

## NON-CONCURRENCE PROCESS COVER PAGE

The U.S. Nuclear Regulatory Commission (NRC) strives to establish and maintain an environment that encourages all employees to promptly raise concerns and differing views without fear of reprisal and to promote methods for raising concerns that will enhance a strong safety culture and support the agency's mission.

Employees are expected to discuss their views and concerns with their immediate supervisors on a regular, ongoing basis. If informal discussions do not resolve concerns, employees have various mechanisms for expressing and having their concerns and differing views heard and considered by management.

Management Directive, MD 10.158, "NRC Non-Concurrence Process," describes the Non-Concurrence Process (NCP), <http://nrcweb.nrc.gov:8600/policy/directives/catalog/md10.158.pdf>.

The NCP allows employees to document their differing views and concerns early in the decision-making process, have them responded to (if requested), and attach them to proposed documents moving through the management approval chain to support the decision-making process.

NRC Form 757, "Non-Concurrence Process" is used to document the process.

Section A of the form includes the personal opinions, views, and concerns of a non-concurring NRC employee.

Section B of the form includes the personal opinions and views of the non-concurring employee's immediate supervisor.

Section C of the form includes the agency's evaluation of the concerns and the agency's final position and outcome.

NOTE: Content in Sections A and B reflects personal opinions and views and does not represent official factual representation of the issues, nor official rationale for the agency decision. Section C includes the agency's official position on the facts, issues, and rationale for the final decision.

At the end of the process, the non-concurring employee(s):

- ☐ Concurred
- ☒ Continued to non-concur
- ☐ Agreed with some of the changes to the subject document, but continued to non-concur
- ☐ Requested that the process be discontinued
  
- ☐ The non-concurring employee(s) requested that the record be non-public.
- ☒ The non-concurring employee(s) requested that the record be public.
  
- ☐ This record is non-public and for official use only.
- ☒ This record has been reviewed and approved for public dissemination.



NON-CONCURRENCE PROCESS

NCP-2015-013

SECTION A - TO BE COMPLETED BY NON-CONCURRING EMPLOYEE

TITLE OF SUBJECT DOCUMENT Nuclear Fuel Services, Request for Additional Information Concerning Response to Generic Letter 2015-01		ADAMS ACCESSION NO. ML15348A029
DOCUMENT SIGNER Robert K. Johnson		SIGNER TELEPHONE NO. (301) 415-7314

TITLE Branch Chief	ORGANIZATION Fuel Manufacturing Branch, NMSS
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NAME OF NON-CONCURRING EMPLOYEE(S) Kevin M. Ramsey	TELEPHONE NUMBER (301) 415-7506
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TITLE Senior Project Manager	ORGANIZATION Fuel Manufacturing Branch, NMSS
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☒ DOCUMENT AUTHOR    ☐ DOCUMENT CONTRIBUTOR    ☐ DOCUMENT REVIEWER    ☐ ON CONCURRENCE

NON-CONCURRING EMPLOYEE'S SUPERVISOR  
Robert K. Johnson

TITLE Branch Chief	ORGANIZATION Fuel Manufacturing Branch, NMSS
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☒ I WOULD LIKE MY NON-CONCURRENCE CONSIDERED AND WOULD LIKE A WRITTEN EVALUATION IN SECTION B AND C.  
☐ I WOULD LIKE MY NON-CONCURRENCE CONSIDERED, BUT A WRITTEN EVALUATION IN SECTIONS B AND C IS NOT NECESSARY.

WHEN THE PROCESS IS COMPLETE, I WOULD LIKE THE NCP FORM: ☒ PUBLIC    ☐ NON-PUBLIC

REASONS FOR THE NON-CONCURRENCE, POTENTIAL IMPACT ON MISSION, AND THE PROPOSED ALTERNATIVES  
(use continuation pages or attach Word document)

See attached.

SIGNATURE <i>Kevin M Ramsey</i>	DATE 12/15/15
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## NON-CONCURRENCE PROCESS

NCP-2015-013

## TITLE OF SUBJECT DOCUMENT

Nuclear Fuel Services, Request for Additional Information Concerning Response to Generic Letter 2015-01

## ADAMS ACCESSION NO.

## CONTINUATION OF SECTION



A



B



C

## Reasons for Non-concurrence:

On October 2, 2015, Nuclear Fuel Services (NFS) responded to Generic Letter (GL) 2015-01, "Treatment of Natural Phenomena Hazards in Fuel Cycle Facilities." NRC staff identified preliminary questions regarding the response. The questions were e-mailed to NFS on November 4, 2015, and a call was conducted with NFS on November 6, 2015. Most of the questions could not be answered over the phone partly because NFS was waiting for a final report from a contractor. NFS stated that it could provide some additional information in December and it expected the contractor report to be available in January. A summary of the call and the commitments was prepared and recorded (ADAMS no. ML15314A707).

Shortly after the meeting summary was completed, an NRC staff member proposed issuing a formal letter to NFS repeating the questions that had been discussed during the call and requesting a formal written response. As the Senior Project Manager for the license, I denied the request because it just repeated questions already asked and answered. I proposed waiting for the additional information from NFS and conducting a site visit in January to gain a better understanding of the contractor's report and other information at the site. Then, a formal letter could be issued asking better questions that added much more value to the process. The staff member agreed with my proposal.

On December 8, 2015, Project Managers met with the FMB Branch Chief to discuss concerns with follow-up actions related to GL 2015-01. At that meeting, the Branch Chief directed me to prepare a formal letter despite my objections. In the Strategic Plan, Safety Strategy 1 states that we should enhance regulatory programs using lessons learned from operating experience. Repeating questions that we have already discussed with the licensee fails to add any value to our regulatory programs. In addition, Safety Strategy 3 states that we should ensure the effectiveness and efficiency of licensing activities. Wasting NRC resources and licensee resources on letters repeating information already recorded in an Official Agency Record is neither effective nor efficient. It is the very definition of unnecessary regulatory burden.



NON-CONCURRENCE PROCESS

NCP-2015-013

SECTION B - TO BE COMPLETED BY NON-CONCURRING EMPLOYEE'S SUPERVISOR

TITLE OF SUBJECT DOCUMENT

Nuclear Fuel Services, Request for Additional Information Concerning Response to Generic Letter 2015-01

ADAMS ACCESSION NO.

ML15348A029

NAME

Robert K. Johnson

TITLE

Fuel Manufacturing Branch Chief

TELEPHONE NUMBER

301-415-73

ORGANIZATION

NMSS/FCSE/FMB

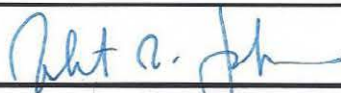
COMMENTS FOR THE NCP REVIEWER TO CONSIDER (use continuation pages or attach Word document)

On December 8, 2015, I met with the Nuclear Fuel Services (NFS) Project Manager and the other facility Project Managers to discuss the matter of restating the NFS supplemental information request (SIR) in a more formal manner or vehicle, consistent with the NRC's principles of openness, efficiency, clarity, and reliability. Another objective of this meeting was to discuss consistent implementation of the Generic Letter (GL) Closure Plan (ML15195A474) across the other facilities. During this meeting I directed Kevin to issue the formal SIR letter, despite his objection. I did this to demonstrate that the Fuel Manufacturing Branch would be supportive of not only GL Closure Plan Task 1a, but all other supporting tasks, as appropriate. Due to the importance of this topic and the associated SIR, I thought that it was important to document the SIR using a process similar to the standard process used to document routine requests for information (or RAIs).

I understand Project Manager's perspective that issuing a formal SIR letter appears to be wasteful. However, I did not think that it would take significant resources to issue a formal SIR letter, given that he had done such a good job documenting the original SIR in the November 10, 2015, email to FCSE technical reviewers and NFS, and docketed in ADAMS (ML15314A707).

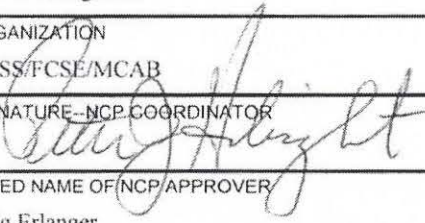
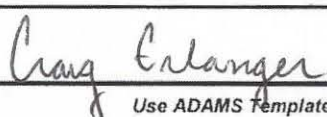
I reached out to the Project Manager on several occasions in the days following the December 8, 2015, meeting, to see if we could bridge the gap on the matter of issuing a formal SIR letter and was unsuccessful at coming to an agreement on this matter. Notwithstanding, he did an admirable job complying with my direction and assembled SIR letter for my concurrence.

SIGNATURE



DATE

1/28/16

<b>NRC FORM 757</b> <small>NRC MD 10.158 (07-2015)</small>		<b>U. S. NUCLEAR REGULATORY COMMISSION</b>		<b>NCP TRACKING NUMBER</b>  NCP-2015-013	
<b>NON-CONCURRENCE PROCESS</b>					
<b>SECTION C - TO BE COMPLETED BY NCP COORDINATOR</b>					
<b>TITLE OF SUBJECT DOCUMENT</b> Nuclear Fuel Services, Request for Additional Information Concerning Response to Generic Letter 2015-01				<b>ADAMS ACCESSION NO.</b> ML15348A029	
<b>NAME</b> Kevin Ramsey					
<b>TITLE</b> Senior Project Manager				<b>TELEPHONE NUMBER</b> (301) 415-7506	
<b>ORGANIZATION</b> NMSS/FCSE/FMB					
<b>AGREED UPON SUMMARY OF ISSUES (use continuation pages or attach Word document)</b> See Attached					
<b>EVALUATION OF NON-CONCURRENCE AND RATIONALE FOR DECISION (use continuation pages or attach Word document)</b> See Attached					
<b>TYPED NAME OF NCP COORDINATOR</b> Peter J. Habighorst			<b>TITLE</b> Material Control and Accounting Branch Chief		
<b>ORGANIZATION</b> NMSS/FCSE/MCAB					
<b>SIGNATURE--NCP COORDINATOR</b> 				<b>DATE</b> 1/14/16	
<b>TYPED NAME OF NCP APPROVER</b> Craig Erlanger			<b>TITLE</b> Acting Director, Fuel Cycle Safety, Safeguards and Env. Review		
<b>ORGANIZATION</b> NMSS/FCSE					
<b>SIGNATURE--NCP APPROVER</b> 				<b>DATE</b> 2/2/16	



### **Agreed upon summary of issues**

On September 14, 2015, Nuclear Fuel Services (NFS) responded to Generic Letter (GL) 2015-01, "Treatment of Natural Phenomena Hazards at Fuel Cycle Facilities" (ML15266A186). On November 4, 2015, the Lead Reviewer informed the project manager (PM) that he had preliminary questions regarding the NFS submitted response. The PM reviewed the questions and concluded that a discussion with NFS was necessary for the Lead Reviewer to determine if the NRC had enough information to proceed with a detailed review. The PM scheduled a conference call with NFS and e-mailed a copy of the questions to the licensee before the call. On November 6, 2015, a conference call was conducted to discuss the questions. NFS stated that most questions could not be answered over the phone and acknowledged that more detailed information would need to be submitted to the NRC to resolve the issues. NFS agreed to submit some additional information by the end of the 2015. Other information requested by the Lead Reviewer would be available in a detailed report that NRC staff could review at the NFS site in January 2016. NFS agreed to inform the NRC when the report was available so the staff could schedule a site visit. Since the questions remained unresolved, the PM concluded that a call summary was sufficient to document the issues and the licensee's commitment to provide additional information. On November 10, 2015, a call summary was issued and added to the Agency wide Documents Access and Management System (ADAMS) as an Official Agency Record (ML15314A707).

On December 3, 2015, the Lead Reviewer requested that the PM issue a formal letter to NFS on the questions that had been discussed on November 6, 2015. The PM denied the request. The PM explained to the Lead Reviewer that he expected to have much more detailed questions after the staff reviewed the additional information that NFS agreed to make available. The PM's perspective was that it would make more sense to issue a formal Request for Additional Information (RAI) letter at that time. The Lead Reviewer agreed to wait for the additional information.

On December 8, 2015, the PM's Branch Chief directed the PM to issue a formal RAI letter to the licensee. The Branch Chief's decision was based, in part, on the GL closure strategy (ML15195A474), the importance of the issue, and the principles of good regulation. The PM voiced his objection that the letter repeated questions that the licensee had answered already. In addition, the PM believed that a more detailed set of RAI questions would be developed after the NRC staff reviewed additional information that the licensee committed to provide in December 2015 and January 2016. The PM felt that this request was not an efficient use of staff resources and presented an unnecessary regulatory burden on the licensee. As directed by his branch chief, the PM prepared the letter and non-concurred.

## Disposition Write-up

The Non-Concurrence Process (NCP) coordinator supports the timely issuance of Nuclear Fuel Services, Inc. Request for Additional Information Concerning Response to NRC Generic Letter 2015-01, "Treatment of Natural Phenomena Hazards at Fuel Cycle Facilities" (ML15348A029). The issuance of the letter meets the intent of Management Directive 8.18, "NRC Generic Communication Program," by ensuring future NRC evaluations of licensee responses to generic communications are documented in sufficient detail for stakeholders to understand the basis of the NRC's decision to close the Generic Letter. Furthermore, the issuance of the RAI's is aligned with the general guidance in the Closure Strategy for Generic Letter 2015-01 (ML15195A474). This memo states in Task 1 that the staff will, "Issue requests for supplemental information to licensees if issues are identified with the completeness of GL responses, or if the NRC staff has additional questions related to the technical content of the responses." The issuance of the RAI's is also consistent with the NRC's Principles of Good Regulation. In addition, the NCP coordinator concludes that the action to issue the RAI letter does not present an unnecessary regulatory burden on the licensee. Specifically, NFS was aware of the NRC's questions and made verbal commitment to the availability of information in the future. Therefore, NFS's actions in response to the RAI are only to provide the information that they committed to on November 6, 2015.

The issues raised by the NCP initiator identified opportunities to improve the organization efficiency and effectiveness associated with the closure activities associated with GL 2015-01 and within the division as a whole. The NCP coordinator agrees with the NCP initiator that the decision to issue the RAI letter (ML15348A029) after December 8th was not efficient based on a lack of alignment on the success goals to close GL 2015-01. The interviews with the involved stakeholders revealed an inconsistent understanding regarding the closure strategy associated with GL 2015-01. In order to address this topic, the headquarters and regional staff will hold a mandatory GL 2015-01 Closure Strategy Workshop in [REDACTED]. The Division of Fuel Cycle Safety, Safeguards and Environmental Review will also take steps to improve the overall communication and coordination between the licensing branches and the oversight branch on integrated fuel cycle topics. These actions will reinforce the Agency's values of Openness, Cooperation, and Respect. Future communication and coordination will also clarify roles and responsibilities without be exclusive, further define the common goal of the GL 2015-01 closure strategy, and emphasize consistency in the agency's approach.

### Resources Utilized

Interviews of the NCP individual, NCP sponsor, selected project managers and supervisors

Nuclear Fuel Services, Inc., Request for Additional Information Concerning Response to Generic Letter 2015-01 (ML15348A029)

August 11, 2015 Internal Memorandum, Closure Strategy for Generic Letter 2015-01: "Treatment of Natural Phenomena Hazards in Fuel Cycle Facilities" (ML15195A474)

Management Directive 8.18, NRC Generic Communications Program

[REDACTED]

FUEL CYCLE LICENSING REVIEW HANDBOOK Revision 5, July 2015 Located at ML081130292 (ML082520558)

NRC Generic Letter 2015-01: Treatment of Natural Phenomena Hazards in Fuel Cycle Facilities dated June 22, 2015 (ML#15266A186)

Management Directive 10.158, NRC Non-Concurrence Process

NRC Values (<http://www.nrc.gov/about-nrc/values.html>)

Principles of Good Regulation (<http://www.nrc.gov/about-nrc/values.html#principles>)