

UNITED STATES NUCLEAR REGULATORY COMMISSION

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

May 31, 2006

EA-06-129

Mr. Dwight Ferguson
President and Chief Executive Officer
Nuclear Fuel Services, Inc.
P. O. Box 337, MS 123
Erwin, TN 37650

SUBJECT:

NRC INSPECTION REPORT NO. 70-0143/2005-004 AND OFFICE OF

INVESTIGATIONS REPORT NO. 2-2005-029

Dear Mr. Ferguson:

This letter refers to the apparent violation that occurred on June 22, 2005, involving the failure of a production supervisor and maintenance mechanic to adhere to the requirements documented in a radiation work permit (RWP). These actions were determined by the NRC to be in apparent violation of NFS Procedure NFS-GH-03, "Radiation Work Permits, Revision 11," Section 5.3.5. This issue was first documented as an unresolved item in Nuclear Regulatory Commission (NRC) Inspection Report No. 2005-004 dated August 5, 2005.

This letter also refers to an investigation completed by the NRC's Office of Investigations (OI). The purpose of the OI investigation was to determine whether the above apparent violation occurred as the result of willful actions on the part of the NFS employees. Based on the evidence developed during the investigation, the NRC concluded that the employees' actions were willful. A factual summary that provides additional, relevant details of the OI investigation and subsequent apparent violation is enclosed.

Based on these findings, this apparent violation is being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's website at www.nrc.gov/OE.

Before the NRC makes its enforcement decision, we are providing you an opportunity to either (1) respond to the apparent violation addressed in this letter within 30 days of the date of this letter or (2) request a pre-decisional enforcement conference. If a conference is held, it will be closed to the public because the preliminary conclusions are based on an NRC OI investigation that has not been publicly released. If a conference is held, it will be transcribed. Please contact Mr. David Ayres at 404-562-4711 within seven days of the date of this letter to notify the NRC of your intended response.

Should you choose to respond, your response should be clearly marked as a "Response to An Apparent Violation" and should include: (1) the reason for the apparent violation, or, if contested, the basis for disputing the apparent violation, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. In presenting your corrective actions, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violation. The guidance in the enclosed NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful. Your response should be submitted under oath or affirmation and may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision.

Since the NRC has not made a final determination in this matter, no Notice of Violation is being issued for the inspection and investigative findings at this time. In addition, please be advised that the number and characterization of the apparent violation described in this letter may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations in this matter.

Should you have any questions concerning this letter, please contact me at 404-562-4700 or Mr. David Ayres at (404) 562-4711.

Sincerely,

/RA/ T. Decker acting for

Douglas M. Collins, Director Division of Fuel Facility Inspection

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

Enclosure: Factual Summary

cc w/encl: (See page 3)

cc w/encl:

B. Marie Moore Vice President Safety and Regulatory Management Nuclear Fuel Services, Inc. P. O. Box 337, MS 123 Erwin, TN 37650

L. Edward Nanney, Director
Division of Radiological Health
Tennessee Dept. of Environment & Conservation
L&C Annex, Third Floor
401 Church Street
Nashville, TN 37243-1532

Distribution w/encl:

- D. Ayres, RII
- D. Collins, RII
- W. Gloersen, RII
- S. Burris, RII
- M. Burrell, OE
- G. Morell, OE
- M. Galloway, NMSS
- K. Ramsey, NMSS
- M. Lamastra, NMSS
- C. Evans, RII

OEMAIL

OEWEB

| | SSION NUMBER: | | | | | |
|--------------|---------------|----------------|-------------|-------------|-------------|--------|
| OFFICE | RII:DFFI | RII:DFFI | RII:DFFI | RII;DFFI | RII:EICS | |
| SIGNATURE | MC 5/30/06 | via email 5/30 | WBG 5/30/06 | WBG 5/30/06 | CFE 5/30/06 | |
| NAME | MCrespo | SBurris | WGloersen | DAyres | CEvans | - |
| DATE | | | | | | |
| E-MAIL COPY? | YES NO | YES NO | YES NO | YES NO | YES NO | YES NO |

OFFICIAL RECORD COPY

DOCUMENT NAME: E:\Filenet\ML061510069.wpd

FACTUAL SUMMARY

On July 13, 2006, the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region II (RII), initiated an investigation to determine whether a Production Supervisor and a Maintenance Mechanic at Nuclear Fuel Services, Inc., (NFS), willfully failed to comply with written and posted radiological control procedures.

Safety Condition S-1 of Special Nuclear Materials License No. SNM-124 authorizes the use of licensed materials in accordance with the statements, representations, and conditions in the License Application and Supplements. Section 3.1.2 of the License Application, Radiation Work Permit (RWP) Procedures, states "Routine and repetitive work performed in radiologically restricted areas is administered by the use of operating procedures. Nonroutine activities, in these areas, which are not normally covered by documented procedures, are administered by the RWP system." Section 3.1.3 of the License Application, Safety Procedures, states "Activities performed for the safety program shall be in accordance with approved written procedures."

Procedure NFS-GH-03, "Radiation Work Permits, Revision 11," Section 5.3.5 states, in part, "All personnel who enter a RWP area must read, sign, and comply with all requirements of the RWP."

Standard Radiation Work Permit (RWP # 05-04-032) was initiated on June 21, 2005, for the Fuel Manufacturing and required the use of protective equipment, including a full face negative pressure respirator with HEPA filter, latex disposable gloves (2 pair), and disposable shoe covers before entering the area covered by the RWP.

On June 22, 2005, a Production Supervisor and a Maintenance Mechanic entered an RWP area to perform maintenance and repairs without wearing a full face respirator as required by RWP 05-04-032.

In this case, the NRC concluded that the actions of the two individuals were willful, in that the individuals: (1) had received RWP procedural training; (2) were familiar with the procedure which requires that all personnel read, comply with, and sign all RWPs; (3) had received annual refresher training related to the RWP procedure; and (4) stated that they observed the posted RWP and the yellow tape surrounding the RWP area.

Enclosure