

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
Global Nuclear Fuels - Americas, L.L.C.)	Docket No. 70-1113
Wilmington, North Carolina)	License No. SNM-1097
)	EA-17-090

CONFIRMATORY ORDER
(EFFECTIVE UPON ISSUANCE)

I

Global Nuclear Fuels - Americas, L.L.C. (GNF-A, or the licensee) is the holder of NRC License No. SNM-1097, issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 70 on May 19, 2009. The primary purpose of the GNF-A facility is the manufacture of fuel assemblies for commercial nuclear reactors. Nuclear materials enriched to less than or equal to 5 weight percent Uranium-235 are utilized in the product manufacturing operations authorized by the license. The facility is located on the licensee's site in Wilmington, North Carolina.

This Confirmatory Order (CO) is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on October 25, 2017.

II

NRC Inspection Report (IR) 70-1113/2017-003, dated July 25, 2017, documented a transportation incident occurring in September of 2016, when GNF-A made arrangements with a

private industrial contractor to ship a dumpster of scrap metal piping to a local metal recycling facility. On September 29, 2016, the dumpster was loaded onto a truck and shipped offsite to a scrap metal recycling facility, located approximately 15 minutes from GNF-A. Prior to entering the recycling facility, the shipment was checked by a radiation portal monitor as part of the normal receipt process of the scrap metal recycling facility. The dumpster of scrap metal piping from GNF-A caused the radiation portal monitor to alarm. The shipment was not allowed to enter the scrap metal facility, and was returned to GNF-A's facility soon thereafter that same day.

The NRC's IR documented five apparent violations (AVs). Three AVs were considered for escalated enforcement:

1. Failure to make or cause to be made surveys of scrap metal piping prior to its release and transportation as required by 10 CFR 20.1501(a).
2. Failure to comply with applicable Department of Transportation (DOT) regulations appropriate to the mode of transport of contaminated materials as required per 10 CFR 71.5(a).
3. Failure to notify the NRC as required by 10 CFR 20.1906(d)(1) when removable radioactive surface contamination exceeds the limits of 10 CFR 71.87(i).

Two additional non-escalated AVs were also documented in the IR:

4. Failure to perform the monitoring within 3 hours after receiving the shipment back at the site as required by 10 CFR 20.1906(c).
5. Failure to maintain records of surveys as required by 10 CFR 20.2103(a).

In response to the NRC's inspection report of July 25, 2017, GNF-A advised the NRC of its desire to participate in the Agency's ADR program to resolve the enforcement aspects of this matter.

III

On October 25, 2017, the NRC and GNF-A met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. ADR is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement or resolving any differences regarding their dispute. This CO is issued pursuant to the agreement reached during the ADR process. The elements of the agreement consist of the following:

1. During the ADR, GNF-A expressed agreement with the following four AVs: (1) Failure to make or cause to be made surveys of scrap metal piping prior to its release and transportation as required by 10 CFR 20.1501(a); (2) Failure to comply with applicable Department of Transportation (DOT) regulations appropriate to the mode of transport of contaminated materials as required per 10 CFR 71.5(a); (3) Failure to perform the monitoring within 3 hours after receiving the shipment back at the site as required by 10 CFR 20.1906(c); (4) Failure to maintain records of surveys as required by 10 CFR 20.2103(a).

GNF-A raised reservations regarding the AV associated with notifying the NRC as required by 10 CFR 20.1906(d)(1). In particular, GNF-A questioned whether the circumstances of the contaminated scrap metal required NRC notification per 10 CFR 20.1906(d)(1).

The NRC continues to conclude that this issue represents a violation of 10 CFR 20.1906(d)(1).

At the ADR, the NRC and GNF-A agreed to disagree regarding whether this issue represents a violation of 10 CFR 20.1906(d)(1).

Consequently, within thirty days after the issuance of the CO, GNF-A will make a report to the NRC Operations Center, pursuant to 10 CFR 20.1906(d)(1), stating that the NRC has concluded that GNF-A received a package on September 29, 2016, which had removable radioactive surface contamination on its external surfaces that exceeded the applicable limits set forth in 10 CFR 71.87(i). GNF-A will make this report solely for the purposes of reaching resolution at ADR because it maintains that the removable radioactive surface contamination on the external surfaces of the package (an open metal dumpster) and the removable surface contamination on the scrap pipes contained in the dumpster did not exceed the applicable limits set forth in 10 CFR 71.87(i).

2. The NRC views the safety significance of three violations (i.e., failure to make surveys as required by 10 CFR 20.1501(a), failure to comply with DOT regulations as required by 10 CFR 71.5(a), and failure to notify the NRC as required by 10 CFR 20.1906(d)(1)) as interrelated to one incident and consistent with a Severity Level III problem in accordance with the NRC Enforcement Policy.

The NRC views the safety significance of two additional violations (i.e., failure to perform the monitoring within 3 hours after receiving the shipment back at the site as required by 10 CFR 20.1906(c), and failure to maintain records of surveys as

required by 10 CFR 20.2103(a)) as consistent with Severity Level IV violations in accordance with the NRC Enforcement Policy.

Based on GNF-A's view of the low actual and potential safety significance of the shipment, GNF-A does not believe the violations merited escalated enforcement action.

3. Based on a review of the incident, GNF-A completed a number of corrective actions and enhancements to preclude recurrence of the violations, including but not limited to the following:
 - a. GNF-A revised its procedures, including, among others:
 - i. WI-27-105-05 "Control of Radioactive Material," to clarify survey requirements for the release of radioactive material; and
 - ii. WI-27-105-08 "Contamination Measurement and Control," to provide clear instructions on contamination surveys required.
 - b. GNF-A provided enhanced training to the Radiation Protection Monitors to include:
 - i. historical knowledge of facility operations; and
 - ii. survey practices and the need to select the proper survey instrument for the type of contamination expected.
 - c. GNF-A revised the Senior Radiological Engineer's and the Radiation Protection Manager's qualification cards to require training on historical knowledge of facility operations.
 - d. GNF-A augmented its recordkeeping process to ensure radiation protection survey records are properly documented and maintained.

- e. Senior management communicated lessons learned from this event to the GNF-A and Hitachi Nuclear Energy – Americas, LLC (GEH-A) organizations.
 - f. GNF-A conducted a Root Cause Analysis of the transportation incident.
 - g. GEH-A initiated a Nuclear Safety Culture (NSC) assessment of the Wilmington site. The assessment included a survey, interviews, and data trending to include a review of relevant entries into the corrective action program.
4. Based on GNF-A's review of the incident and NRC's concerns with respect to precluding recurrence of the violations, GNF-A agreed to implement the corrective actions and enhancements delineated in Section V of this CO.
 5. Within three months of completion of the terms of the CO, GNF-A shall provide the NRC with a letter discussing its basis for concluding that the CO has been satisfied.
 6. In consideration of GNF-A's completed corrective actions and enhancements, and GNF-A's commitments delineated herein, the NRC agrees to refrain from proposing a civil penalty or issuing a Notice of Violation for all AVs identified in NRC Inspection Report 70-1113/2017-003 (EA-17-090).
 7. The NRC and GNF-A agree that the above elements shall be incorporated into a CO.
 8. This agreement is binding upon successors and assigns of GNF-A.

On December 7, 2017, GNF-A consented to issuance of this CO with the commitments, as described in Section V below. GNF-A further agreed that this CO is to be effective upon issuance and that it has waived its right to a hearing.

IV

Because GNF-A has taken corrective actions to address NRC concerns, as set forth in Section III above, and has agreed to take additional corrective actions as set forth in Section V below, the NRC has concluded that its concerns can be resolved through issuance of this CO.

I find that GNF-A's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments, the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that GNF-A's commitments be confirmed by this CO. Based on the above and GNF-A's consent, this CO is effective upon issuance.

V

Accordingly, pursuant to Sections 104b., 161b., 161i., 161o., 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 70, IT IS HEREBY ORDERED, THAT LICENSE NO. SNM-1097 BE MODIFIED AS FOLLOWS:

1. Consistent with paragraph III (1) above, within thirty (30) days after the issuance of the CO, GNF-A will make a report to the NRC Operations Center, pursuant to 10 CFR 20.1906(d)(1), stating that the NRC has concluded that GNF-A received a package on September 29, 2016, which had removable radioactive surface contamination on its

external surfaces that exceeded the applicable limits set forth in 10 CFR 71.87(i).

2. Within one (1) year after issuance of the CO, GNF-A shall install a vehicle portal monitor with a sensitivity to detect vehicle surface radiation levels specified in 10 CFR 20.1301(a)(2). GNF-A agrees to continue to perform surveys for unrestricted release in accordance with the License Application Section 1.3.2. Procedures shall be developed and implemented to ensure that all non-manifested vehicle shipments from the Controlled Access Area are monitored and to validate, investigate, and to respond to alarms prior to releasing shipments off-site. Once installed, if for any reason the vehicle portal monitor is not available, compensatory measures shall be taken by GNF-A to detect non-manifested vehicle shipments in excess of radiation levels of 10 CFR 20.1301(a)(2).
3. Within sixty (60) days of issuance of the CO, or within 60 days of completion of the NSC assessment referenced in Section III.3.g, whichever is later, GNF-A shall make the results of the assessment available to the NRC for review.
4. Approximately two (2) years (+/- 6 months) after issuance of the CO, GNF-A shall conduct a NSC assessment of the GNF-A organization by a third party independent of GNF-A who is experienced with NRC nuclear safety culture and safety conscious work environment policies. GNF-A shall compare the results of this assessment to the results of the assessment performed under Section III.3.g of this CO in an effort to identify trends. Corrective actions arising from the assessment and comparison will be entered into the corrective action program and tracked to completion. GNF-A shall make results of the final assessment and comparison available to the NRC for review.

5. Within nine (9) months of issuance of the CO, GNF-A shall augment, with the assistance of an individual independent of GNF-A who is experienced with NRC nuclear safety culture and safety conscious work environment policies, its existing training for all workers with unescorted access to the GNF-A Controlled Access Area, that reinforces nuclear safety culture traits emphasizing questioning attitude, problem identification, effective corrective actions, and effective self-assessment. Training records shall be retained consistent with applicable GNF-A record retention policies and shall be made available to the NRC upon request. New employees shall complete the training prior to the granting of unescorted access to GNF-A. This training shall be provided on an annual basis, for at least three years after issuance of the CO.

6. Within one (1) year after the issuance of the CO, GNF-A shall conduct a benchmark assessment of the GNF-A Radiation Protection Program (RPP) with at least two external RPP organizations in the Fuel Cycle industry, to identify and implement, as GNF-A deems appropriate, best practices and enhancements to increase the effectiveness of its RP program. The benchmark assessment shall be performed by an individual or entity experienced in Institute of Nuclear Power Operations (INPO) radiation protection standards, and the assessment shall be made available for NRC review.

7. Within one (1) year after issuance of the CO, GNF-A shall expand its Difference of Professional Opinion process to include all technical safety matters related to GNF-A licensed activities.

8. Within one (1) year of issuance of the CO, existing GNF-A supervisors engaged in

licensed facility (SNM-1097) activities, as of the date of issuance of the CO, will complete initial Front Line Supervisor Nuclear Safety Leadership training, which will be informed by INPO 04-003, Guidelines for Effective Nuclear Supervisor Performance. For a period of three years after issuance of the CO, new GNF-A frontline supervisors engaged in licensed facility (SNM-1097) activities shall complete this training within six months of assuming supervisory responsibilities. GNF-A shall make the training materials available to the NRC for review.

9. Within three (3) months of completion of the terms of the CO, GNF-A shall provide the NRC with a letter discussing its basis for concluding that the CO has been satisfied.

The Regional Administrator, Region II, may relax or rescind, in writing, any of the above conditions upon a showing by GNF-A of good cause.

VI

In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by this CO, other than GNF-A, may request a hearing within 30 calendar days of the date of issuance of this CO. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by

interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at <http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the

time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and

Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person (other than GNF-A) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this CO and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this CO should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days from the date of this CO without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

Dated at Atlanta, Georgia, this 14th day of December 2017.

For the Nuclear Regulatory Commission

/RA/

Catherine Haney
Regional Administrator