

NRC 03-080

July 18, 2003

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555

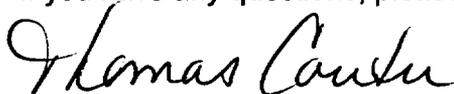
**KEWAUNEE NUCLEAR POWER PLANT
DOCKET 50-305
LICENSE No. DPR-43
SUBMITTAL OF SUPPLEMENTAL INFORMATION AND SLIDES FROM THE JULY 16, 2003
PRE-DECISIONAL ENFORCEMENT CONFERENCE**

On July 16, 2003, a pre-decisional enforcement conference was conducted between representatives of the Nuclear Management Company, LLC (NMC) and members of your Staff to discuss apparent violations related to the Fitness For Duty Program at the Kewaunee Nuclear Power Plant. During the presentation, supplemental information was discussed regarding additional investigation interviews conducted during June 2003. Attachment 2 to this letter contains documentation of these interviews as requested by your staff during the meeting. Attachment 1 provides a statement requesting that the investigation information be withheld from public disclosure pursuant to 10 CFR 2.790.

Attachment 3 to this letter provides a copy of the slide presentation used during the July 16, 2003 meeting. As noted during the meeting, slide 19 contained an error. Attachment 4 contains a corrected copy of the presentation.

As a result of the information conveyed at the July 16, 2003 Pre-enforcement Conference, NMC will be conducting additional interviews.

If you have any questions, please contact Gordon P. Arent at 920/388-8537.



Thomas Coutu
Site Vice-President, Kewaunee Plant

GPA

cc: US NRC, Senior Resident Inspector, w/o attach.
US NRC, Region III, w/o attach.
US NRC, KNPP Project Manager, w/o attach.
Electric Division, PSCW, w/o attach.
KNPP QA Vault, w/o attach.

Attachment

A021

NRC 03-080
July 18, 2003

bcc: J. P. Cowan
L. L. Weyers
T. J. Webb

T. Coutu
A. Capristo
G. P. Arent

S. L. Campion (2)
K. A. Hoops
E. J. Weinkam III

NRC 03-080
July 18, 2003

ATTACHMENT 1

**NUCLEAR MANAGEMENT COMPANY, LLC
KEWAUNEE NUCLEAR POWER PLANT
DOCKET 50-305 LICENSE NO. DPR-43**

July 18, 2003

AFFIDAVIT OF THOMAS COUTU
NUCLEAR MANAGEMENT COMPANY, LLC

I am Thomas Coutu, Site Vice President, Kewaunee Nuclear Power Plant, Nuclear Management Company, LLC (NMC). I have been specifically delegated the function of reviewing the proprietary information sought to be withheld from public disclosure in connection with nuclear power plant investigation activities, and am authorized to apply for its withholding on behalf of NMC.

I am making this Affidavit in conformance with the provisions of 10 CFR 2.790 of the Commission's regulations and in conjunction with the NMC application for withholding accompanying this Affidavit.

I am authorized to execute this Affidavit on behalf of NMC and that the averments of fact set forth in this Affidavit are true and correct to the best of my knowledge, information and belief.

Pursuant to the provisions of Paragraph (b)(4) of Section 2.790 of the Commission's regulations, the following is furnished for consideration by the Commission in determining whether the information "sought to be withheld from public disclosure" should be withheld:

- (i) The information is owned and has been held in confidence by NMC.
- (ii) The information is explicitly held in confidence by NMC and not to be disclosed to the public. NMC, through the use of an independent investigator, conducted interviews in support of a Fitness For Duty concern raised at the Kewaunee Nuclear Power Plant. These interviews contain information of a personnel nature and were conducted in confidence. NMC requests that this information be withheld from public disclosure because it represents "Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy," in accordance with 10 CFR 2.790(a)6.

The proprietary information "sought to be withheld" in this submittal is provided in Attachment 2 and contains the headings, Report of Interview, Affidavit, and Review of Personnel File.

- (iii) The information is being transmitted to the Commission in confidence, and under the provisions of 10 CFR 2.790, it is to be received in confidence by the Commission.
- (iv) The information sought to be protected is not available in public sources or available information has not been previously employed in the same original manner or method to the best of our knowledge and belief.

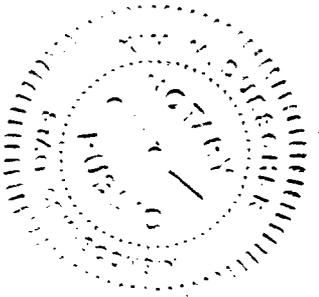
Thomas Coutu

Thomas Coutu
Site Vice President
Kewaunee Nuclear Power Plant

Sworn to and Subscribed before me this 18th day of July 2003

Kim M. Duescher

Kim Duescher
Notary Public, State of Wisconsin
My Commission Expires March 12, 2007

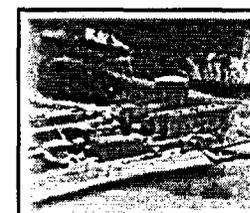
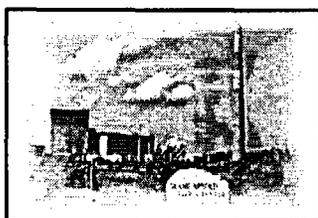
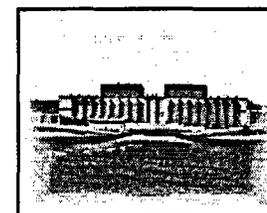
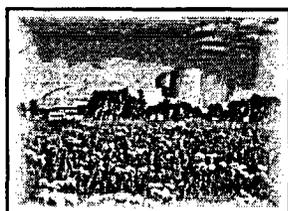
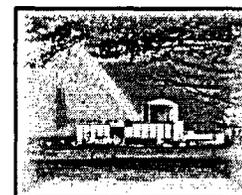


NRC 03-080
July 18, 2003

ATTACHMENT 3

**NUCLEAR MANAGEMENT COMPANY, LLC
KEWAUNEE NUCLEAR POWER PLANT
DOCKET 50-305 LICENSE NO. DPR-43**

July 18, 2003



Kewaunee Nuclear Power Plant
Pre-Decisional Enforcement Conference
July 16, 2003

Kewaunee Nuclear Power Plant Pre-Decisional Enforcement Conference

Agenda

Purpose – Coutu

Objective – Coutu

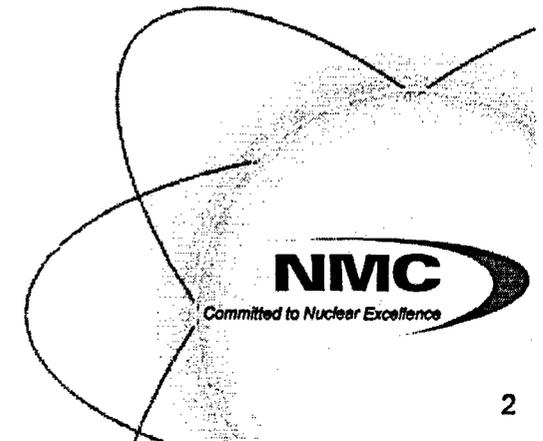
Results of Investigation – Coutu

Investigation Details – Cleveland

Effect on Safety Conscious Work Environment – Capristo

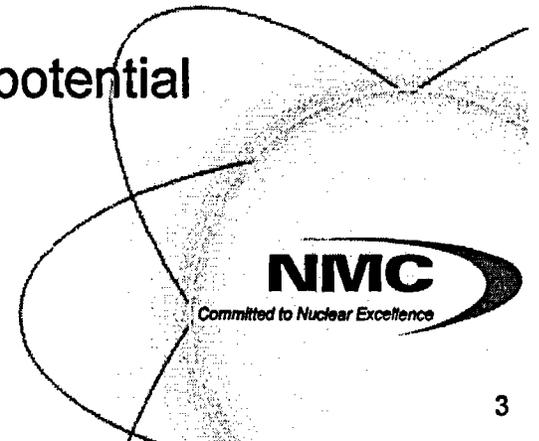
Actions Taken by NMC – Cleveland/Capristo

Summary – Coutu



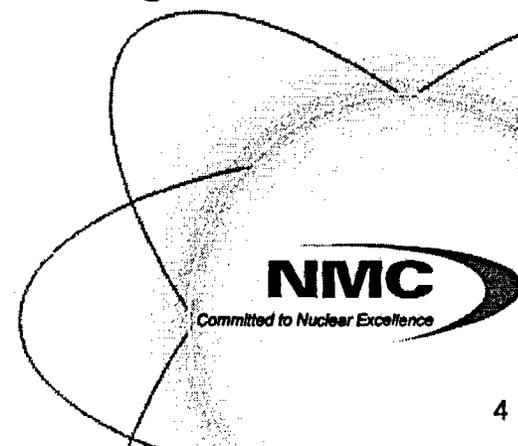
Purpose

- To provide the NRC with the facts that NMC's investigations revealed regarding Allegation 1, welders deliberately failed to report Fitness-For-Duty (FFD) concerns and a contract Mechanical and Civil Superintendent deliberately failed to report a FFD concern involving a Foreman.
- To provide the NRC with the facts that NMC's investigations revealed regarding Allegation 3, a contract Mechanical and Civil Superintendent provided false information to the NMC's investigator relative to being informed about the FFD concern involving a Foreman.
- To provide the NRC insights from the NMC's evaluation of the potential for "chilling effects."
- To provide the NMC's conclusions concerning a potential violation.



Objective

- To show that the NMC investigation was thorough and conclusions were based on the facts as identified by the NMC.
- To demonstrate how NMC carried out its FFD obligations based on the information that was obtained during two related investigations.
- To explain how NMC maintained a Safety Conscious Work Environment (SCWE) during this investigation and the following period.

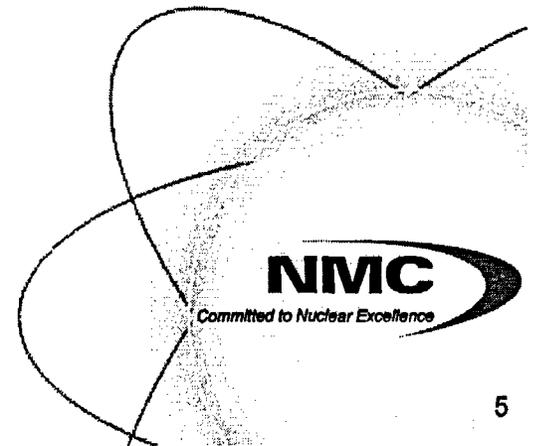


Results of Investigation

Background

Allegation: Day & Zimmerman NPS (D&Z) supervisors turn their heads when certain individuals come in “half-blitzed.”

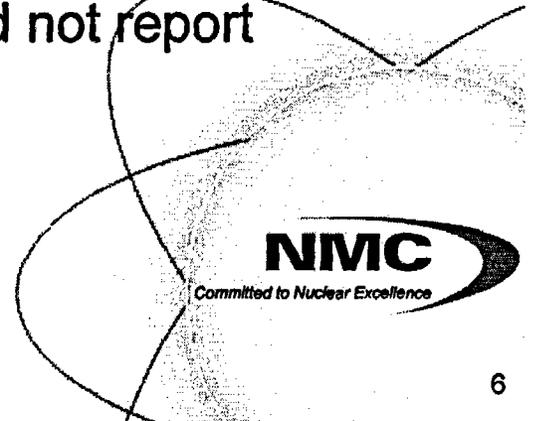
- Due to the potential seriousness of the issue, an independent investigator (Walker Investigative Consultants) was retained to complete a comprehensive investigation.
- NMC’s investigative efforts and conclusions were summarized and reported to the NRC in a letter dated February 8, 2002.



Results of Investigation

Initial Investigation

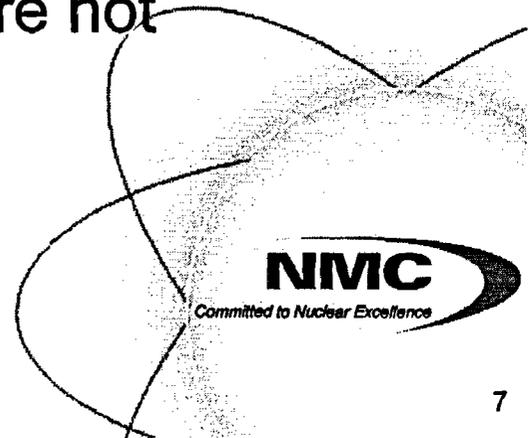
- Initial investigation identified four individuals who stated that on occasion they perceived the odor of alcohol on the breath of a D&Z Foreman while inside the Kewaunee protected area.
- None of the individuals notified their immediate supervisor or other member of management at that time.
- All four individuals who detected the odor of alcohol on the breath of the D&Z Foreman were aware of their responsibility to report or act.
- Access was denied to three individuals who detected an odor of alcohol on the breath of the D&Z Foreman and did not report this to their supervisor.



Results of Investigation

Supplementary Investigation

- Supplementary investigation was undertaken following communication by a Concerned Individual to NMC Employee Concerns Program (ECP) wishing to provide additional observations relative to the initial investigation.
- This Concerned Individual provided two new elements of concern.
- Both elements were investigated and were not substantiated.

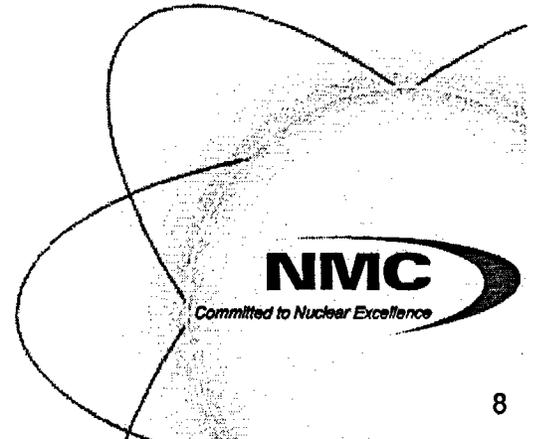


Results of Investigation

Conclusion

Concern partially substantiated.

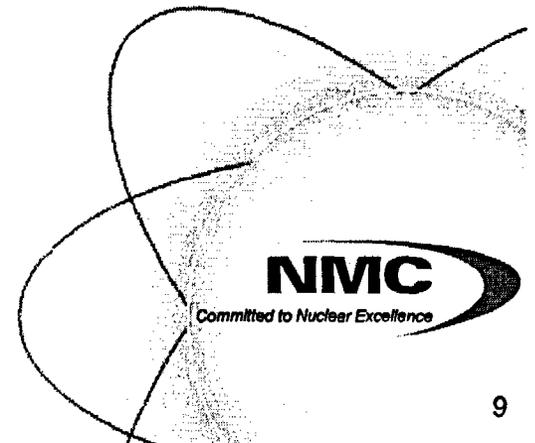
- It could not be concluded that the D&Z Foreman was unfit for duty.
- It was concluded that the odor of alcohol was detected.
- The D&Z Superintendent failed to comply with the NMC's FFD Program.
- It was not substantiated that any welder reported the odor of alcohol to the immediate supervisor or any member of management.



Results of Investigation

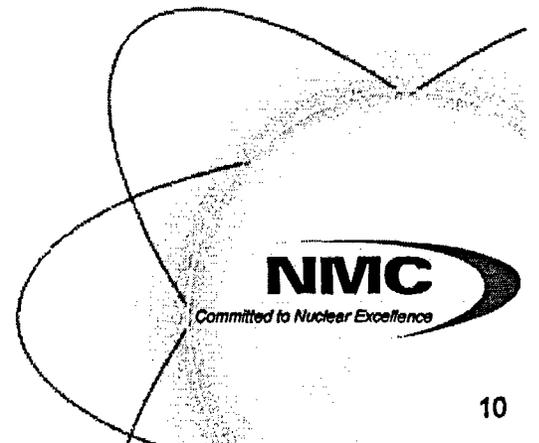
Summary

- The NMC did not substantiate the allegation that the odor of alcohol had been reported to the contract Mechanical and Civil Superintendent
- NMC did not conclude that the contract Mechanical and Civil Superintendent provided incomplete or inaccurate information
- A “chilling effect” has not been created at NMC facilities as a result of this FFD issue
- These findings do not support escalated enforcement



Kewaunee Nuclear Power Plant Pre-Decisional Enforcement Conference

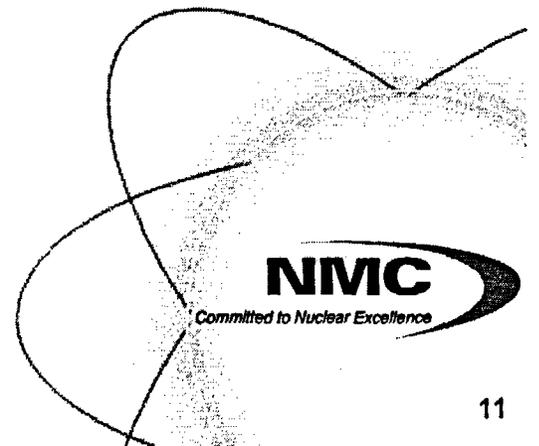
Investigation Details



Investigation Details

NMC's Conclusion

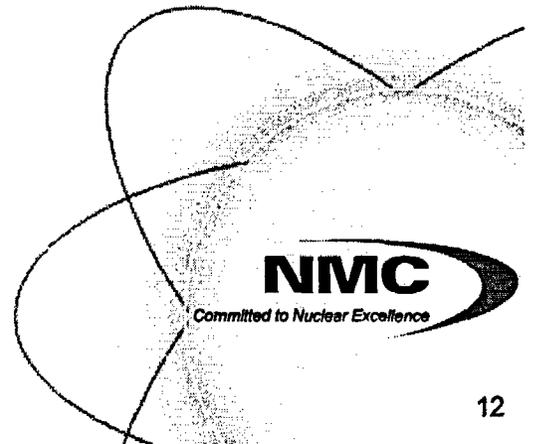
The Mechanical and Civil Superintendent was not informed of an odor of alcohol.



Investigation Details

Four welders deliberately failed to report the odor of alcohol

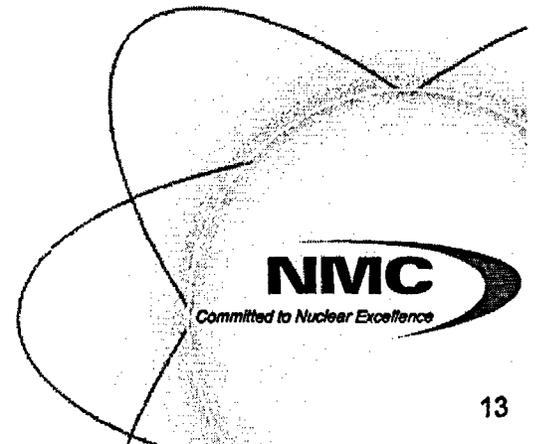
- Welders adequately trained
- **Prior to denial of access, welders admitted failure to report**
- Welders provided their reasons for not reporting
 - Don't create waves, keep eyes open, and mouth shut
 - Not my job to sniff others
 - Supervisors were aware of the D&Z Foreman's drinking habits; therefore, there was no reason to report and he was a fellow worker
 - Feared union reprisal



Investigation Details

Contract Superintendent Did Not Fail to Act on Welder Reports

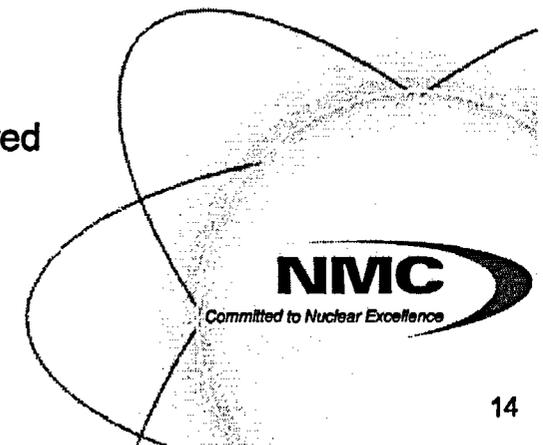
- A fifth welder claimed to have reported the odor of alcohol to the contract Superintendent
- NMC investigation found welder not credible
 - Contradictory statements
 - Uncorroborated claims and statements
 - Threat made to Superintendent



Investigation Details

Fifth Welder Credibility

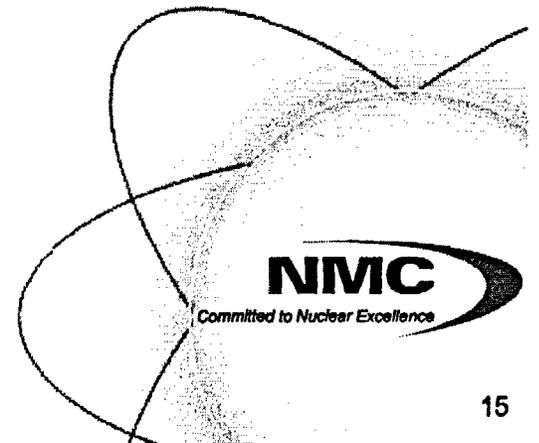
- **Contradictory statements made to NMC Investigators**
 - **Example 1**
 - "...[foreman] loaded every morning..."
 - versus
 - "...didn't know anything about foreman being drunk..."
 - **Example 2**
 - Escorted by foreman to collection site
 - versus
 - Not escorted by foreman to collection site
 - **Example 3**
 - Collector acknowledged the foreman as "a little ripe"
 - versus
 - Foreman was not at collection site and collector "appeared puzzled" when challenged regarding foreman's fitness



Investigation Details

Fifth Welder Credibility

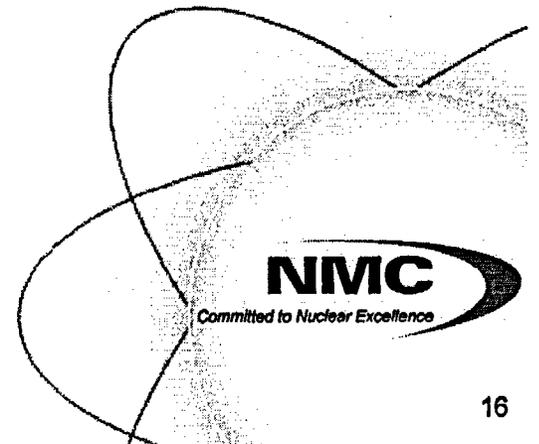
- **Uncorroborated claims and statements made to NMC Investigators**
 - **Claimed foreman and co-worker went through access control together. One hour later he claimed the co-worker was for-cause tested**
 - **Claimed collector acknowledged foreman as not fit for duty**
 - **Provided a document (twice-removed hearsay) alleging that the Superintendent admitted to receiving reports of odor of alcohol and lying to investigators**



Investigation Details

Fifth Welder Credibility

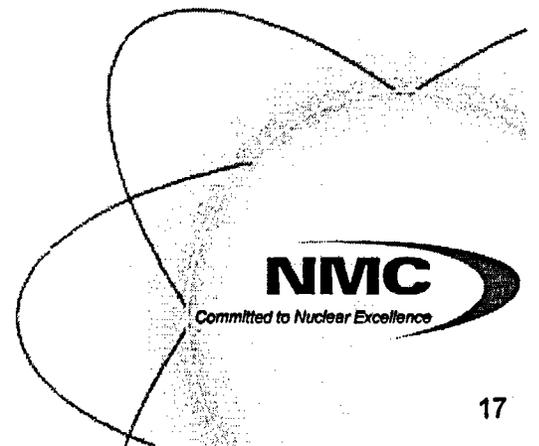
- Statements to Superintendent – June 2001
 - Claims he (fifth welder) should have been set up as foreman.
 - States foreman is an “idiot.”
 - States he is not going to “burn rod for the rest of his life.”
 - Threatens to “get even, and when I do you people won’t know what hit you.”



Investigation Details

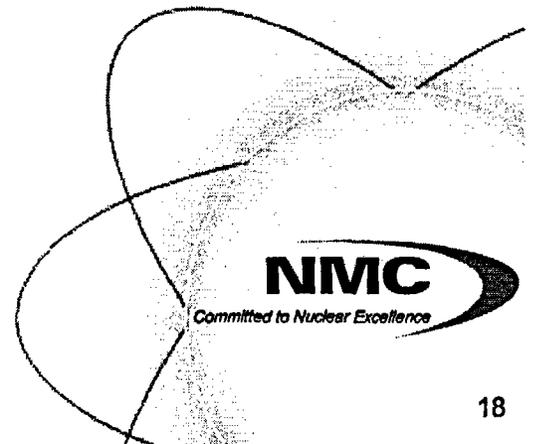
Conclusion

The NMC investigation concluded that the Mechanical and Civil Superintendent was not informed of an odor of alcohol.



Kewaunee Nuclear Power Plant Pre-Decisional Enforcement Conference

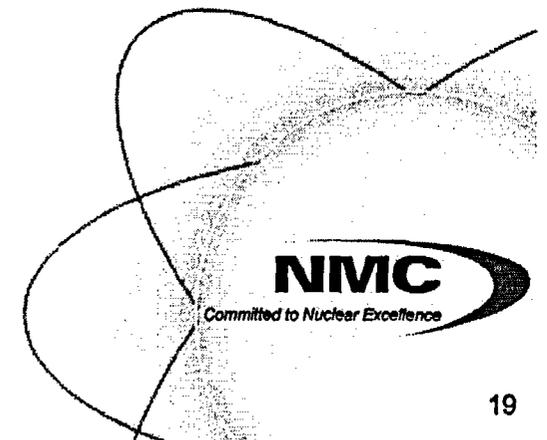
Effect on Safety Conscious Work Environment



Effect on Safety Conscious Work Environment

Introduction

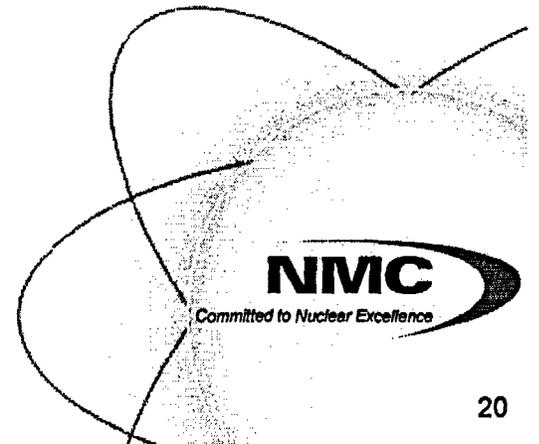
- NMC self-identified the potential for a “chilling effect” and took actions to address the Safety Conscious Work Environment (SCWE) throughout this period
- The basis for the NMC’s conclusion that the Kewaunee FFD issue did create a “chilling effect” at Kewaunee or other NMC facilities



Effect on Safety Conscious Work Environment

Evaluations

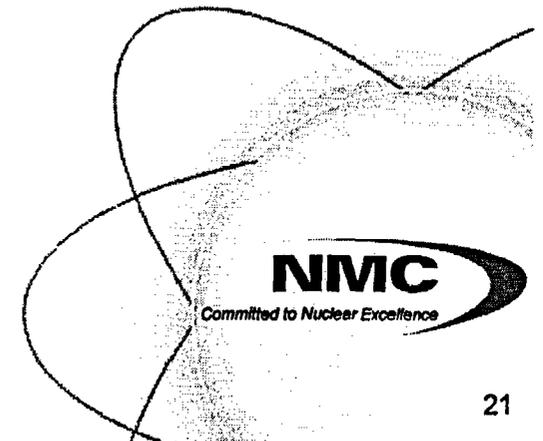
- NMC Fleet Safety Culture Assessment
- Concerns Environment Assessment
- Investigation in Response to NRC RAI 02-A-0114



Effect on Safety Conscious Work Environment

NMC Fleet Safety Culture Assessment

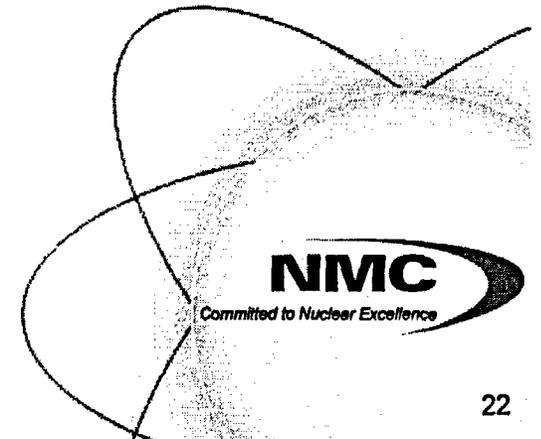
- Independent assessment completed by Synergy in September 2001
- Response for contract labor “Good” to “Very Good” in the areas of Nuclear Safety and SCWE
- Little change identified in follow-up assessment completed January 2003



Effect on Safety Conscious Work Environment

Concerns Environment Assessment

- Report on the SCWE at Point Beach completed by Dr. Michael Quinn, Sc.D. of Management Systems on January 31, 2002
- D&Z workforce common to Kewaunee and Point Beach
- Causes of challenges to SCWE reviewed and actions taken
 - None related to the Kewaunee FFD issues
 - Causes related to craft labor culture

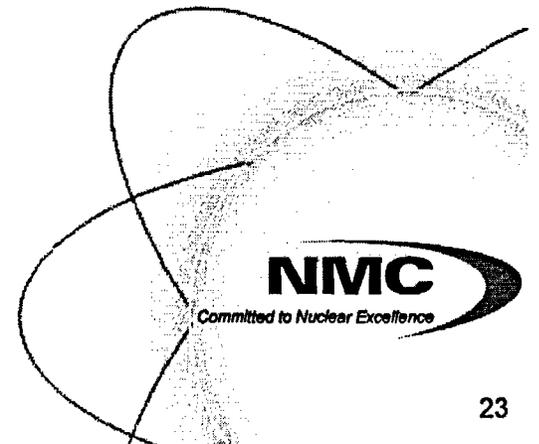


Effect on Safety Conscious Work Environment

Investigation in Response to This Kewaunee FFD Issue

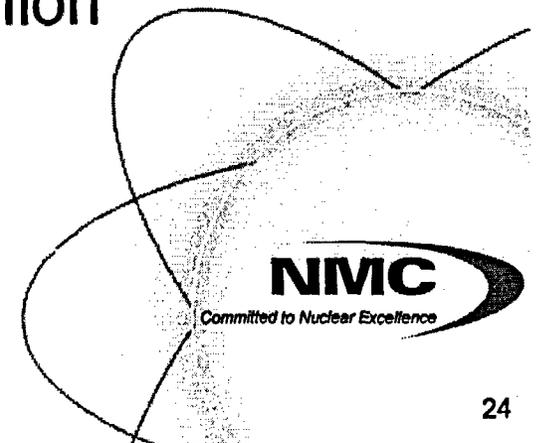
(NRC RAI 02-A-0114)

- Investigation initiated by NMC to evaluate the potential impact on the SCWE
- Interviewees indicated no reluctance to raise safety-related issues
- Conclusion: No evidence of a “chilling effect” at NMC facilities has been created because of the actions taken as a result of this FFD issue



Actions Taken by NMC

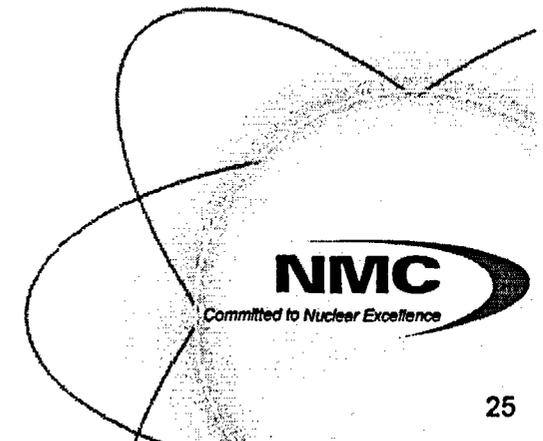
- NMC Access Authorization form updated
- FFD Program communication issued to NMC employees and contractors
- D&Z superintendent coached and counselled
- General Employee Training test question revised
- Relevant procedure clarified
- NMC and D&Z management met with union officials



Kewaunee Nuclear Power Plant Pre-Decisional Enforcement Conference

Summary

- NMC did not substantiate the allegation that the odor of alcohol had been reported to the contract Mechanical and Civil Superintendent
- NMC did not conclude that the contract Mechanical and Civil Superintendent provided incomplete or inaccurate information
- A “chilling effect” has not been created at NMC facilities as a result of this FFD issue
- These findings do not support escalated enforcement

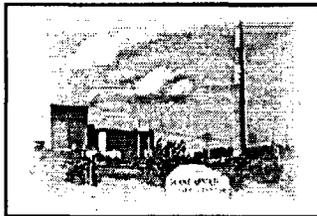
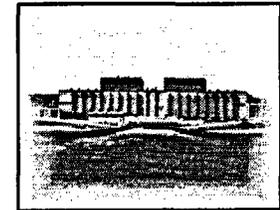
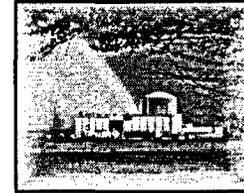
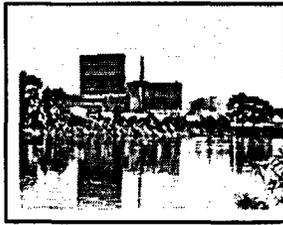


NRC 03-080
July 18, 2003

ATTACHMENT 4

**NUCLEAR MANAGEMENT COMPANY, LLC
KEWAUNEE NUCLEAR POWER PLANT
DOCKET 50-305 LICENSE NO. DPR-43**

July 18, 2003



**Kewaunee Nuclear Power Plant
Pre-Decisional Enforcement Conference**

July 16, 2003

Kewaunee Nuclear Power Plant Pre-Decisional Enforcement Conference

Agenda

Purpose – Coutu

Objective – Coutu

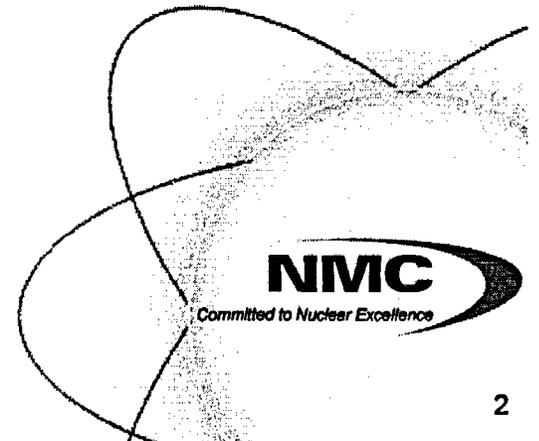
Results of Investigation – Coutu

Investigation Details – Cleveland

Effect on Safety Conscious Work Environment – Capristo

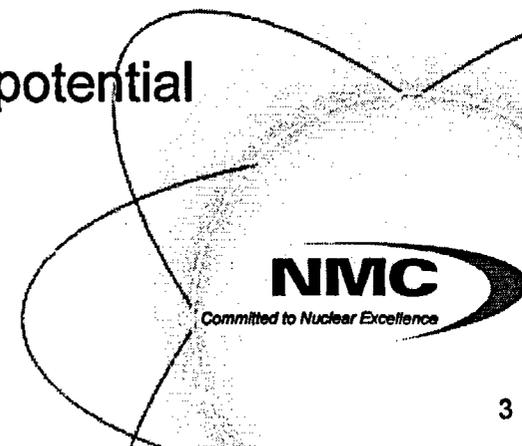
Actions Taken by NMC – Cleveland/Capristo

Summary – Coutu



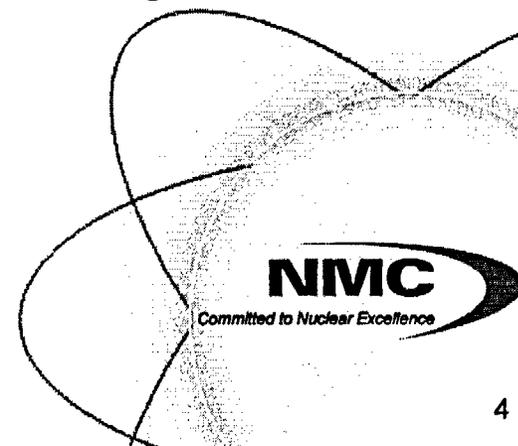
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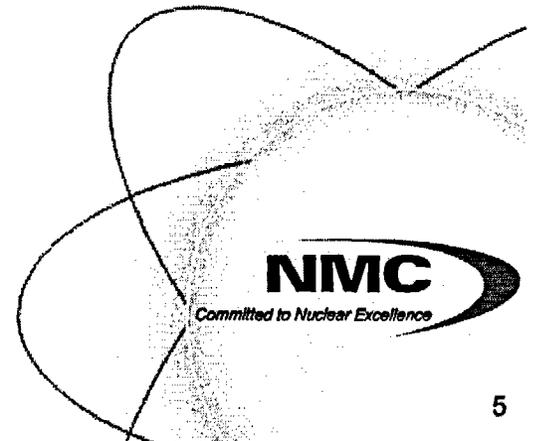


Results of Investigation

Background

Allegation: Day & Zimmerman NPS (D&Z) supervisors turn their heads when certain individuals come in “half-blitzed.”

- Due to the potential seriousness of the issue, an independent investigator (Walker Investigative Consultants) was retained to complete a comprehensive investigation.
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Results of Investigation

Initial Investigation

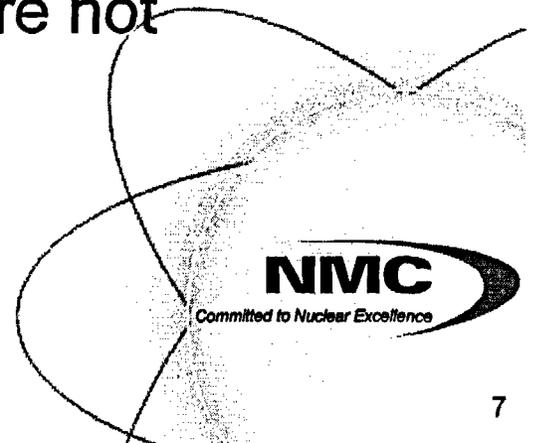
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Results of Investigation

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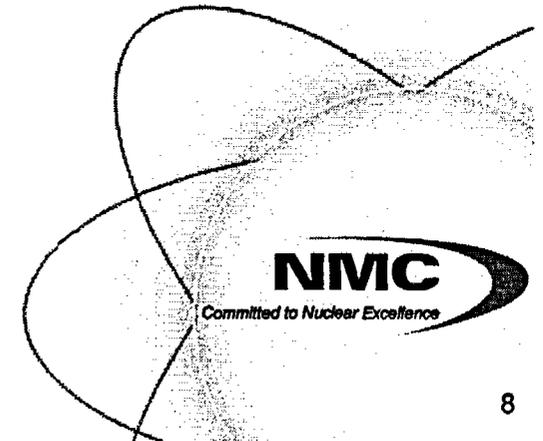


Results of Investigation

Conclusion

Concern partially substantiated.

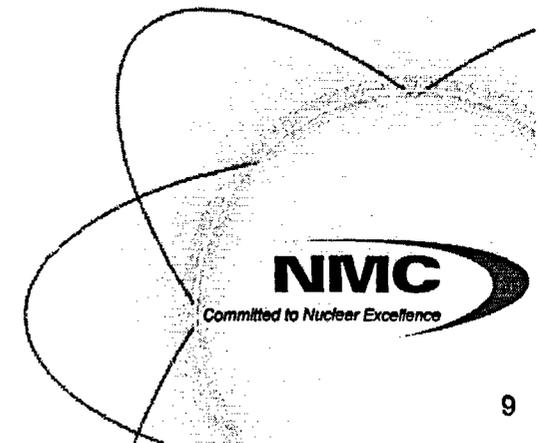
- It could not be concluded that the D&Z Foreman was unfit for duty.
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Results of Investigation

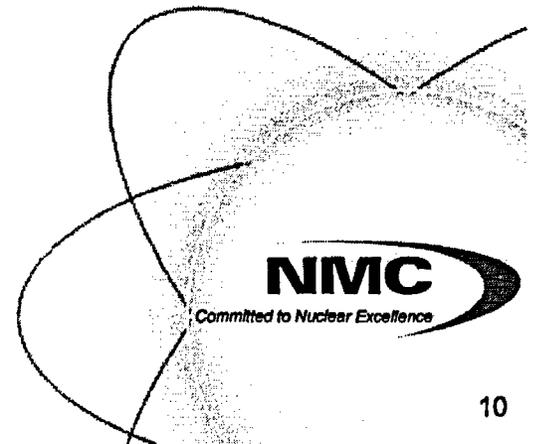
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Kewaunee Nuclear Power Plant Pre-Decisional Enforcement Conference

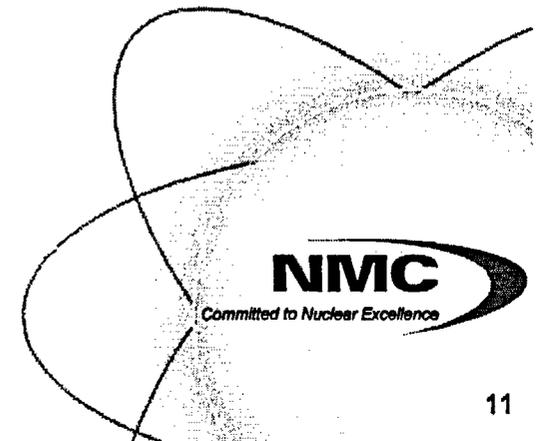
Investigation Details



Investigation Details

NMC's Conclusion

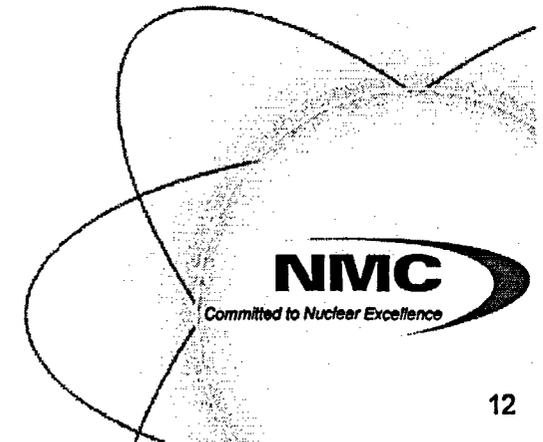
The Mechanical and Civil Superintendent was not informed of an odor of alcohol.



Investigation Details

Four welders deliberately failed to report the odor of alcohol

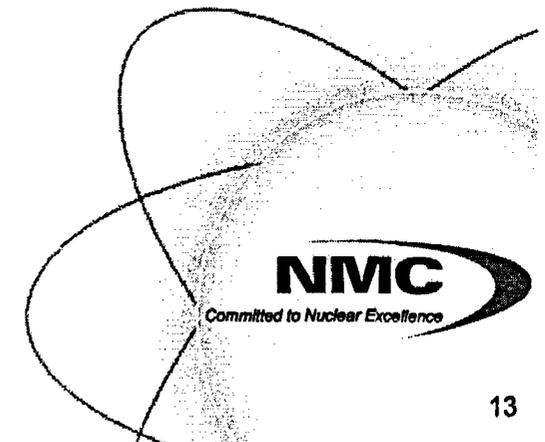
- Welders adequately trained
- **Prior to denial of access, welders admitted failure to report**
- Welders provided their reasons for not reporting
 - Don't create waves, keep eyes open, and mouth shut
 - Not my job to sniff others
 - Supervisors were aware of the D&Z Foreman's drinking habits; therefore, there was no reason to report and he was a fellow worker
 - Feared union reprisal



Investigation Details

Contract Superintendent Did Not Fail to Act on Welder Reports

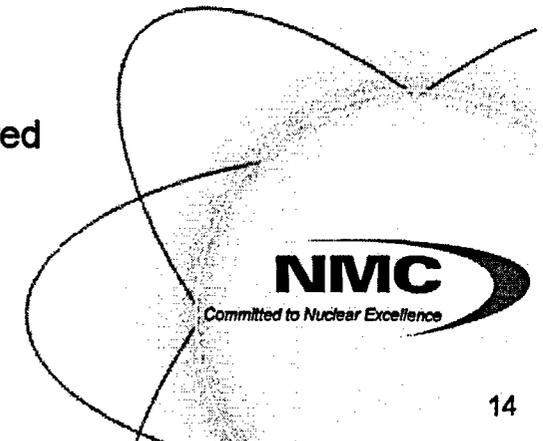
- A fifth welder claimed to have reported the odor of alcohol to the contract Superintendent
- NMC investigation found welder not credible
 - Contradictory statements
 - Uncorroborated claims and statements
 - Threat made to Superintendent



Investigation Details

Fifth Welder Credibility

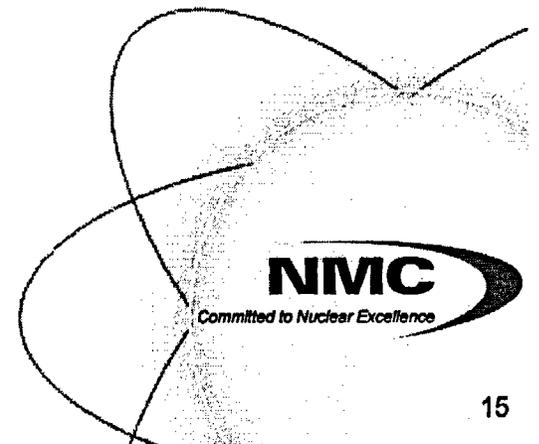
- **Contradictory statements made to NMC Investigators**
 - **Example 1**
 - "...[foreman] loaded every morning..."versus
 - "...didn't know anything about foreman being drunk..."
 - **Example 2**
 - Escorted by foreman to collection siteversus
 - Not escorted by foreman to collection site
 - **Example 3**
 - Collector acknowledged the foreman as "a little ripe"versus
 - Foreman was not at collection site and collector "appeared puzzled" when challenged regarding foreman's fitness



Investigation Details

Fifth Welder Credibility

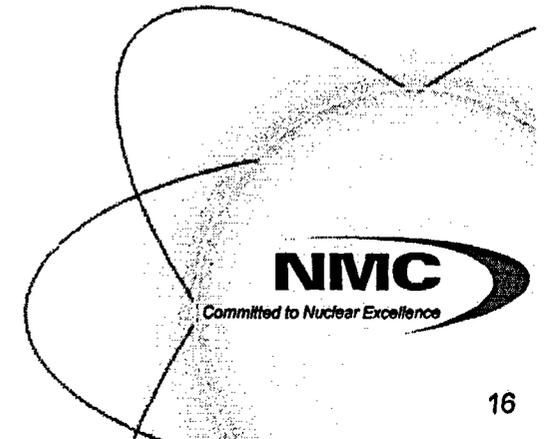
- Uncorroborated claims and statements made to NMC Investigators
 - Claimed foreman and co-worker went through access control together. One hour later he claimed the co-worker was for-cause tested
 - Claimed collector acknowledged foreman as not fit for duty
 - Provided a document (twice-removed hearsay) alleging that the Superintendent admitted to receiving reports of odor of alcohol and lying to investigators



Investigation Details

Fifth Welder Credibility

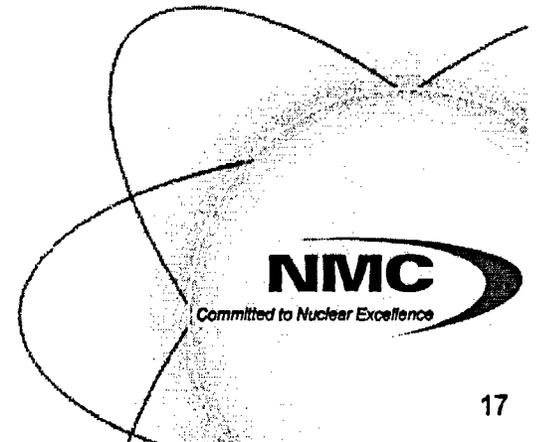
- Statements to Superintendent – June 2001
 - Claims he (fifth welder) should have been set up as foreman.
 - States foreman is an “idiot.”
 - States he is not going to “burn rod for the rest of his life.”
 - Threatens to “get even, and when I do you people won’t know what hit you.”



Investigation Details

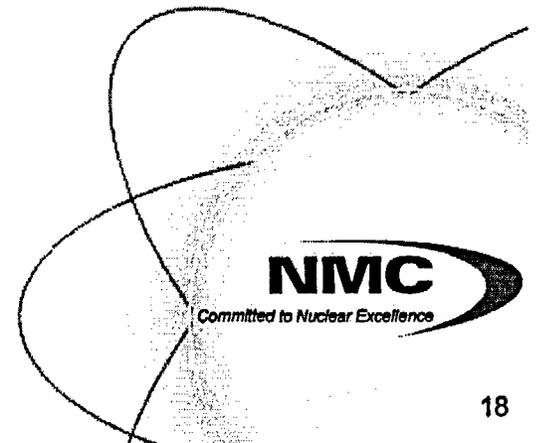
Conclusion

The NMC investigation concluded that the Mechanical and Civil Superintendent was not informed of an odor of alcohol.



Kewaunee Nuclear Power Plant Pre-Decisional Enforcement Conference

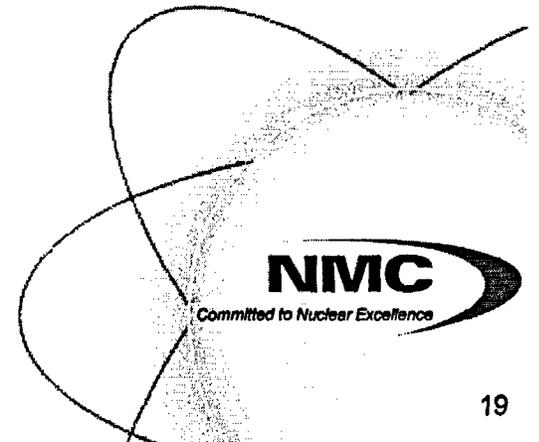
Effect on Safety Conscious Work Environment



Effect on Safety Conscious Work Environment

Introduction

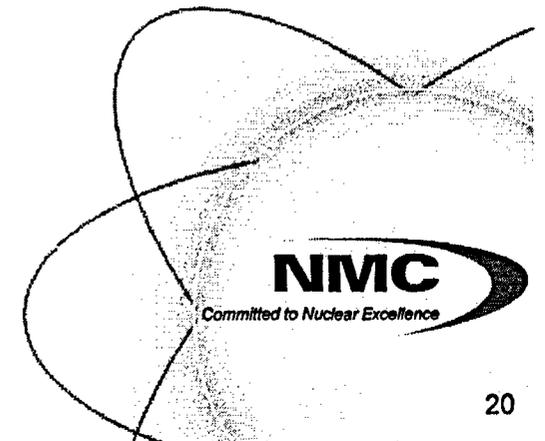
- NMC self-identified the potential for a “chilling effect” and took actions to address the Safety Conscious Work Environment (SCWE) throughout this period
- The basis for the NMC’s conclusion that the Kewaunee FFD issue did not create a “chilling effect” at Kewaunee or other NMC facilities



Effect on Safety Conscious Work Environment

Evaluations

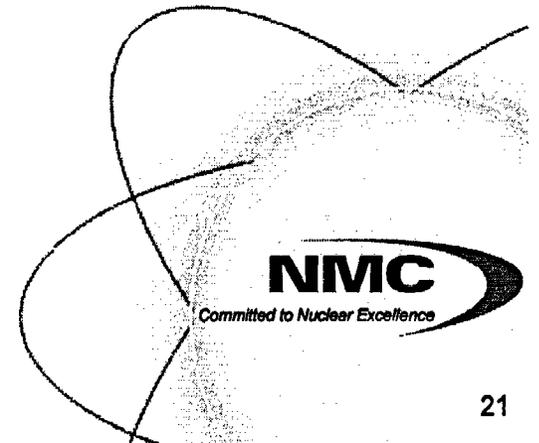
- NMC Fleet Safety Culture Assessment
- Concerns Environment Assessment
- Investigation in Response to NRC RAI 02-A-0114



Effect on Safety Conscious Work Environment

NMC Fleet Safety Culture Assessment

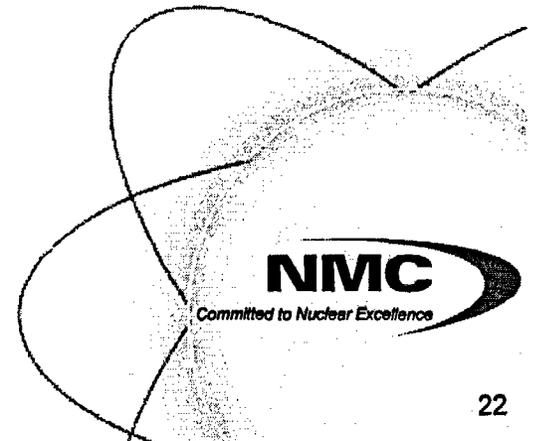
- Independent assessment completed by Synergy in September 2001
- Response for contract labor “Good” to “Very Good” in the areas of Nuclear Safety and SCWE
- Little change identified in follow-up assessment completed January 2003



Effect on Safety Conscious Work Environment

Concerns Environment Assessment

- Report on the SCWE at Point Beach completed by Dr. Michael Quinn, Sc.D. of Management Systems on January 31, 2002
- D&Z workforce common to Kewaunee and Point Beach
- Causes of challenges to SCWE reviewed and actions taken
 - None related to the Kewaunee FFD issues
 - Causes related to craft labor culture

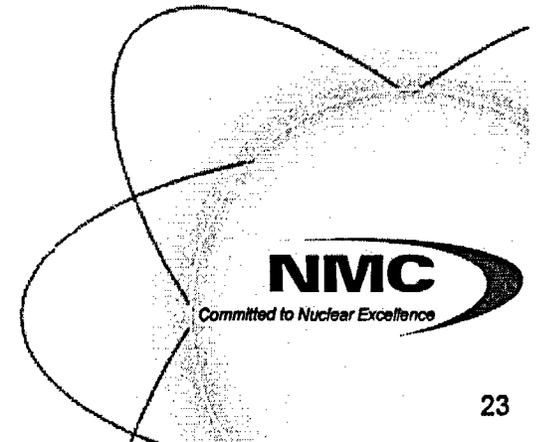


Effect on Safety Conscious Work Environment

Investigation in Response to This Kewaunee FFD Issue

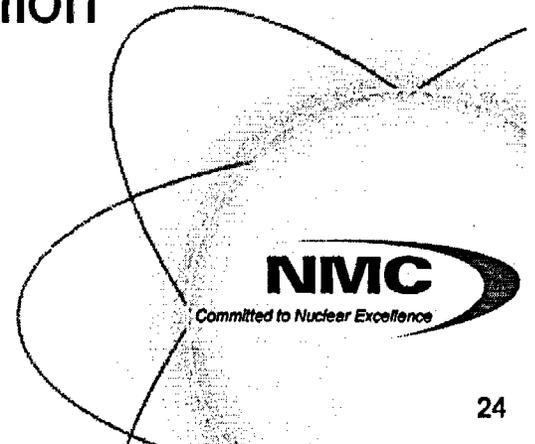
(NRC RAI 02-A-0114)

- Investigation initiated by NMC to evaluate the potential impact on the SCWE
- Interviewees indicated no reluctance to raise safety-related issues
- Conclusion: No evidence of a “chilling effect” at NMC facilities has been created because of the actions taken as a result of this FFD issue



Actions Taken by NMC

- NMC Access Authorization form updated
- FFD Program communication issued to NMC employees and contractors
- D&Z superintendent coached and counselled
- General Employee Training test question revised
- Relevant procedure clarified
- NMC and D&Z management met with union officials



Kewaunee Nuclear Power Plant Pre-Decisional Enforcement Conference

Summary

- NMC did not substantiate the allegation that the odor of alcohol had been reported to the contract Mechanical and Civil Superintendent
- NMC did not conclude that the contract Mechanical and Civil Superintendent provided incomplete or inaccurate information
- A “chilling effect” has not been created at NMC facilities as a result of this FFD issue
- These findings do not support escalated enforcement

