



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION II
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET SW SUITE 23T85
ATLANTA, GEORGIA 30303-8931

[REDACTED]

October 6, 2004

EA-04-113

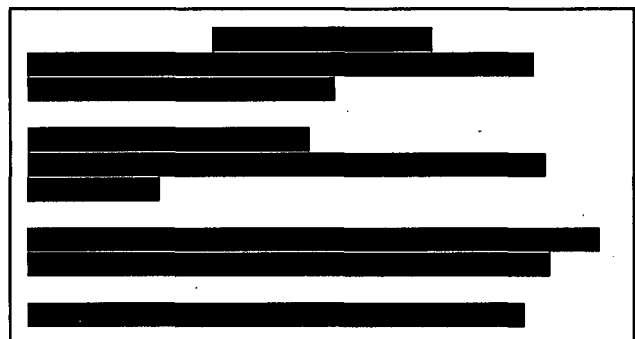
Nuclear Fuel Services, Inc.
ATTN: Mr. Kerry Schutt
President
P.O. Box 337, MS 123
Erwin, TN 37560

SUBJECT: EXERCISE OF ENFORCEMENT DISCRETION (NRC Inspection Report
No. 70-143/2004-04, Nuclear Fuel Services, Inc. - Docket No. 70-143)

Dear Mr. Schutt:

This refers to the Nuclear Regulatory Commission's (NRC) inspection conducted on April 18 through May 29, 2004, at your facility located in Erwin, TN. The purpose of the inspection was to determine whether activities authorized by the license were conducted safely and in accordance with NRC requirements. The preliminary results of the inspection and the identification of an apparent violation were forwarded to you by our letter of June 28, 2004. The letter transmitting the inspection report also provided you the opportunity to either respond to the apparent violation in writing or request a predecisional enforcement conference. The NRC confirmed your desire for a predecisional enforcement conference, and on August 27, 2004, a closed conference was conducted at the NFS facility with you and members of your staff to discuss the apparent violation, its significance, root causes, and your corrective actions. A listing of conference attendees and the material presented by the NRC and NFS, respectively, are included as Enclosures 1, 2, and 3.

Based on the information developed during the inspection and the information presented at the conference, a violation of NRC requirements occurred. The violation involved NFS's identification of a previously unidentified failure mode for a piece of safety-related equipment



[REDACTED]

during an Integrated Safety Analysis (ISA) review required by 10 CFR Part 70, Subpart H.

[REDACTED]

[REDACTED] Because the instrument did not meet its performance criteria, only one credited criticality control [REDACTED] was in place [REDACTED]. The amount of material available was sufficient to form a critical mass, and the inability of the instrument to perform its specified criticality safety function under certain conditions constitutes a violation of Section 4.1.1.1 of NFS's License Application.

No actual safety consequences occurred as a result of the instrument being unable to perform as specified. The potential safety significance and attendant severity level associated with the failure of the instrument to meet its performance criteria are dependant upon a variety of circumstances and scenarios; nonetheless, they are clearly less than what would be considered for a violation categorized at either Severity Level I or II.

Section VII.B.6 of the "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, allows mitigation of enforcement sanctions for violations involving special circumstances. Because the violation was assessed at less than Severity Level II, this section of the Enforcement Policy permits the agency to reduce or refrain from issuing a civil penalty or a Notice of Violation based on the merits of the case.

It has been determined that the merits of this case warrant the exercise of discretion. In this regard, we note that the violation was identified as part of a comprehensive ISA review. The NRC recognizes, as noted in 10 CFR 70.62(c)(3)(ii), that ISA reviews would identify unacceptable performance deficiencies that would need correction as in this case. In addition, upon confirming through testing that the instrument could not perform its specified function, NFS took comprehensive corrective actions which included cessation of system operations; making a 24-hour notification to the NRC; implementing compensatory measures upon system startup including visual inspection of material, [REDACTED], and installation of [REDACTED] to stop operations [REDACTED]; installation of a support around [REDACTED] to improve structural integrity; reviewing other operations to determine if the instrument was similarly used (credited); and removing the instrument from the nuclear criticality safety evaluation as a credited control. NFS also performed a root cause investigation, the results of which were discussed at the conference.

Therefore, to emphasize the importance of self-identification and correction of violations, and in consideration of the merits of this case, I have been authorized, after consultation with the Director, Office of Enforcement, to propose that neither a civil penalty nor Notice of Violation be assessed or issued in this case.

[REDACTED]

[REDACTED]

[REDACTED]

Nuclear Fuel Services, Inc.

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[REDACTED]

[REDACTED]

Should you have any questions concerning this letter, please contact us.

Sincerely,

\ RA \

William D. Travers
Regional Administrator

Docket No. 70-143
License No. SNM-124

Enclosures:

1. List of Attendees
2. Information Presented by NRC
3. [REDACTED]

cc w/encls:
B. Marie Moore
Vice President
Safety and Regulatory
Nuclear Fuel Services, Inc.
P.O. Box 337, MS 123
Erwin, TN 37650

[REDACTED]

Nuclear Fuel Services, Inc.

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LIST OF CONFERENCE ATTENDEES

NRC ATTENDEES

Carolyn F. Evans, RII
Daniel Rich, RII
David Ayres, RII
William D. Travers, RII
Douglas Collins, RII
Robert Pierson, NMSS
Leigh Trocine, OE
Lawrence Berg, NMSS

NFS ATTENDEES

Marie Moore, V.P. Safety and Regulatory
Dwight Ferguson, CEO
Kerry Schutt, President and General Manager
Neil J. Newman, V.P. and General Counsel
John W. Nagy, Senior Licensing and Regulatory Compliance Officer
J. Scott Kirk, Licensing Specialist
Keith Guinn, V.P. and Principal Scientist
Gene Athon, Director, Fuel Technology
Randy Shackelford, NCS Manager
Nicholas W. Brown, Senior Nuclear Safety Engineer
Jeffery L. Quillen, Fuel Proc. Eng. Sec. Manager
Ann Ware, Assistant General Counsel
Rik Droke, Licensing Director