



**Northeast
Nuclear Energy**

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The Northeast Utilities System

FEB 28 2000

Docket 50-245
B17987

10 CFR 50.9

U.S. Nuclear Regulatory Commission
Attention: Document Control Desk
Washington, DC 20555-0001

Millstone Nuclear Power Station, Unit No. 1
Response to Apparent Violation in Office of Investigations Report No. 1-1997-036

This letter provides Northeast Nuclear Energy Company's (NNECO) response to the NRC's letter dated January 10, 2000.⁽¹⁾ NNECO previously waived the opportunity for a predecisional enforcement conference and provides the requested response in the form of this letter and attachments.

The NRC's letter states that a NNECO Senior Health Physics (HP) Technician deliberately altered an ALARA Checklist Discussion Sheet, related to the transfer of radioactive, asbestos-containing material from drums to a processing liner on January 24, 1997, by adding, after the completion of the transfer job, a statement to the effect that the job was likely to cause contamination of job personnel. The NRC letter further indicated that the statement misled an NRC inspector to believe "that the likelihood of workers becoming contaminated was in the documentation prepared prior to the job and was discussed at the pre-work briefing, indicating that proper ALARA controls were in place as required by procedure."⁽²⁾ For this reason, the NRC concluded that the HP Technician's actions caused NNECO to be in violation of 10 CFR 50.9, which requires that information provided to the NRC be complete and accurate in all material respects. The factual basis for the NRC's conclusion is an investigation report (Report No. 1-1997-036) prepared by the NRC Office of Investigations (OI).

(1) NRC letter to NNECO, NRC Office of Investigations Report No. 1-1997-036, dated January 10, 2000.

(2) NRC letter to NNECO at page 1.

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NNECO has not been provided with a copy of the OI Report. Included with the NRC's letter was a one-page "Summary of Findings of OI Investigation No. 1-1997-036." This summary indicates that OI based its conclusion that the HP Technician added the statement to the ALARA Checklist Discussion Sheet on findings that "internal computer software date stamping related to the creation of the ALARA Checklist Discussion Sheet indicated that it was created after the job was complete" and statements of persons who "attended the pre-work briefing and participated in the job [indicating] that the issue of likely contamination was not briefed."

Following the receipt of the NRC's letter, NNECO referred this matter to the NNECO Employee Concerns Program (ECP) for investigation. The independent investigation conducted by the ECP resulted in an indeterminate finding. Based on the ECP's findings, NNECO does not believe that a violation of 10 CFR 50.9 has been substantiated. The ECP report is provided as Attachment 1 to this letter. NNECO's specific response to the alleged violation is contained in Attachment 2. NNECO management is very concerned about some of the findings that surfaced through the independent ECP investigation. As indicated in Attachment 2, NNECO intends to use this event to communicate and reinforce to the Millstone workforce management's expectations regarding the need for accuracy and completeness in materials required to be prepared pursuant to procedures and in communications with the NRC.

The regulatory commitments contained in this letter are located in Attachment 3.


Please note that Attachment 1 (ECP Report of Investigation) has been marked to indicate its confidential nature. Attachment 1 contains names and other personal identifying information. To the best of NNECO's knowledge, the information contained in Attachment 1 is not available in public sources. Attachment 1 is being treated by NNECO as a confidential document, and in our view, the public disclosure of this report would clearly constitute an unwarranted invasion of personal privacy. Accordingly, pursuant to 10 CFR 2.790(a)(6), NNECO requests that Attachment 1 be withheld from public disclosure in its entirety. NNECO has no objection to the placement of this cover letter or Attachments 2 and 3 in the NRC Public Document Room. A redacted version of Attachment 1 will be forwarded under separate transmittal.

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If you have any questions, please contact David A. Smith, Manager, Regulatory Affairs,
at (860) 437-5840.

Very truly yours,

NORTHEAST NUCLEAR ENERGY COMPANY



L. J. Olivier
Senior Vice President and
Chief Nuclear Officer

Subscribed and sworn to before me

this 28 day of February, 2000

Donna Lynne Williams
Notary Public

Date Commission Expires: Nov 30, 2001

cc: H. J. Miller, Region I Administrator
L. L. Wheeler, NRC Project Manager, Millstone Unit No. 1
P. C. Cataldo, NRC Inspector

James C. Linville, Director
Millstone Inspection Directorate
Office of the Regional Administrator
Region I
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Attachment 1

Millstone Nuclear Power Station, Unit No. 1

ECP Report of Investigation

February 2000

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Attachment 2

Millstone Nuclear Power Station, Unit No. 1

**Response to an Apparent Violation in
NRC Office of Investigations Report No. 1-1997-036**

February 2000

NNECO Response to
Apparent Violation Based on OI Report No. 1-1997-036

Restatement of Apparent Violation

The [apparent] violation involves a Senior Health Physics Technician deliberately altering a record documenting the ALARA controls taken for an activity involving the transfer of radioactive waste. The record in question was the ALARA Checklist Discussion Sheet, which was attached to the ALARA Exposure Controls Summary, for the transfer of radioactive, asbestos-containing material from drums to a processing liner on January 24, 1997. After the transfer occurred and workers were contaminated, the Senior Health Physics Technician altered the ALARA Checklist Discussion Sheet by adding a statement that it was likely for personnel contaminations to occur during the job.

The statement added to the ALARA Checklist Discussion Sheet was material in that it was provided to, and misled the NRC inspector. The inspector believed that the likelihood of workers becoming contaminated was in the documentation prepared prior to the job and was discussed at the pre-work briefing, indicating that proper ALARA controls were in place as required by procedure. In fact, the investigation indicated that this statement was not provided. As such, the Senior Health Physics Technician's actions caused NNECO to be in violation of 10 CFR 50.9, which requires in part, that information provided to the Commission shall be complete and accurate in all material respects.

Basis For Disputing The Apparent Violation

In response to the NRC's letter dated January 10, 2000, notifying NNECO of an apparent violation of 10 CFR 50.9, NNECO management requested that the NNECO Employee Concerns Program (ECP) conduct an independent investigation into the specific contention forming the basis of the apparent violation. Specifically, ECP was asked to investigate whether a Senior Health Physics (HP) Technician deliberately altered an ALARA Checklist Discussion Sheet by adding the statement:

"The potential exits (sic) and is likely for personnel skin contaminations and shoe contaminations during this undress evolution"

after the personnel performing the job had, in fact, been contaminated. A copy of the ECP's Investigation Report is provided as Attachment 1. As Attachment 1 discusses in detail, after a focused investigation, the ECP found the evidence to be indeterminate as to whether the statement was added to the Discussion Sheet after the completion of the

transfer job.

As stated in its Summary of Findings, the NRC Office of Investigations (OI) relied on two discrete factors in reaching the conclusion that the Senior HP Technician added the statement after the completion of the transfer job. These findings were: (1) "the internal computer software date stamping related to the creation of the ALARA Checklist Discussion Sheet indicated that it was created after the job was complete," and (2) "statements of NNECO employees and contractors who attended the pre-work briefing and participated in the job indicated that the issue of likely contamination was not briefed."⁽³⁾

With respect to the creation date of the ALARA Checklist Discussion Sheet, ECP determined that the internal computer "creation date" is the date a computer file is first *saved* onto the particular medium on which it is stored.⁽⁴⁾ Thus, the Discussion Sheet's "creation date" stamp is not conclusive evidence of when the Discussion Sheet was *first* prepared. On the contrary, ECP found evidence that the Discussion Sheet did exist before the transfer job.⁽⁵⁾

As to topics discussed during the pre-job briefing, ECP learned that the foreman of the team of contract asbestos workers who performed the transfer job specifically recalled that the radiological controls listed on the record copy of the ALARA Checklist Discussion Sheet were discussed during the pre-job briefing.⁽⁶⁾ The foreman also indicated to ECP that he believed that the expectation that workers could become contaminated while undressing after the job was also discussed.⁽⁷⁾ This individual was the lead contract asbestos worker on the job and also actually performed the transfer work along with his workers.

Other information developed by ECP is inconsistent with OI's conclusion that the statement at issue was added after the transfer work was completed. For example, ECP found that in the weeks leading up to the job, the Senior HP Technician was involved in a number of discussions with HP and Waste Services personnel in which potential contamination resulting from the asbestos removal work activity was discussed, reviewed, addressed and taken into account when establishing the proper

⁽³⁾ NRC letter to NNECO dated January 10, 2000, "Summary of Findings of OI Investigation No. 1-1997-036".

⁽⁴⁾ ECP Report at page 23 and footnote 116.

⁽⁵⁾ ECP Report at pages 15-16. The ECP found that the computer date stamp also indicates that the Discussion Sheet was "modified" on Sunday, January 26, 1997, two days after the transfer job. ECP was not able to determine specifically what, if anything, was changed on January 26. ECP Report at page 23.

⁽⁶⁾ ECP Report at page 19.

⁽⁷⁾ ECP Report at page 20.

radiation protection controls for the transfer job.⁽⁸⁾ Specifically, the ECP learned that the controls required for asbestos work (designed to minimize the risk of exposure of the lungs to asbestos fibers) were in certain respects inconsistent with the normal HP controls designed to reduce the potential for contamination. The ECP found that the Senior HP Technician was aware of these inconsistencies and took them into account when designing what radiological protection controls should be used for the transfer job.⁽⁹⁾ In short, the risk of contamination was considered in planning the transfer job.

A close reading of the Discussion Sheet shows that, apart from the statement at issue, the possibility of personnel contamination was specifically addressed. This is demonstrated by the two sentences following the statement at issue on the Discussion Sheet, which state: "Outer protective clothing will be highly contaminate. Survey hands and shoes immediately after exit from asbestos tent...."⁽¹⁰⁾

Corrective Steps That Have Been Taken And The Results Achieved

Immediately after receiving the NRC's letter, NNECO initiated the ECP investigation documented in Attachment 1. In addition, and with the individual's agreement, the Senior HP Technician who is alleged to have added the sentence to the Discussion Sheet was removed from supervisory duties pending the completion of ECP's investigation and management's evaluation of ECP's findings. NNECO management is continuing to review the ECP report to determine what action against the HP Technician or other personnel is appropriate.

NNECO has consistently stressed the need for completeness and accuracy in documentation, especially documents submitted to the NRC or maintained for regulatory purposes. Thus, initial site access training and periodic refresher training includes modules on this topic. Moreover, from time to time over the last few years, NNECO management has reemphasized its expectations to the Millstone workforce regarding the importance of completeness and accuracy in all communications with the NRC. For example, in early 1998, in connection with an NRC 40500 team inspection, the Millstone Station *To The Point* newsletter was used to remind personnel of the requirement to provide complete and accurate information in response to questions of NRC inspectors.⁽¹¹⁾

Corrective Steps That Will Be Taken To Ensure Compliance With 10 CFR 50.9

NNECO is using this event as an opportunity to communicate and reinforce

⁽⁸⁾ ECP Report at pages 17-19.

⁽⁹⁾ ECP Report at pages 3-6, 17, 18.

⁽¹⁰⁾ ECP Report at page 20, quoting ALARA Checklist Discussion Sheet.

⁽¹¹⁾ See *To The Point* dated February 4, 1998.

management's expectation that material required to be prepared by NNECO procedures be complete and accurate irrespective of whether they are intended to be provided to the NRC.

NNECO management is particularly concerned with information developed by the ECP which indicates that individuals may believe it is permissible to make editorial (rather than substantive) changes to documents required by procedures after the document should have been finalized and signed. In addition, NNECO management is also concerned that some inaccuracies were found to exist in the document. As a result, NNECO management is taking steps to re-emphasize that any changes to final documents must be done in accordance with procedures. Of equal concern to NNECO management is evidence uncovered by the ECP investigation which indicated that one worker believed it is permissible to sign and backdate documents. NNECO is reiterating the importance of accuracy and precision in reviewing documents for signature related to activities at Millstone.

NNECO believes the actions described above are sufficient to avoid future situations of the type alleged.

Date When Full Compliance Will Be Achieved

NNECO is in compliance with the requirements of 10 CFR 50.9.

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Attachment 3

Millstone Nuclear Power Station, Unit No. 1

List of Regulatory Commitments

February 2000

List of Regulatory Commitments

The following table identifies actions committed to by NNECO in this document.

Number	Commitment	Due
B17987-01	NNECO is using this event as an opportunity to communicate and reinforce management's expectation that material required to be prepared by NNECO procedures be complete and accurate irrespective of whether they are intended to be provided to the NRC.	03/10/2000
B17987-02	NNECO management is taking steps to re-emphasize that any changes to final documents must be done in accordance with procedures.	03/10/2000
B17987-03	NNECO is reiterating the importance of accuracy and precision in reviewing documents for signature related to activities at Millstone.	03/10/2000