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Our ref: LTR-NRC-13-67

September 13, 2013

Subject: Reply to a Notice of Violation No. 99901426/2013-201

References:

- 1) Nuclear Regulatory Commission Report No. 99901426/2013-201, Notice of Violation
- 2) C.L. Padilla, Westinghouse Electric Company to Edward H. Roach, NRC, "Reply to Notice of Violation," WZ-PA-13-026, July 22, 2013

Provided, herein, is a revised response to the NRC inspection report (Reference 1) that was provided in Reference 2 and replaces pages 5, 6, and 7 of that reference.

Very Truly Yours,


James A. Gresham, Manager
Regulatory Compliance

Attachment

Notice of Violation 99901426/2013-201

- A. Title 10 of the Code of Federal Regulations (10 CFR) Part 21, Section 21.21(a)(1), "Notification of failure to comply or existence of a defect and its evaluation," states, in part, "Each individual, corporation, partnership, dedicating entity, or other entity subject to the regulations in this part shall adopt appropriate procedures to evaluate deviations and failures to comply to identify defects and failures to comply associated with substantial safety hazards as soon as practicable, and, except as provided in paragraph (a)(2) of this section, in all cases within 60 days of discovery, in order to identify a reportable defect or failure to comply that could create a substantial safety hazard, were it to remain uncorrected."

Contrary to the above, as of May 8, 2013, Western Zirconium failed to adopt appropriate procedures to evaluate deviations and failures to comply associated with substantial safety hazards as soon as practicable and, except as provided in paragraph (a)(2) of this section, in all cases within 60 days of discovery. Specifically:

1. Westinghouse Policy/Procedure WEC 21.0, "Identification and Reporting of Conditions Adverse to Safety," Revision 4.1, dated October 21, 2008, was not an appropriate procedure to ensure evaluation of deviations and failures to comply associated with substantial safety hazards within 60 days of discovery. As a result, Westinghouse failed to perform timely evaluation for Issue Report Corrective Action Plan (CAP) #08-231-M033. CAP #08-231-M033 was initiated on August 18, 2008, for four lots of Global Nuclear Fuel (GNF) Zr2 bar that failed grain size test and metallography test for atypical grains. Westinghouse Issue Review Committee evaluated CAP #08-231-M033 and concluded that the issue potentially represents a significant defect or noncompliance adverse to safety on August 20, 2008, which first identified the existence of a deviation. Westinghouse completed its evaluation of this deviation in a letter to file (LTR-RCPL-08-220) on December 10, 2008, which was 112 days after the date of discovery.

This issue has been identified as Violation 99901426-2013-201-01.

Response:

- 1) The reason for the violation:

The NOV raises three main points which are summarized below with the Westinghouse response:

- a. Westinghouse Policy/Procedure WEC 21., dated October 21, 2008 was not an appropriate procedure.

WEC 21.0 Revision 4.1, which was in effect in 2008 at the time of the Part 21 investigation of CAP IR 08-231-M033, did not contain a specified time frame for the discovery phase of the Part 21 process. However, as 10CFR21 does not prescribe a period of time for Discovery, Westinghouse does not believe that the lack of a specific period for the discovery phase in WEC 21.0 Revision 4.1 was in conflict with the regulation.

- b. As of May 8, 2013 Westinghouse failed to adopt appropriate procedures to evaluate issues under Part 21

Westinghouse has subsequently added requirements to WEC 21.0 to limit the time for Discovery. The NRC issued a notice of nonconformance to Westinghouse based on an inspection in the fall of 2008. (NRC Inspection Report No. 05200006/2008-201, Notice of Nonconformance. [Accession Number ML090500732]) In response to that nonconformance Westinghouse modified procedures to address timeliness of Discovery by imposing a 30 calendar-day limit on the discovery phase. This is described in a letter dated February 3, 2009 from Robert Sisk, Westinghouse to Juan Peralta, Chief Quality and Vendor Branch 1, "WEC Response to NRC Inspection Report No. 05200006/2008-201, Notice of Nonconformance."

The statement that Western Zirconium had failed to adopt appropriate procedures is not correct. Western Zirconium follows the Westinghouse procedure, WEC 21.0 which complies with the regulation.

- c. Westinghouse completed its evaluation of the deviation 112 days after the existence of the deviation was first identified, which is too long and thus not in compliance with Part 21 requirements

Westinghouse acknowledges that the specific example identified in the inspection, which had a low safety significance, could have been evaluated in a more timely manner and has been addressed as noted above.

2) The corrective steps that have been taken and the results achieved:

As noted above, Westinghouse has updated its Part 21 procedure, WEC 21. This change to our procedures occurred after the incident cited. In the Westinghouse procedure, Evaluation, as defined by 10CFR21, should commence as soon as a confirmed Deviation is identified. This was the case in 2008 and the enhancements to our procedures have made that more specific.

3) The corrective steps that will be taken:

No further action.

4) The date when full compliance will be achieved:

The Westinghouse procedure is compliant with 10CFR21.