



UNITED STATES
NUCLEAR REGULATORY COMMISSION

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

[REDACTED]

May 23, 2005

EA-04-199

Nuclear Fuel Services, Inc.
ATTN: Mr. Kerry Schutt
President
P. O. Box 337, MS 123
Erwin, TN 37650

SUBJECT: NOTICE OF VIOLATION (NUCLEAR FUEL SERVICES, INC., - NRC OFFICE
OF INVESTIGATIONS REPORT NO. 2-2004-003)

Dear Mr. Schutt :

This refers to an inspection completed by the Nuclear Regulatory Commission on January 24, 2004, and an Office of Investigations (OI) investigation completed on March 3, 2005. The purpose of the inspection and investigation was to review the circumstances surrounding your discovery, on December 31, 2003, that a process waste collection tank (WD tank) discharge valve to the waste water treatment facility (WWTF), [REDACTED], was open when it was required to have been locked closed. This issue was documented as an unresolved item pending additional review in NRC Inspection Report No. 70-143/2004-01, issued on February 23, 2004.

During a telephone conversation of May 16, 2005, Mr. Douglas Collins of my staff informed Ms. Marie Moore, Vice President, Safety and Regulatory Management, that the NRC was considering escalated enforcement for an apparent violation involving NFS's failure to follow Standard Operating Procedure (SOP) 401. In addition, NFS was informed that the NRC staff concluded that the violation was due to the deliberate misconduct of the process operator involved.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Mr. Collins also informed Ms. Moore that the NRC had sufficient information regarding the apparent violation and your corrective actions to make an enforcement decision without the need for a predecisional enforcement conference or a written response from you. Ms. Moore indicated that NFS did not believe that a predecisional enforcement conference or written response was necessary.

Therefore, based on the information developed during the inspection and investigation, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the subject inspection report. In summary, during its followup of an inadvertent transfer of residual water to the WWTF, NFS identified that valve [REDACTED] was left open. Your staff's review of this matter identified that manual valve [REDACTED], a tank discharge valve to the WWTF, was open when it was required to have been locked closed by plant procedures.

Because an additional valve, [REDACTED] blocked any inadvertent transfer of waste liquid to the WWTF, no actual consequences resulted from this procedural non-compliance. However, in this case, the NRC staff concluded that the root cause of this issue was due, in part, to the deliberate actions of a process operator. Violations involving deliberate misconduct are of particular concern to the NRC, because our regulatory program is based on the integrity of licensees, contractors, and their employees. In addition, the NRC holds licensees responsible for the actions of their employees. Therefore, based on the above and in accordance with the NRC Enforcement Policy, the NRC concluded that this violation should be characterized at Severity Level III.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$32,500 is considered for a Severity Level III violation. Because your facility has been the subject of escalated enforcement action within the last two years, the NRC considered whether credit was warranted for *Identification and Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. In this case, because NFS identified the issue, credit was warranted for the factor of *Identification*.

NFS's corrective actions in response to this issue included but was not limited to the following: revision of NFS procedures to require supervisory verification that valve [REDACTED] is closed prior to [REDACTED] operations; training operators on the procedural revision; modification of the system by replacing the manual [REDACTED] valve with a remote controlled, air operated valve which fails closed on loss of power and controlling the new valve with a key switch (which is controlled by the area supervisor); and taking disciplinary action against the operator involved. Based on the above, the NRC concluded that credit was warranted for the factor of *Corrective Action*.

Therefore, to encourage identification and prompt and comprehensive correction of violations, I have been authorized to propose that no civil penalty be assessed in this case. However, similar violations in the future could result in further escalated enforcement action. Issuance of

[REDACTED]

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3

this Notice constitutes escalated enforcement action, that may subject you to increased inspection effort.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved is adequately addressed in this letter. Therefore, you are not required to respond to the violation documented in this letter unless the description herein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

[REDACTED]

Should you have any questions concerning this letter, please contact Mr. Douglas Collins, Director, Division of Fuel Facilities Inspection, at (404) 562-4700.

Sincerely,

/RA by Loren R. Plisco acting for/

William D. Travers
Regional Administrator

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

Enclosure: Notice of Violation

[REDACTED]

[REDACTED]

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4

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

Debra Shults, Manager
Technical Services
Division of Radiological Health
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[REDACTED]

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[REDACTED]

NOTICE OF VIOLATION

Nuclear Fuel Services, Inc.
Erwin, Tennessee

Docket No. 70-143
License No. SNM-124
EA-04-199

During an NRC inspection conducted from November 30, 2003 - January 24, 2004, and an investigation completed by the NRC's Office of Investigations on March 3, 2005, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

- A. 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 2.7 of the License Application, Procedures, states "SNM operations and safety function activities are conducted in accordance with written procedures as defined in Section 1.7.4 and 1.7.5." Sections 1.7.4 and 1.7.5 describe operating procedures and safety procedures.

NFS Standard Operating Procedure (SOP) 401, section 6.3, requires valve [REDACTED] to be locked shut after a transfer operation. SOP 401, section 6.2, requires verification, confirmed by signature, that valve [REDACTED] is locked shut [REDACTED]
[REDACTED]

Contrary to the above, on December 30, 2003, valve [REDACTED] was not locked shut after a transfer operation, and on December 31, 2003, valve [REDACTED] was not verified to be shut [REDACTED].

This is a Severity Level III Violation (Supplement VI).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in the information provided by NFS as documented in this letter. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation - EA-04-199," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator, Region II, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

[REDACTED]

[REDACTED]

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2

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

[REDACTED]
[REDACTED]
[REDACTED] If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

In accordance with 10 CFR 19.11, you may be required to post this Notice within 2 working days.

Dated this 23rd day of May 2005

Enclosure

[REDACTED]