE COMPLETED**

The corrective action to revise the 10 CFR Part 21 reporting procedure (QS 16.3) was completed on June 28, 2011.