
**OFFICE OF ENFORCEMENT
ANNUAL REPORT**

Fiscal Year 1997

U. S. Nuclear Regulatory Commission

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Abstract

This annual report of the U.S. Nuclear Regulatory Commission's Office of Enforcement describes enforcement activities occurring during fiscal year 1997 (October 1, 1996 through September 30, 1997). The report addresses significant policy changes, highlights significant enforcement actions, and includes summaries of cases involving exercise of discretion, discrimination and actions involving individuals. It also addresses implementation, staff guidance, and initiatives for the agency's enforcement program. A variety of statistical tables and figures are also included.

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Overview of NRC Enforcement Program

The Commission has developed an enforcement program and Enforcement Policy to support the NRC's overall safety mission in protecting the public and the environment. Consistent with that purpose, enforcement action should be used as a deterrent to emphasize the importance of compliance with regulatory requirements, and to encourage prompt identification and prompt, comprehensive correction of violations.

Violations are identified through inspections and investigations. All violations are subject to civil enforcement action and may also be subject to criminal prosecution. After an apparent violation is identified, it is assessed in accordance with the Commission's Enforcement Policy. The Policy is published as NUREG-1600, "General Statement of Policy and Procedure for NRC Enforcement Actions," to provide widespread dissemination. Because it is a policy statement and not a regulation, the Commission may deviate from this statement of policy and procedure as appropriate under the circumstances of a particular case.

There are three primary enforcement sanctions available: Notices of Violation, civil penalties, and orders. A Notice of Violation (NOV) identifies a requirement and how it was violated, and formalizes a violation pursuant to 10 CFR 2.201. A civil penalty is a monetary fine issued under authority of Section 234 of the Atomic Energy Act (AEA) or Section 206 of the Energy Reorganization Act (ERA). Section 234 of the AEA provides for penalties of up to \$110,000 per violation per day. The Commission's order issuing authority under Section 161 of the AEA is broad and extends to any area of licensed activity that affects the public health and safety. Orders modify, suspend, or revoke licenses or require specific actions by licensees or persons. As a result of a rulemaking in 1991, the Commission's regulations now provide for issuing orders to persons who are not themselves licensed. NOVs and civil penalties are issued based on violations. Orders may be issued for violations, or in the absence of a violation, because of a public health or safety issue.

The first step in the enforcement process is assessing the severity of the violation. Severity Levels range from Severity Level I, for the most significant violations, to Severity Level IV for those of more than minor concern. Minor violations are not subject to formal enforcement action. Severity levels may be increased for cases involving a group of violations with the same root cause, repetitive violations, or willful violations.

A predecisional enforcement conference is normally conducted with a licensee before making an enforcement decision if escalated enforcement action (i.e., Severity Level I, II, or III violations, civil penalties or orders) appears to be warranted, and if the NRC concludes that it is necessary or the licensee requests it. If the NRC concludes that a conference is not necessary, it will normally provide a licensee with an opportunity to respond to the apparent violations before making an enforcement decision. The purpose of the conference is to obtain information that will assist the NRC in determining the appropriate enforcement action, such as: (1) a common understanding of facts, root causes and missed opportunities associated with the apparent violations, (2) a common understanding of corrective action taken or planned, and (3) a common understanding of the significance of issues and the need for lasting comprehensive corrective action. The decision to hold a conference does not mean that the agency has determined that a violation has occurred or that enforcement action will be taken. In accordance with the Enforcement Policy, conferences are normally open to public observation.

Civil penalties are considered for Severity Level III violations and are normally assessed for Severity Level I and II violations and knowing and conscious violations of the reporting requirements of Section 206 of the Energy Reorganization Act.

The NRC imposes different levels of civil penalties based on a combination of the type of licensed activity, the type of licensee, the severity level of the violation, and (1) whether the licensee has had any previous escalated enforcement action (regardless of the activity area) during the past 2 years or past 2 inspections, whichever is longer; (2) whether the licensee should be given credit for actions related to identification; (3) whether the licensee's corrective actions are prompt and comprehensive; and (4) whether, in view of all the circumstances, the matter in question requires the exercise of discretion. Although each of these decisional points may have several associated considerations for any given case, the outcome of the assessment process for each violation or problem, absent the exercise of discretion, is limited to one of the following three results: no civil penalty, a base civil penalty, or twice the base civil penalty.

If a civil penalty is to be proposed, a written Notice of Violation and Proposed Imposition of Civil Penalty is issued and the licensee has 30 days to respond in writing, by either paying the penalty or contesting it. The NRC considers the response, and if the penalty is contested, may either mitigate the penalty or impose it by order. Thereafter, the licensee may pay the civil penalty or request a hearing.

In addition to civil penalties, orders may be used to modify, suspend, or revoke licenses. Orders may require additional corrective actions, such as removing specified individuals from licensed activities or requiring additional controls or outside audits. Persons adversely affected by orders that modify, suspend, or revoke a license, or that take other action may request a hearing.

The NRC issues a press release with a proposed civil penalty or order. All orders are published in the *Federal Register*.

Office of Enforcement

The Office of Enforcement (OE) exercises oversight of NRC enforcement programs, provides programmatic and implementation direction to regional and headquarters offices conducting or involved in enforcement activities, and ensures that regional enforcement programs are adequately carried out.

The Office of Enforcement reports to the Executive Director for Operations (EDO) through the Deputy Executive Director for Regulatory Effectiveness.

The Office of Enforcement has 12 full-time employees (FTEs) assigned for headquarters activities and 8 FTEs assigned for regional activities (although these FTEs report to the Regional Administrators).

1. Enforcement Policy Changes

This section describes the 10 revisions to the Enforcement Policy that were made during fiscal year 1997.

A. October 11, 1996: Adjustment of Civil Monetary Penalties (61 FR 53557)

On September 27, 1996, the Commission approved amending the regulations to adjust the maximum amounts of civil penalties under statutes within the jurisdiction of the NRC. The changes were mandated by Congress in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996. The Commission also approved conforming changes to the Enforcement Policy such that the maximum penalty amount was increased to \$110,000 per violation per day and the civil penalty amounts in Table 1A were increased by 10%. These changes were subsequently published in the *Federal Register* on October 11, 1996, and were effective on November 12, 1996.

B. October 18, 1996: Departures From the FSAR (61 FR 54461)

On October 18, 1996, the Commission published revisions to the Enforcement Policy to address departures from the FSAR in violation of 10 CFR 50.59 and for failures to update the FSAR in violation of 10 CFR 50.71(e). The revision provides more guidance in categorizing violations by severity level and more guidance concerning the effect of corrective action, reporting requirements, and old design issues. The changes are intended to encourage licensees to voluntarily take the initiative to identify and correct FSAR discrepancies that might be identified through current surveillance and quality assurance activities.

C. December 10, 1996: Commission Consultation; Open Predecisional Enforcement Conferences; NCVs; Risk (61 FR 65088)

On December 10, 1996, the Commission published revisions to the Enforcement Policy that addressed four issues. The first modification revised the list of enforcement matters on which the NRC staff must consult with the Commission. Based on experience in implementing the Policy, Section III of the Policy was modified to reduce the number of situations on which the staff must consult with the Commission prior to taking action. The second modification revised the Policy to provide that most predecisional enforcement conferences will be open to public observation. The decision to modify Section V of the Policy came at the end of a trial program that began on July 10, 1992, that provided for conducting approximately 25 percent of all conferences open for public observation. The third modification clarified the circumstances in which a licensee-identified violation will be treated as a Non-Cited Violation. The criterion in Section VII.B.1(a) was modified by deleting the reference to licensee-identification through an event to make it clear that use of discretion is not automatic if the violation is identified through an event. The fourth modification included additional guidance that stated that risk was an appropriate consideration in developing enforcement sanctions. Section IV was modified to state that in considering the significance of a violation, that risk is an appropriate consideration. Section VII.A.1(e) was also modified to state that exercise of discretion should be considered in situations where the violation has resulted in substantial increase in risk, including cases in which the duration of the violation has contributed to the substantial increase.

D. December 10, 1996: Part 20, Exceedance of Dose Constraints (61 FR 65128)

On December 10, 1996, the Commission published a revision to the Enforcement Policy that reflected the Commission's final rule amending 10 CFR Part 20 to add § 20.1101(d), that establishes the requirements for reporting and taking corrective action. Supplement IV of the Policy was modified to add an example of a violation categorized at Severity Level IV involving the failure to report an exceedance of the dose constraint established in § 20.1101(d), or failure to take corrective action for an exceedance.

E. December 26, 1996: Correction to Exercise of Discretion (61 FR 68070)

On December 26, 1996, the Commission published a correction to the revision of the Enforcement Policy that was published on December 10, 1996, involving Commission consultation. This correction modified Section VII to reflect the appropriate policy as to notification to the Commission when the staff exercised discretion in enforcement matters.

F. February 12, 1997: Gaseous Diffusion Plants; NRC Organizational Changes; Commission Consultation (62 FR 06677)

On February 12, 1997, the Commission published revisions to the Enforcement Policy that were consistent with the Commission's final rule amending regulations governing Gaseous Diffusion Plants (GDPs). Table 1A was modified to add GDPs to category "a," such that the base civil penalty for a Severity Level I violation at a GDP would be \$110,000 and Supplement VI was modified to provide additional examples for categorizing severity levels of violations. In addition, the Policy was amended to reflect recent NRC organizational changes. The changes redesignate which NRC officials are delegated the responsibility for performing certain enforcement functions. Section III was modified to clarify that Commission consultation was appropriate if the staff proposed to impose a civil penalty for *a single violation or problem* that is greater than 3 times the Severity Level I value shown in Table 1A for that class of licensee.

G. March 24, 1997: Participation in Predecisional Enforcement Conferences Involving Discrimination (62 FR 13906)

On March 24, 1997, the Commission published revisions to the Enforcement Policy regarding predecisional enforcement conferences that are based on findings of discrimination. For appropriate cases, the revision allows some degree of participation by the complainant in the predecisional enforcement conference.

H. May 28, 1997: Part 34, Radiography, Examples of Potential Violations (62 FR 28974)

On May 28, 1997, the Commission published revisions to the Enforcement Policy that were consistent with the Commission's final rule amending 10 CFR Part 34. Supplement VI of the Policy was revised to add examples for categorizing the significance of violations of 10 CFR Part 34, Licensees for Radiography and Radiation Safety Requirements for Radiographic Operations.

I. June 19, 1997: Editorial Corrections (62 FR 33447)

On June 19, 1997, the Commission published a correction to the revision of the Enforcement Policy that was published on May 28, 1997, involving examples of violations of 10 CFR Part 34. The correction was necessary to correct paragraph numbering and removing unnecessary language.

J. October 8, 1997: Clarification on Release of OI Reports Associated With Conferences Involving Discrimination and Role of the Complainant (62 FR 52577)

On October 8, 1997, the Commission published a revision to the Enforcement Policy that clarified the procedures associated with predecisional enforcement conferences based on reports of the NRC Office of Investigations (OI) associated with discrimination. On March 24, 1997, the Commission published changes to the Enforcement Policy concerning predecisional conferences based on discrimination. Consistent with the Statement of Consideration for those changes, Section V of the Policy was modified to reflect that the OI report *may* be made public. Also, additional language was added to clarify that the purpose of the complainant's participation in a conference is to provide information to the NRC to assist the staff in its deliberations.

2. Implementation, Staff Guidance, & Initiatives

This section addresses implementation initiatives and changes during fiscal year 1997, including a 2-year review of the Enforcement Policy, staff guidance and training, and availability of enforcement information on the Internet.

A. Continuation of Severity Level Review

In 1995, the staff initiated a review of the severity level examples in the supplements of the Enforcement Policy. The purpose of the review was to ensure that the examples were appropriately focused on safety significance, including consideration of actual safety consequence, potential safety consequence, and regulatory significance.

Due to staffing constraints in OE, this review has not been completed. OE intends to continue its review efforts on this initiative.

B. Two-Year Review of the Enforcement Policy

On June 30, 1995, the Nuclear Regulatory Commission (NRC) issued a complete revision of the Enforcement Policy (60 FR 34381). In approving the 1995 revision to the Enforcement Policy, the Commission directed the staff to perform a review of its implementation of the Policy after approximately 2 years of experience and to consider public comments.

OE issued a *Federal Register* notice on February 5, 1997, to solicit public comments on the 1995 revisions to the Enforcement Policy. The agency received three responses, including: (1) a response from the Nuclear Energy Institute (NEI), (2) a response from members of the Region IV

Utility Group (RUG IV), and (3) a response on behalf of the Council on Radionuclides and Radiopharmaceuticals (CORAR). In addition, subsequent to the comment period, the agency received a letter from the Union of Concerned Scientists (UCS) on September 9, 1997, recommending that the agency perform a review of the Enforcement Policy aimed at (1) curtailing its subjectivity (i.e., improving consistency), and (2) improving the timeliness for enforcement actions. Although the UCS request was made beyond the comment period, the staff considered UCS's comments within its review of the Enforcement Policy. OE was finalizing its review at the end of the fiscal year.

C. NRC Enforcement Manual Change Notices

Because the enforcement process changes from time to time, the *NRC Enforcement Manual (Manual)* was designed to incorporate future supplements through the issuance of Change Notices.

During fiscal year 1997, OE issued one Change Notice to the *Manual*.

Change Notice No.3 was issued in November 1996, and included the incorporation of five Enforcement Guidance Memoranda that addressed issues such as the maintenance rule, steam generator tube inspections, the change in civil penalty amounts, and enforcement issues associated with the FSAR.

D. Enforcement Guidance Memoranda (EGMs)

The normal method for the Director, OE, to issue additional enforcement guidance is through the issuance of an EGM. EGMs may add guidance for Enforcement Policy application, revise existing guidance on processing enforcement actions, or transmit temporary guidance.

Eighteen EGMs were issued in fiscal year 1997.

- EGM 96-004 was issued on October 21, 1996, to highlight modifications to the Enforcement Policy that addressed increases in the civil penalty amounts.
- EGM 96-005 was issued on October 21, 1996, to highlight modifications to the Enforcement Policy that addressed licensee departures from the Final Safety Analysis Report (FSAR).
- EGM 97-001 was issued on January 13, 1997, to highlight modifications to the Enforcement Policy that addressed violations of new regulations on control of airborne effluents of radioactive material (61 FR 65120).
- EGM 97-002 was issued on February 5, 1997, to provide guidance concerning failure of an Agreement State licensee to file with the NRC for reciprocity before working in an area under exclusive Federal jurisdiction.
- EGM 97-003 was issued on February 7, 1997, to highlight modifications to the Enforcement Policy that addressed: (1) open predecisional enforcement conferences; (2) consultation with the Commission on enforcement actions; (3) risk significant violations; and (4) non-cited violations.

- EGM 97-004 was issued on February 7, 1997, to provide guidance concerning a review panel established to help ensure that 10 CFR 50.66, "Requirements for monitoring the effectiveness of maintenance at nuclear power plants" (the maintenance rule) would be enforced in a consistent manner.
- EGM 97-005 was issued on March 3, 1997, to disseminate a set of opening remarks suitable for use at predecisional enforcement conferences with licensed operators.
- EGM 97-006 was issued on March 14, 1997, to provide guidance on processing enforcement actions specific to various scenarios involving failure of an Agreement State licensee to file with the NRC for reciprocity before working in an area under exclusive Federal jurisdiction.
- EGM 97-006A was issued on May 6, 1997, to provide a form letter to be sent to the head of the relevant Federal facility in cases where the NRC issues an enforcement action against an Agreement State licensee for working in an area under exclusive Federal jurisdiction without filing with the NRC for reciprocity.
- EGM 97-007 was issued on March 17, 1997, to provide guidance for dispositioning violations of the Clarification of Decommissioning Funding Assurance Rule (60 FR 38235).
- EGM 97-008 was issued on March 17, 1997, to highlight modifications to the Enforcement Policy that: (1) added base civil penalties for gaseous diffusion plants (GDPs) and examples to assist in categorizing the severity levels of violations at GDPs; (2) clarified the requirement for Commission consultation in enforcement actions; and (3) reflected a new principal enforcement officer, the Deputy Executive Director for Regulatory Effectiveness, Program Oversight, Investigations, and Enforcement.
- EGM 97-009 was issued on May 8, 1997, to disseminate changes to the Enforcement Manual after the Commission approved the NRC staff's request to delete the requirement for the staff to notify the Commission when the enforcement staff disagrees with the conclusions of an Office of Investigations (OI) report, except when the Director, OI, believes that consultation with the Commission is warranted.
- EGM 97-010 was issued on June 3, 1997, to highlight modifications to the Enforcement Policy that addressed violations of new regulations on radiography safety requirements (61 FR 28948).
- EGM 97-011 was issued on June 6, 1997, to provide guidance for considering how the risk significance of events should be factored into staff decisions on enforcement actions.
- EGM 97-012 was issued on June 9, 1997, to provide additional guidance on the use of non-cited violations for Severity Level IV violations.
- EGM 97-012A was issued on June 26, 1997, to provide a flow chart that graphically represents the decisional points to consider in determining whether a Severity Level IV violation should be dispositioned as a Non-Cited Violation.

- EGM 97-013 was issued on July 14, 1997, to provide additional guidance on how to issue a citation for non-compliance with Technical Specifications Limiting Conditions for Operation and ACTION statements.
- EGM 97-014 was issued on July 14, 1997, to provide guidance on exercising enforcement discretion for situations beyond the licensee's control.
- EGM 97-015 was issued on July 17, 1997, to provide guidance on compliance with the Small Business Regulatory Fairness Act.
- EGM 97-016 was issued on September 25, 1997, to clarify enforcement guidelines for violations involving deliberate misuse of licensed material.

E. Enforcement Training

The Office of Enforcement routinely provides training on the enforcement program through several NRC training courses. During fiscal year 1997, OE provided comprehensive enforcement training in the Fundamentals of Inspection Course (FOIC) in April 1997.

The regions also provided training on the enforcement program in the regional offices.

F. NRC Enforcement Manual on LAN

A "read only" electronic text of the *Manual* continues to be included on the agency's AUTOS LAN to provide wide-spread dissemination of enforcement guidance to all NRC personnel who are regularly involved in enforcement activities. The *Manual* can be accessed by selecting the Agency-Wide icon and then selecting the Enforcement Manual program.

G. Enforcement Information on the Internet

To ensure timely and widespread public dissemination of enforcement information, OE continues to electronically publish enforcement information on the Internet. A home page for the enforcement program was established on the World Wide Web in May 1996. The home page includes a general description of the enforcement program and its mission, enforcement contacts, the Enforcement Policy (NUREG-1600), the NRC Enforcement Manual (NUREG/BR-0195), the policy statement for "Nuclear Employees Raising Safety Concerns Without Fear of Retaliation," a link to Department of Labor (DOL) adjudicatory decisions, and upcoming predecisional enforcement conferences. It also includes a copies of significant enforcement actions that the agency has issued arranged by reactor, materials, and individual actions. The Internet address for OE's home page is: www.nrc.gov/OE/.

3. Escalated Enforcement and Administrative Items

During fiscal year 1997, the agency issued 264 individual escalated enforcement items. Escalated enforcement items include individual civil penalties, orders (other than orders imposing civil penalties), and Notices of Violation for Severity Level I, II, or III violations. Note that an enforcement case or enforcement action issued to a licensee may include more than one individual enforcement item. Table 1 includes a numerical breakdown of escalated enforcement items and Demands for Information issued by each regional office.

Table 2 includes a statistical summary of escalated enforcement items based on the type of licensee, vendor, or individual.

Timeliness of Enforcement Actions

The average time to issue escalated enforcement actions (excluding orders) is a performance measure used by the NRC. For actions that do not involve an investigation, the measurement period begins on the date of the inspection exit meeting. For actions that involve an investigation, but no referral to the Department of Justice (DOJ), the measurement period begins on the date of issuance of the report of investigation. For actions that involve an investigation and referral to DOJ, the measurement period begins on the date DOJ informs the NRC that the NRC may proceed with civil action. For actions that involve discrimination and Department of Labor (DOL) proceedings, the measurement period begins when there is an appropriate decision in the DOL process or sufficient evidence from the NRC's processes to support actions.

On the basis of the defined measurement period, escalated enforcement actions (excluding orders) are to be issued within an average of no more than 90 days. During fiscal year 1997 this standard was met, with enforcement actions issued in an average time of 88.5 days. During fiscal year 1996, enforcement actions were issued in an average time of 84.5 days.

Civil Penalty Assessment Process: Determining Whether a Civil Penalty Should Be Proposed

If the NRC concludes that a violation should be categorized at Severity Level I, II, or III, the staff then considers whether (for a licensed facility), a civil penalty should be proposed for the violation. For the majority of cases, in accordance with Section VI.B.2 of the Enforcement Policy, the civil penalty assessment process considers: (1) whether the licensee has had any previous escalated enforcement action (regardless of the activity area) during the past 2 years or past 2 inspections, whichever is longer; (2) whether the licensee should be given credit for actions related to identification; (3) whether the licensee's corrective actions are prompt and comprehensive; and (4) whether, in view of all the circumstances, the matter in question requires the exercise of discretion. Depending on the outcome of the civil penalty process, the staff will conclude whether an escalated Notice of Violation should be issued with or without a civil penalty. Figure 1 of this report includes a graphic representation of the civil penalty process and includes a statistical breakdown of the 189 individual enforcement issues or enforcement items assessed under the process. It should be noted that an enforcement case or enforcement action issued to a licensee may include more than one individual enforcement item. It should also be noted that this number does not directly correlate to the 236 escalated Notices of Violation issued with and without civil penalties in Table 1 because the civil penalty assessment process only applies to licensees and because not all cases were assessed under the civil penalty assessment process.

Total Escalated NOVs w/o penalty and civil penalties	NOVs Issued to Individuals	Enforcement Discretion Section VII.A	Enforcement Discretion Section VII.B.6	Beyond Statute of Limitations
236	20	21	5	1 = 189

Specifically, 20 Notices of Violation were issued to individuals, 21 enforcement issues were based solely on an exercise of discretion in accordance with Section VII.A of the Enforcement Policy (Escalation of Enforcement Sanctions), five issues were based solely on an exercise of discretion in accordance with Section VII.B.6 of the Enforcement Policy (Violations Involving Special Circumstances), and one case was beyond the 5-year Statute of Limitations for issuing civil penalties. Figure 2 of this report includes a graphic representation of the civil penalty process and includes a statistical breakdown of the 92 individual reactor enforcement issues or enforcement items assessed under the process. Figure 3 includes the statistical breakdown of the 97 individual materials enforcement items. Figures 4 through 15 include the statistical breakdown of enforcement issues based on the 12 possible paths of the civil penalty assessment process flowchart.

A. Escalated Notices of Violation (Without Civil Penalties)

During fiscal year 1997, the agency issued 124 escalated Notices of Violation (without civil penalties). (This number reflects the number of individual enforcement issues versus the number of enforcement cases issued during the year.) Twenty of these items were issued to individuals and other non-licensed persons. See Section 5 for more information on enforcement items issued to individuals and other non-licensed persons. Appendix A includes a short summary description of each of the enforcement issues as well as a summary of the civil penalty assessment process, i.e., why a civil penalty was not proposed.

B. Civil Penalty Actions

During fiscal year 1997, the agency issued 112 individual civil penalty issues. Appendix B includes a short summary description of each of these items, as well as a summary of the civil penalty assessment process, i.e., why a civil penalty was proposed. Table 3 includes statistical information on civil penalties and Table 4 includes a statistical analysis of the range of civil penalties for both reactor and materials licensees. As stated before, an enforcement action may include more than one individual civil penalty issue.

During fiscal year 1997, six enforcement actions included civil penalties in excess of \$300,000. These actions included:

1. \$900,000 - Thermal Science, Inc. (EA 95-009)
2. \$650,000 - Commonwealth Edison Company: LaSalle (EA 96-325)
3. \$650,000 - Connecticut Yankee Atomic Power Company: Haddam Neck (EA 96-001)
4. \$450,000 - Illinois Power Company: Clinton (EAs 96-412, 97-001, 97-002, 97-060)
5. \$330,000 - Commonwealth Edison Company: Zion (EAs 97-222, 97-223)
6. \$330,000 - Duke Power Company: Oconee (EAs 97-297, 97-298)

C. Orders

During fiscal year 1997, the agency issued 28 orders. Eight of these orders were issued to licensees while 20 of the orders were issued to individuals. (See Section 5 for more information on enforcement actions issued to individuals and other non-licensed persons.) Appendix C includes a short summary description of each of the eight orders issued to licensees. In addition, 10 civil penalty imposition orders were issued.

D. Demands for Information

During fiscal year 1997, the agency issued 10 formal Demands for Information to licensees. Appendix D includes a short summary description of each of these actions. (See Section 5 for more information on Demands for Information issued to individuals.)

E. Summary of Significant Actions

The NRC considers violations categorized at Severity Level I and II to be very significant. The agency also considers enforcement actions consisting of multiple Severity Level III violations to be very significant. During fiscal year 1997, the agency issued four enforcement cases including 13 individual Severity Level I issues. The agency issued 23 enforcement cases including 25 individual Severity Level II issues. In addition, seven of these 23 cases were issued in conjunction with Severity Level III issues. The agency issued 13 multi-action enforcement cases including 29 individual Severity Level III issues. These significant cases are listed below. Case summaries are included in the referenced appendix.

SEVERITY LEVEL I CASES

***Nelson Excavating, Inc., Thomas, West Virginia
Supplement I and IV***

EA 96-308

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$5,000 was issued on January 27, 1997, for a Severity Level I violation. (Appendix B.)

***Power Inspection, Inc., Wexford, Pennsylvania
Supplements VI and VII***

EA 95-025

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$40,000 was issued on February 18, 1997, for a Severity Level I violation and a Severity Level I problem. (Appendix B.)

***Tennessee Valley Authority, Sequoyah, Units 1 & 2
Supplement VII***

EA 95-199

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$100,000 was issued on January 13, 1997, for a Severity Level I violation. (Appendix B.)

***Thermal Science, Inc., St. Louis, Missouri
Supplement VII***

EA 95-009

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$900,000 was issued on October 1, 1996, for nine Severity Level I violations. (Appendix B.)

SEVERITY LEVEL II CASES

***Baltimore Gas & Electric Company, Calvert Cliffs, Units 1 & 2
Supplement IV***

EA 97-192

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$176,000 was issued on August 11, 1997, for a Severity Level II problem. (Appendix B.)

***Barnett Industrial X-Ray, Inc., Stillwater, Oklahoma
Supplement VI***

EA 96-502

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$4,000 was issued on February 24, 1997, for a Severity Level II problem. (Appendix B.)

***Centerior Service Company, Perry, Units 1 & 2
Supplement VII***

EA 96-253

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$160,000 was issued on October 9, 1996, for a Severity Level II violation. (Appendix B.)

***Commonwealth Edison Company, LaSalle, Units 1 & 2
Supplement I***

EA 96-325

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$650,000 was issued on January 24, 1997, for a Severity Level II problem and a Severity Level III problem. (Appendix B.)

***Conam Inspection, Inc., Itaska, IL
Supplements IV and VI***

EA 97-207

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$16,000 was issued on June 9, 1997, for a Severity Level II problem. (Appendix B.)

***Connecticut Yankee Atomic Power Company, Haddam Neck
Supplements I & VIII***

EA 96-001

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$650,000 was issued on May 12, 1997, for three Severity Level II problems, one Severity Level III problem not assessed a civil penalty, and numerous Severity Level IV violations. (Appendix B.)

Connell Limited Partnership, Tulsa, Oklahoma EA 96-536
Supplement VI

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$8,800 was issued on March 6, 1997, for violations classified at Severity Level II. (Appendix B.)

CTI, Inc., Anchorage, Alaska EA 96-232
Supplement VI

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$13,000 was issued on October 31, 1996, for a Severity Level II problem and a Severity Level III problem. (Appendix B.)

Duke Power Company, Oconee, Units 1 & 2 EAs 97-297 & 97-298
Supplement II

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$330,000 was issued on August 27, 1997, for a Severity Level II violation and a Severity Level III violation. (Appendix B.)

Subhash Khullar IA 97-031

A Notice of Violation and Demand for Information for a Severity Level II violation was issued on March 21, 1997. (Appendix G.)

Fernandez, M.D., Jose, San Juan, PR EA 97-137
Supplements IV and VI

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$8,000 was issued on June 11, 1997, for a Severity Level II problem. (Appendix B.)

Florida Power Corporation (Pritt-McEnany Roofing, Inc.) EA 96-336
Supplement VII

A Notice of Violation for a Severity Level II violation was issued on December 5, 1996. (Appendix A.)

Florida Power Corporation, Crystal River, Unit 3 EAs 96-365, 96-465
Supplement I & 96-527

A Notice of Violation and Exercise of Enforcement Discretion was issued on March 12, 1997, for a Severity Level II problem, and two Severity Level III violations. (Appendix A.)

Grand View Hospital, Sellersville, Pennsylvania EA 97-309
Supplement V

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$4,400 was issued on August 13, 1997, for a Severity Level II problem. (Appendix B.)

**Honolulu Medical Group, Honolulu, Hawaii
Supplement VII**

EA 95-006

A Notice of Violation for a Severity Level II violation was issued on January 23, 1997. (Appendix A.)

**Illinois Power Company, Clinton
Supplements I and IV**

EAs 96-412, 97-001,
97-002, & 97-060

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$450,000 was issued on June 9, 1997, for one Severity Level II problem consisting of two violations and four Severity Level III problems consisting of 28 violations. (Appendix B.)

**Koppel Steel Corporation, Beaver Falls, Pennsylvania
Supplement VII**

EA 96-498

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$8,000 was issued on March 19, 1997, for a Severity Level II violation. (Appendix B.)

**Minnesota Mining and Manufacturer Center, St. Paul, Minnesota
Supplement VI**

EA 96-403

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$8,000 was issued on January 7, 1997 for a Severity Level II violation.

**Pennsylvania Power & Light Company, Susquehanna, Units 1 & 2
Supplements I and VII**

EAs 96-270 &
96-347

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$210,000 was issued on June 20, 1997, for a Severity Level II problem and a Severity Level III violation. (Appendix B.)

**Philadelphia Electric Company, Limerick, Units 1 & 2
Supplement VII**

EA 97-050

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$80,000 was issued on August 5, 1997, for a Severity Level II problem. (Appendix B.)

**Public Service Electric and Gas Company, Salem, Units 1 & 2
Supplement VII**

EA 96-177

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$80,000 was issued on December 9, 1996 for a Severity Level II violation. (Appendix B.)

**Sadovsky, (DVM), Roy, North Hills, New Jersey
Supplements IV, V, & VI**

EA 97-150

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$4,000 was issued on May 1, 1997, for a Severity Level II problem. (Appendix B.)

***United Nuclear Corporation, Gallup, New Mexico
Supplement VII***

EA 93-170

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$100,000 was issued on February 13, 1997, for a Severity Level II problem. (Appendix B.)

MULTIPLE SEVERITY LEVEL III CASES

***Carolina Power and Light Company, Brunswick, Units 1 and 2
Supplement I***

EA 96-354

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$150,000 was issued on November 19, 1996, for two Severity Level III violations. (Appendix B.)

***Commonwealth Edison Company, Byron, Units 1 & 2
Supplement I***

EA 96-508

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$100,000 was issued on February 27, 1997, for four violations categorized as two Severity Level III problems. (Appendix B.)

***Commonwealth Edison Company, Zion, Units 1 & 2
Supplement III***

EAs 97-222 & 97-223

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$330,000 was issued on September 2, 1997, for three Severity Level III violations. (Appendix B.)

***Consolidated Edison Company, Indian Point, Unit 2
Supplement I***

***EAs 96-509, 97-031,
97-113, & 97-191***

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$205,000 was issued on May 27, 1997, for three Severity Level III violations and one Severity Level III problem consisting of four individual violations. (Appendix B.)

***Duquesne Light Company, Beaver Valley, Unit 1
Supplement I***

EAs 96-462 & 96-540

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$160,000 was issued on March 10, 1997, for a Severity Level III violation and a Severity Level III problem. (Appendix B.)

***Niagara Mohawk Power Corporation, Nine Mile Point
Supplement I***

***EAs 96-474, 96-475,
& 96-541***

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$200,000 was issued on April 10, 1997. The action was based on three Severity Level III violations/problems. (Appendix B.)

***Public Service Electric and Gas Company, Hope Creek, Unit 1
Supplement I*** **EA 96-125**

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$150,000 was issued on October 23, 1996, for three Severity Level III problems. (Appendix B.)

***Public Service Electric and Gas Company, Salem, Units 1 & 2
Supplement III*** **EA 96-344**

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$100,000 was issued on December 11, 1996, for two Severity Level III violations. (Appendix B.)

***St. Francis Hospital, Escanaba, Michigan
Supplements IV, VI, & VII*** **EA 96-491**

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$2,500 was issued on May 1, 1997, for a Severity Level III violation and a Severity Level III problem. (Appendix A and Appendix B.)

***Temple University, Philadelphia, Pennsylvania
Supplement IV*** **EA 96-455**

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$10,000 was issued on December 31, 1996, for two Severity Level III violations. (Appendix B.)

***Tennessee Valley Authority, Sequoyah, Unit 2
Supplement I*** **EA 96-414**

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$100,000 was issued on December 24, 1996, for two Severity Level III violations. (Appendix B.)

***Washington Hospital Center, Washington, D.C.
Supplements IV and VI*** **EA 96-385**

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$5,000 was issued on April 10, 1997, for two Severity Level III problems. (Appendix B.)

***Wisconsin Electric Power Company, Point Beach, Units 1 & 2
Supplement I*** **EA 97-075**

Notices of Violation for three Severity Level III problems were issued on August 8, 1997. (Appendix A.)

F. Enforcement Trends

During fiscal year 1997, enforcement workload and activities increased, as evidenced by the number of items that were issued. Specifically, the agency issued 264 escalated enforcement actions (124 escalated NOV's, 112 civil penalties, and 28 orders) during fiscal year 1997, versus

191 for fiscal year 1996 and 159 for fiscal year 1995. This represents an approximate 38% increase over fiscal year 1996 and 66% increase over fiscal year 1995.

Statistical comparisons between fiscal years 1997, 1996, and 1995 are included in each of the tables of this report. However, it should be noted that direct correlations between the fiscal years is difficult because of the major policy change that occurred in June of 1995.

Table 7 of this report includes a 2-year history of individual escalated enforcement items by specific reactor sites. Based on a 2-year period, reactor sites are ranked in order of the largest civil penalty amounts assessed and the largest total number of combined civil penalty items and escalated Notices of Violations without civil penalties issued. A 2-year period is used for this ranking because it represents a sufficient time-frame to provide perspectives on performance and enforcement activity. Two years is also the time period used in the Enforcement Policy for reviewing past performance. This table also provides enforcement data for the last 12 months at each of the sites listed.

During the 2-year period between fiscal years 1996 and 1997, the agency issued a total of 197 individual civil penalties and individual Severity I, II, and III Notices of Violation without civil penalties to 58 (or 82%) of the reactor sites. Thirteen sites did not receive any escalated enforcement action during this period. Of the 58 sites, 11 sites received 1 escalated enforcement item (11 issues), 14 sites received 2 individual escalated enforcement items (28 issues), and 33 sites received more than 2 individual escalated enforcement items (158 issues). Thus, 33 sites (or 46%) accounted for 158 (or 80%) of the escalated actions issued.

Of the 197 individual escalated items, 119 were civil penalties issued to 46 (or 65%) of the 71 reactor sites. Twenty-five (or 35%) of the sites did not receive a civil penalty.

Of the 46 sites that did receive a penalty, 18 sites had 1 civil penalty item (18 civil penalties) 10 sites had 2 individual civil penalty items each (20 civil penalties), and 18 sites had more than 2 individual civil penalty items (81 civil penalties) for a total of 119 individual civil penalties. Thus, 18 sites (or 25%) accounted for 81 (or 68%) of the civil penalties issued.

4. *Cases Involving Exercise of Discretion*

Section VII of the Enforcement Policy addresses those cases where, notwithstanding the normal guidance contained in the Policy, the NRC may choose to exercise discretion and either escalate or mitigate enforcement sanctions within the Commission's statutory authority to ensure that the resulting enforcement action appropriately reflects the level of NRC concern regarding the violation at issue and conveys the appropriate message to the licensee. During fiscal year 1997, 70 escalated cases (including 96 individual issues) involved an exercise of discretion.

Section VII.A of the Enforcement Policy provides that the NRC may increase a sanction up to its full enforcement authority where the action is warranted without applying the normal civil penalty assessment process (Section VI.B.2). During fiscal year 1997, eight cases (including 21 individual issues) involved this exercise of discretion.

Section VII.A.1 of the Enforcement Policy provides for either increasing the amounts of civil penalties or proposing civil penalties where the normal process would result in no civil penalty. During fiscal year 1997, 14 cases (including 14 individual issues) involved this exercise of discretion.

Section VII.B.1 provides that NOV's need not be issued for Severity Level IV violations that meet specific criteria. Cases that are subject to this enforcement discretion are not described in this report.

Section VII.B.2 provides that civil penalties or NOV's need not be issued for violations identified during extended shutdowns or work stoppages if they are licensee-identified, based upon activities prior to the events leading to the shutdown, non-willful, and not categorized at Severity Level I. This exercise of discretion provides that the licensee's decision to restart the plant requires NRC concurrence. During fiscal year 1997, four cases (including nine individual issues) involved this exercise of discretion. Two of the cases involved seven individual Severity Level IV issues.

Section VII.B.3 provides that civil penalties or NOV's need not be issued for old design issues that are licensee-identified and corrected and were not likely to have been identified earlier through routine surveillance. During fiscal year 1997, 12 cases (including 14 individual issues) involved this exercise of discretion.

Section VII.B.4 provides that civil penalties or NOV's need not be issued for violations identified due to previous escalated enforcement action if the violation was licensee-identified, it has a similar root cause as a previous escalated action, it does not substantially change the regulatory concern out of the initial action, and it was corrected. During fiscal year 1997, one case (including one individual issue) involved this exercise of discretion.

Section VII.B.5 provides that civil penalties or NOV's need not be issued for violations involving discrimination issues if they are licensee-identified and corrected. During fiscal year 1997, no cases involved this exercise of discretion.

Section VII.B.6 provides that civil penalties or NOV's need not be issued for violations involving special circumstances. During fiscal year 1997, 31 cases (including 37 individual issues) involved this exercise of discretion.

Appendix E includes a summary of the escalated cases issued during fiscal year 1997 that involved an exercise of discretion.

5. Actions Against Individuals & Other Non-Licensed Persons

During fiscal year 1997, the agency issued 66 actions against individuals and other non-licensed persons. The following sections provide a breakdown of the actions based on whether the actions were issued to licensed or non-licensed individuals, as well as other non-licensed persons (e.g., vendors). The section on orders includes orders that were issued to individuals that prohibited or limited their activities in NRC-licensed activities during the fiscal year.

A. Actions Against Licensed Individuals

During fiscal year 1997, the agency issued 2 NOV's to licensed individuals. Appendix F includes a short summary description of these actions.

B. Actions Against Non-Licensed Individuals

During fiscal year 1996, the agency issued 20 orders, 18 NOVs, and 26 DFIs, to non-licensed individuals. Appendix G includes a short summary description of each of these actions.

C. Actions Against Non-Licensed Persons Other Than Individuals

During fiscal year 1997, the agency issued one civil penalty to a non-licensed person (vendor) other than an individual. Appendix H includes a short summary description of this action.

6. *Cases Involving Discrimination*

During fiscal year 1997, the agency issued six enforcement actions for violations involving discrimination. Appendix I includes a short description of each of the six actions involving discrimination that were issued during the fiscal year.

7. *Hearing Activities*

During fiscal year 1997, four cases had some type of hearing activity, i.e., hearing request, settlement, dismissal, discovery, hearing proceeding, appeal, etc. Appendix J includes a short summary of each of these cases.

8. *10 CFR 2.206 Petitions*

During fiscal year 1997, one case had some type of petition activity pending before the Office of Enforcement during the fiscal year, i.e., petition request, NRC staff review, Director's Decision, etc. Appendix K includes a short summary of this case.

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TABLE 1: ESCALATED ENFORCEMENT ITEMS & DEMANDS FOR INFORMATION

	Region I	Region II	Region III	Region IV	Other ¹	Total FY97	Total FY 96	Total FY 95
Pre-decisional Enforcement Conferences	66	29	48	35	3	181	143	117
Escalated NOV's w/o Civil Penalties	42	29	21	31	1	124	96	76
Proposed Civil Penalties	40	16	37	17	2	112	78	56
Imposed Civil Penalties	2	2	2	3	1	10	9	10
Civil Penalties Paid	41	17	30	18	2	108	56	47
Orders	14	7	4	3	0	28	17	22
Demands for Information	25	2	5	2	1	35	7	8
Total	230	102	147	109	10	597	405	339

¹ This category includes actions initiated by the Office of Enforcement (OE), and the Office of Nuclear Material Safety and Safeguards (NMSS).

- OE issued 1 escalated NOV with a civil penalty and 1 Demand for Information.
- NMSS issued 1 escalated NOV without a civil penalty, 1 escalated NOV with a civil penalty, imposed the civil penalty, and received payment for the civil penalty.

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**TABLE 2: ESCALATED ENFORCEMENT ITEMS
BY TYPE OF LICENSEE, VENDOR, OR INDIVIDUAL**

Type of Licensee	Escalated NOVs (w/o penalty)	Civil Penalties	Orders	Total FY97	Total FY 96	Total FY 95
Academic	1	2	0	3	5	3
Physician	5	2	2	9	3	2
Fuel Facility	3	2	0	5	3	1
Gauge User	18	12	1	31	23	29
Hospital	23	10	0	33	13	12
Irradiator	1	0	0	1	0	0
Radiographer	2	7	0	9	12	11
Pharmacy	0	0	0	0	1	3
Operating Reactor	41	70	1	110	87	50
Materials Distributer	0	1	0	1	2	0
Mill	1	0	0	1	1	0
Other	9	4	4	17	10	11
Well Logger	0	1	0	1	0	0
Vendor	0	1	0	1	8	5
Licensed Individual	2	0	0	2	6	7
Non-Licensed Individual	18	0	20	39	19	23
Total	124	112	28	264	191	159

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TABLE 3: CIVIL PENALTY INFORMATION

	FY97	FY 96	FY 95
Number of Proposed Civil Penalties	112	78	59
Number of Imposed Civil Penalties	10	9	10
Number of Civil Penalties Paid	108	56	47
Amount of Proposed Civil Penalties	7,422,300	\$3,832,500	\$2,263,950
Amount of Imposed Civil Penalties	\$285,250	\$44,500	\$615,250
Amount of Civil Penalties Paid	6,657,300	\$3,014,000	\$2,265,949

NOTE: This table includes information based on individual civil penalty assessments. An enforcement action may include more than one individual civil penalty.

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TABLE 4: CIVIL PENALTY RANGES

Reactor Licensees

Civil Penalty Amounts	Number of Penalties FY 97	Number of Penalties FY 96	Number of Penalties FY 95
< \$50,000	1	0	3
\$50,000 - 55,000	41	24	7
\$55,001 - \$99,999	2	5	3
\$100,000 - 110,000	17	21	9
\$110,001 - \$200,000	6	0	3
\$200,001 - \$300,000	2	0	0
> \$300,001	1	0	0
Total	70	50	25

Material Licensees

Civil Penalty Amounts	Number of Penalties FY 97	Number of Penalties FY 96	Number of Penalties FY 95
0- \$2,500	12	18	9
\$2,501 - \$5,000	17	2	12
\$5,001 - \$7,500	2	1	3
\$7,501 - \$10,000	5	4	3
\$10,001 - \$25,000	4	3	6
\$37,500	0	0	1
\$100,000	1	0	0
\$200,000	0	0	0
Total	41	28	34

NOTE: This table includes information based on individual civil penalty assessments. An enforcement action may include more than one individual civil penalty. In addition, this table does not include the \$900,000 penalty issued to a vendor.

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**TABLE 5: 2-YEAR ESCALATED ITEM HISTORY
FOR REACTOR SITES**

Facility	FY 1996 - FY 1997			FY 1997		
	Civil Penalty Amount	Civil Penalties	Escalated NOVs (w/o penalty)	Civil Penalty Amount	Civil Penalties	Escalated NOVs (w/o penalty)
Salem	\$780,000	9	0	\$180,000	3	0
Haddam Neck	650,000	3	1	650,000	3	1
LaSalle	650,000	2	0	650,000	2	0
Zion	630,000	8	1	480,000	5	1
Clinton	560,000	6	0	560,000	6	0
Crystal River	550,000	7	8	50,000	1	7
Wolf Creek	400,000	4	1	100,000	1	0
Oconee	380,000	3	0	330,000	2	0
South Texas	360,000	3	1	0	0	1
Sequoyah	330,000	5	1	250,000	4	1
Nine Mile Pt.	330,000	5	0	200,000	3	0
Point Beach	325,000	4	4	325,000	4	3
Susquehanna	310,000	3	0	210,000	2	0
Calvert Cliffs	276,000	3	0	176,000	1	0
Hope Creek	250,000	4	2	150,000	3	1
Indian Point 2	205,000	4	1	205,000	4	0
St. Lucie	200,000	4	2	100,000	2	1
Beaver Valley	160,000	2	3	160,000	2	2
Perry	160,000	1	1	160,000	1	1
Waterford	155,000	3	1	105,000	2	1
Millstone	155,000	2	2		1	0
Ginna	155,000	2	0	155,000	2	0

**TABLE 5: 2-YEAR ESCALATED ITEM HISTORY
FOR REACTOR SITES - CONT.**

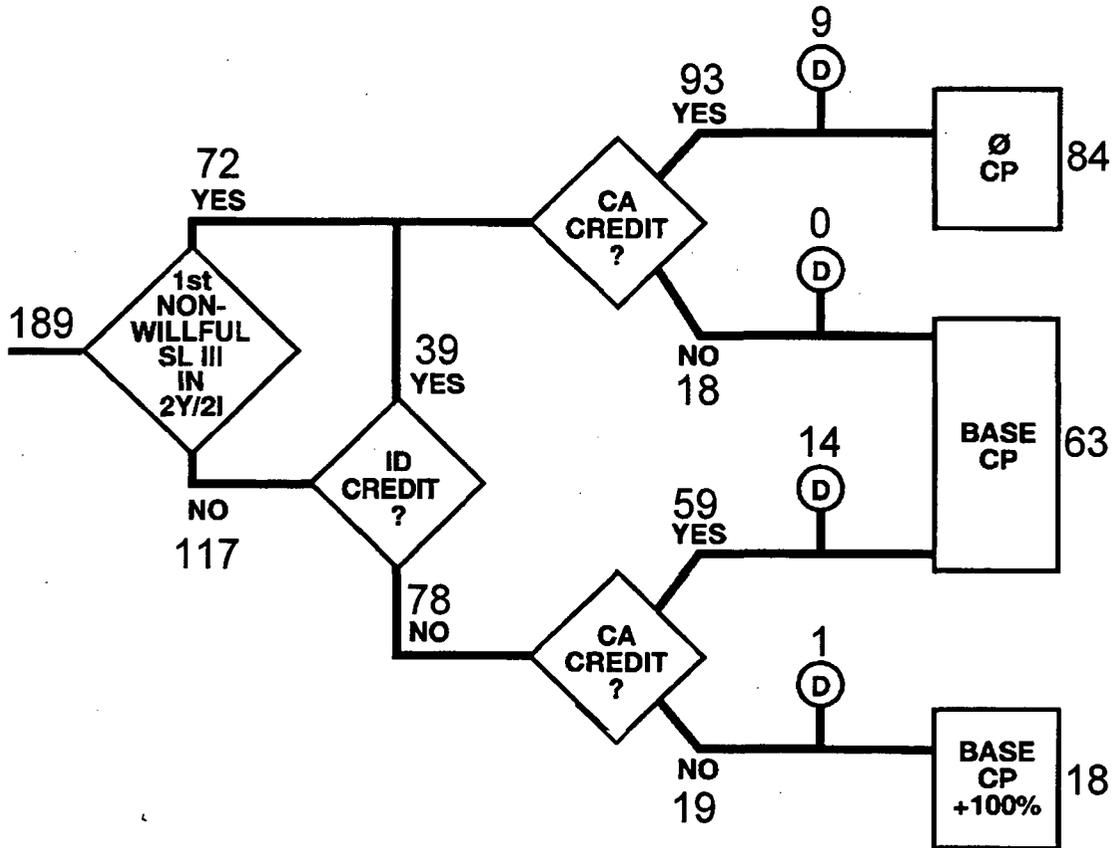
Facility	FY 1996 - FY 1997			FY 1997		
	Civil Penalty Amount	Civil Penalties	Escalated NOVs (w/o penalty)	Civil Penalty Amount	Civil Penalties	Escalated NOVs (w/o penalty)
Brunswick	150,000	2	5	150,000	2	2
Quad Cities	150,000	3	0	50,000	1	0
Indian Point 3	105,000	2	1	55,000	1	0
Dresden	100,000	2	2	0	0	2
Byron	100,000	2	1	100,000	2	0
Arkansas Nuclear One	100,000	2	0	50,000	1	0
Braidwood	100,000	1	1	0	0	0
Fermi	100,000	2	0	50,000	1	0
WNP-2	100,000	1	1	100,000	1	1
Palo Verde	100,000	1	0	0	0	0
Turkey Point	100,000	1	0	0	0	0
Limerick	80,000	1	3	80,000	1	3
Browns Ferry	80,000	1	1	0	0	0
Surry	55,000	1	2	55,000	1	0
Ft. Calhoun	55,000	1	1	55,000	1	0
Cooper	50,000	1	5	0	0	3
Kewaunee	50,000	1	2	50,000	1	1
Davis-Besse	50,000	1	1	50,000	1	0
Diablo Canyon	50,000	1	1	0	0	0
Prairie Island	50,000	1	1	50,000	1	1
Vermont Yankee	50,000	1	1	0	0	0
Trojan	50,000	1	1	0	0	0

**TABLE 5: 2-YEAR ESCALATED ITEM HISTORY
FOR REACTOR SITES - CONT.**

Facility	FY 1996 - FY 1997			FY 1997		
	Civil Penalty Amount	Civil Penalties	Escalated NOVs (w/o penalty)	Civil Penalty Amount	Civil Penalties	Escalated NOVs (w/o penalty)
Farley	50,000	1	0	50,000	1	0
Palisades	50,000	1	0	0	0	0
McGuire	0	0	3	0	0	1
Vogtle	0	0	3	0	0	1
Three Mile Island	0	0	2	0	0	0
Peach Bottom	0	0	2	0	0	2
D.C.Cook	0	0	2	0	0	0
Big Rock Point	0	0	1	0	0	1
Pilgrim	0	0	1	0	0	1
River Bend	0	0	1	0	0	1
Robinson	0	0	1	0	0	0
Ft. St. Vrain	0	0	1	0	0	0
Harris	0	0	1	0	0	1
Monticello	0	0	1	0	0	0

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FIGURE 1: ANALYSIS OF ESCALATED ITEMS PROCESSED UNDER CIVIL PENALTY PROCESS



189 individual enforcement items were evaluated in accordance with the civil penalty assessment process.

In 72 instances, the item was the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections.

In 117 instances, the item was NOT the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections.

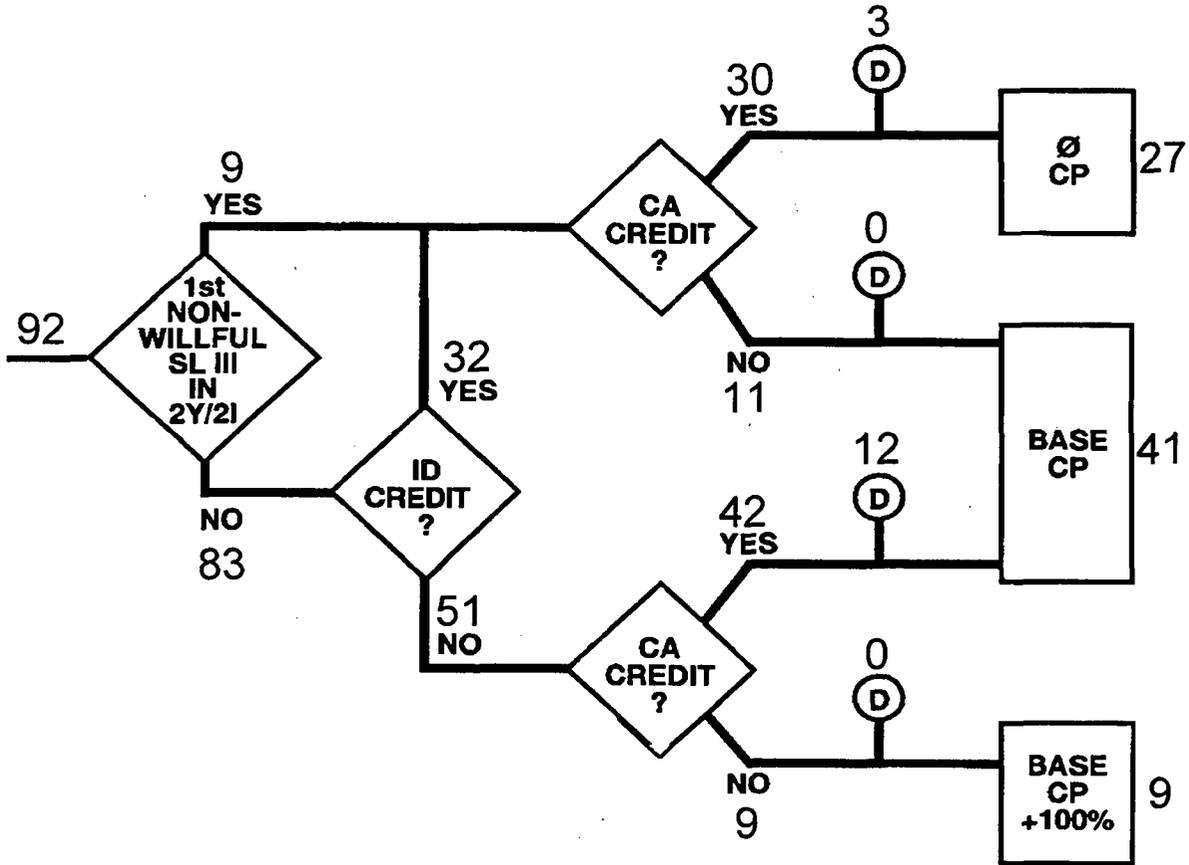
Of the 117 applicable items, the licensee was given credit for actions related to identification in 39 instances and NOT given credit in 78 instances.

Of the total 189 items, the licensee was given credit for corrective actions in 152 instances (approximately 80% of the items) and NOT given credit in 37 instances.

Discretion was exercised in 24 instances (15 times under Section VII.A.1 and 9 times under VII.B.6). This represents approximately 13% of the individual enforcement issues.

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FIGURE 2: ANALYSIS OF REACTOR ITEMS PROCESSED UNDER CIVIL PENALTY PROCESS



92 individual reactor enforcement items were evaluated in accordance with the civil penalty assessment process. In 9 instances, the item was the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections.

In 83 instances, the item was NOT the first non-willful Severity Level III enforcement action that the licensee had during the past 2 years or past 2 inspections.

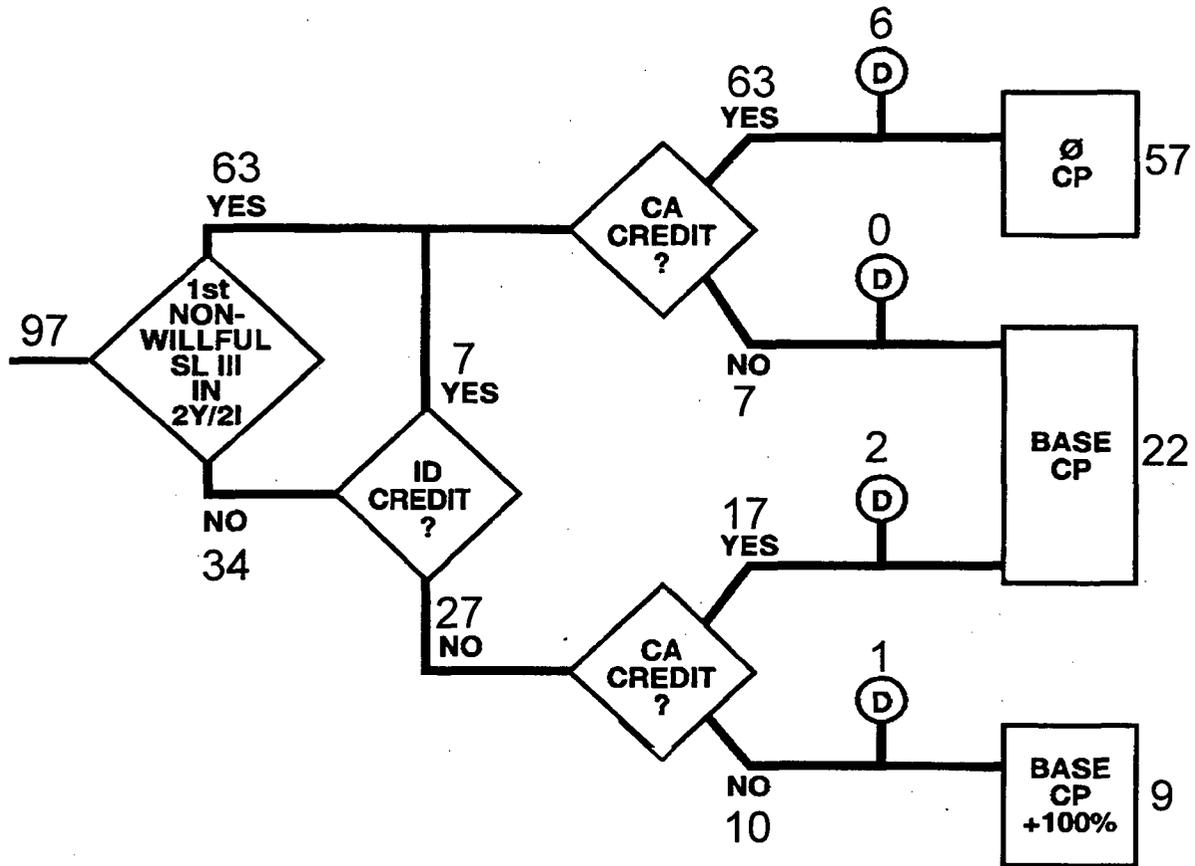
Of the 83 applicable items, the licensee was given credit for actions related to identification in 32 instances and NOT given credit in 51 instances.

Of the total 92 items, the licensee was given credit for corrective actions in 72 cases (approximately 78% of the items) and NOT given credit in 20 instances.

Discretion was exercised in 15 instances (9 times under Section VII.A.1 and 6 times under Section VII.B.6). This represents approximately 16% of the individual reactor enforcement issues.

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FIGURE 3: ANALYSIS OF MATERIALS ITEMS PROCESSED UNDER CIVIL PENALTY PROCESS



97 individual reactor enforcement items were evaluated in accordance with the civil penalty assessment process. In 63 instances, the item was the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections.

In 34 instances, the item was NOT the first non-willful Severity Level III enforcement action that the licensee had during the past 2 years or past 2 inspections.

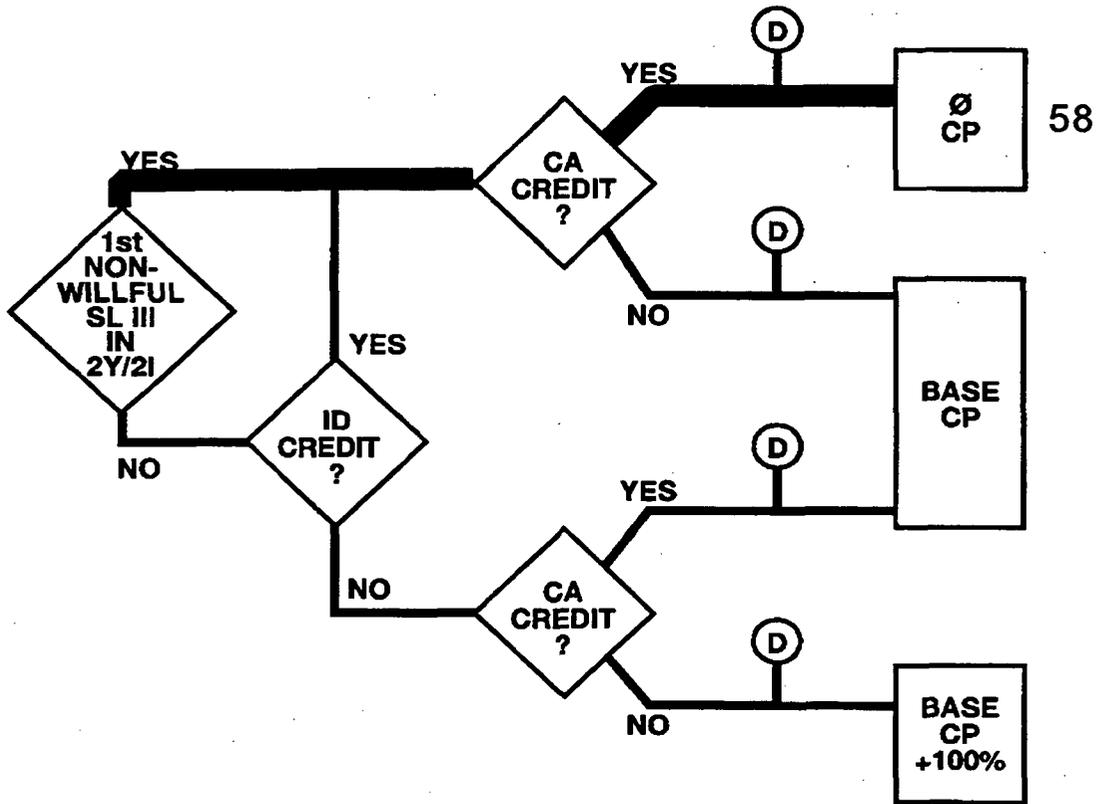
Of the 34 applicable items, the licensee was given credit for actions related to identification in 7 instances and NOT given credit in 27 instances.

Of the total 97 items, the licensee was given credit for corrective actions in 80 cases (approximately 82% of the items) and NOT given credit in 17 instances.

Discretion was exercised in 9 instances (7 times under Section VII.A.1 and 2 times under Section VII.B.6). This represents approximately 9% of the individual materials enforcement issues.

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**FIGURE 4: CIVIL PENALTY PROCESS
PATH A**



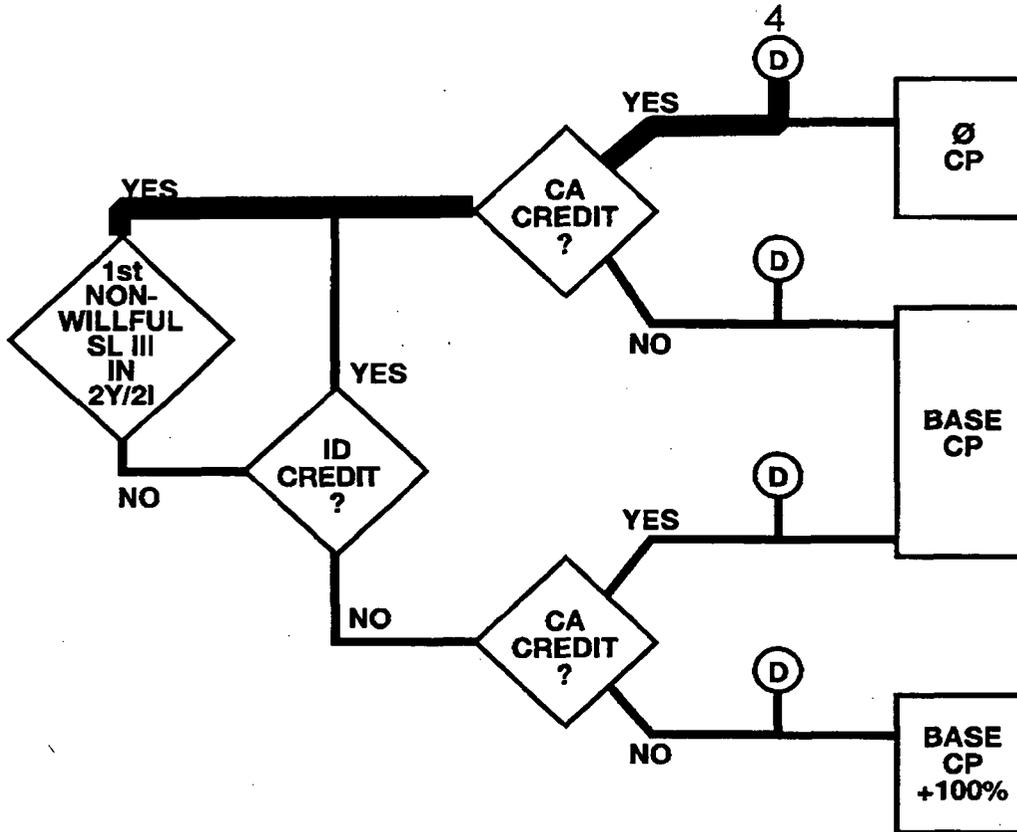
In 58 instances, the item was the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections and the licensee received credit for corrective actions.

3 of the items were for reactor licensees.

55 of the items were for materials licensees.

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**FIGURE 5: CIVIL PENALTY PROCESS
PATH B**

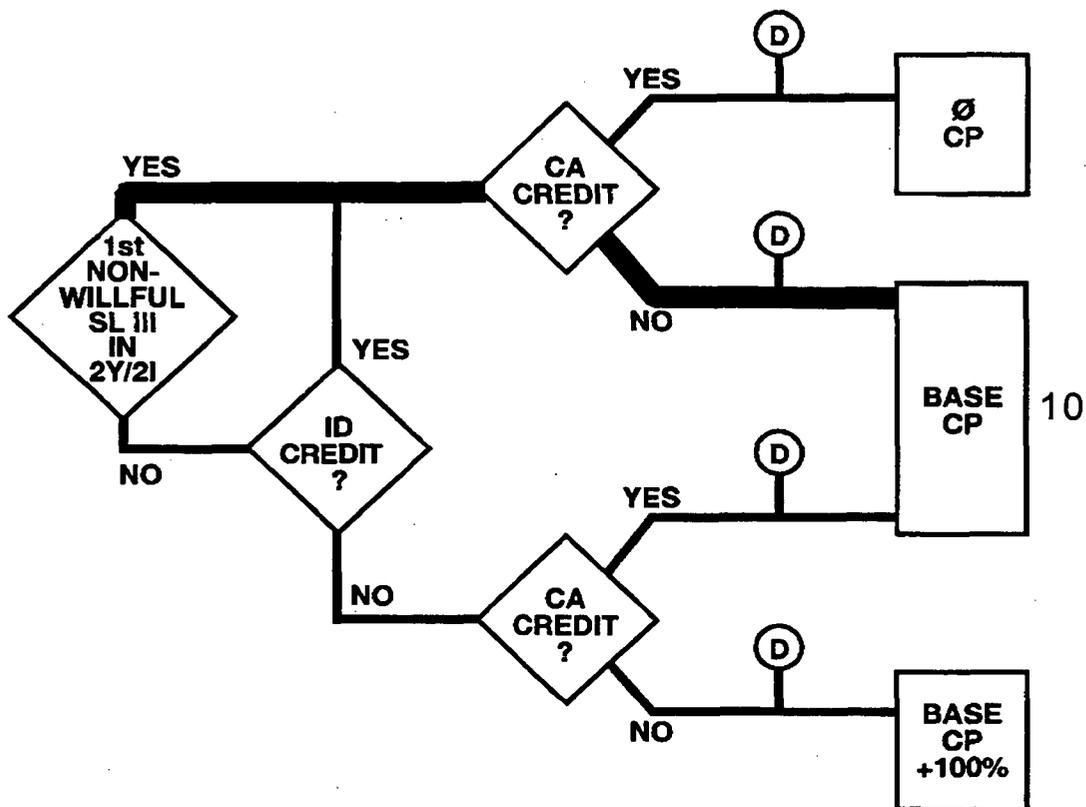


In 4 instances, the item was the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections and notwithstanding the fact that credit was warranted for corrective actions, the NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy and issued a civil penalty.

All 4 of these items were for materials licensees.

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**FIGURE 6: CIVIL PENALTY PROCESS
PATH C**



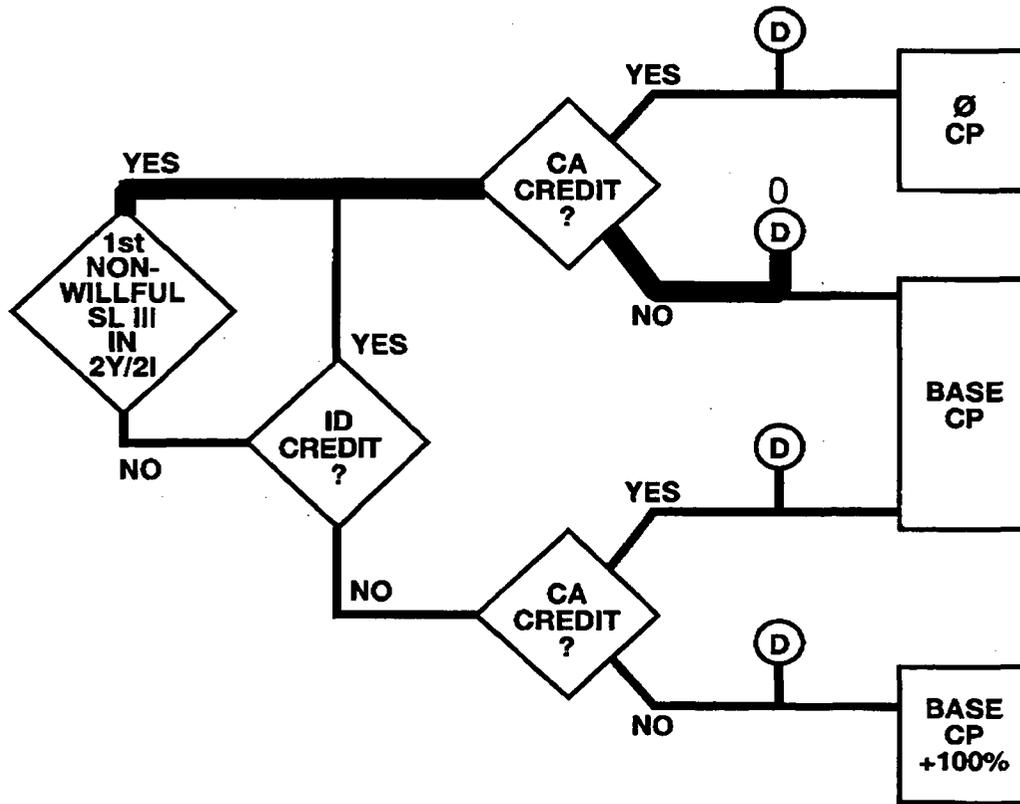
In 10 instances, the item was the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections and the licensee did not receive credit for corrective actions.

6 of the items were for reactor licensees.

4 of the items were for materials licensees.

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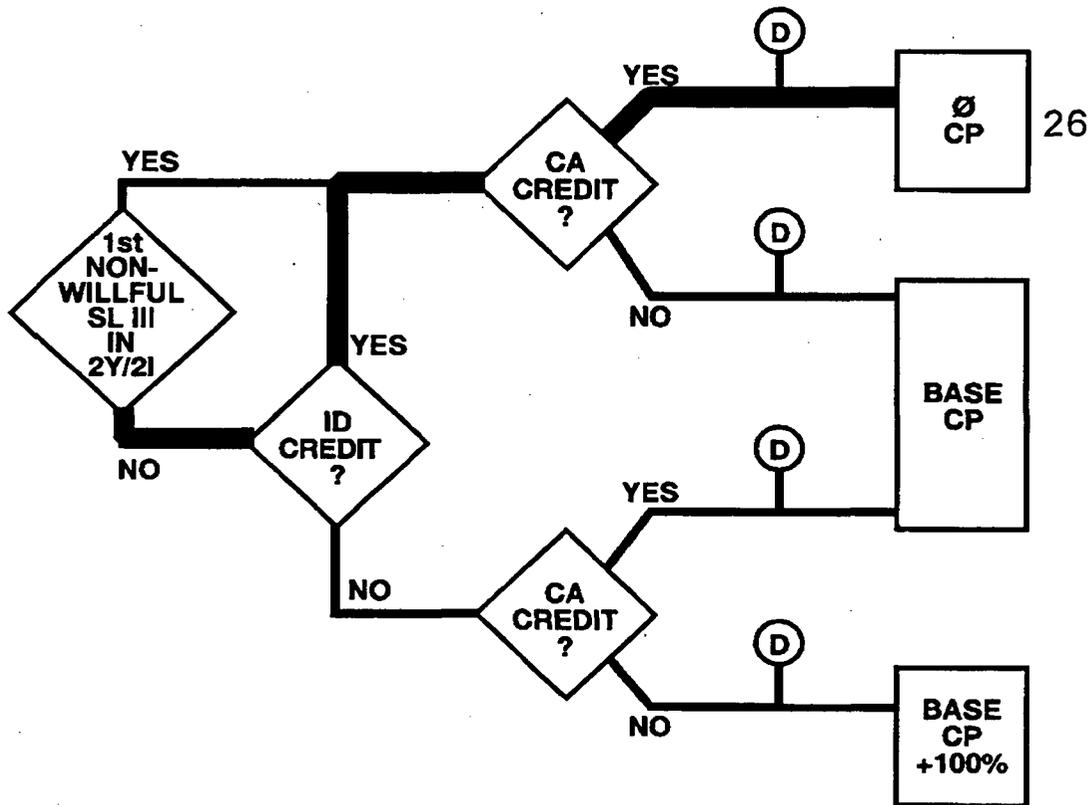
**FIGURE 7: CIVIL PENALTY PROCESS
PATH D**



There were no items assessed on this path.

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**FIGURE 8: CIVIL PENALTY PROCESS
PATH E**



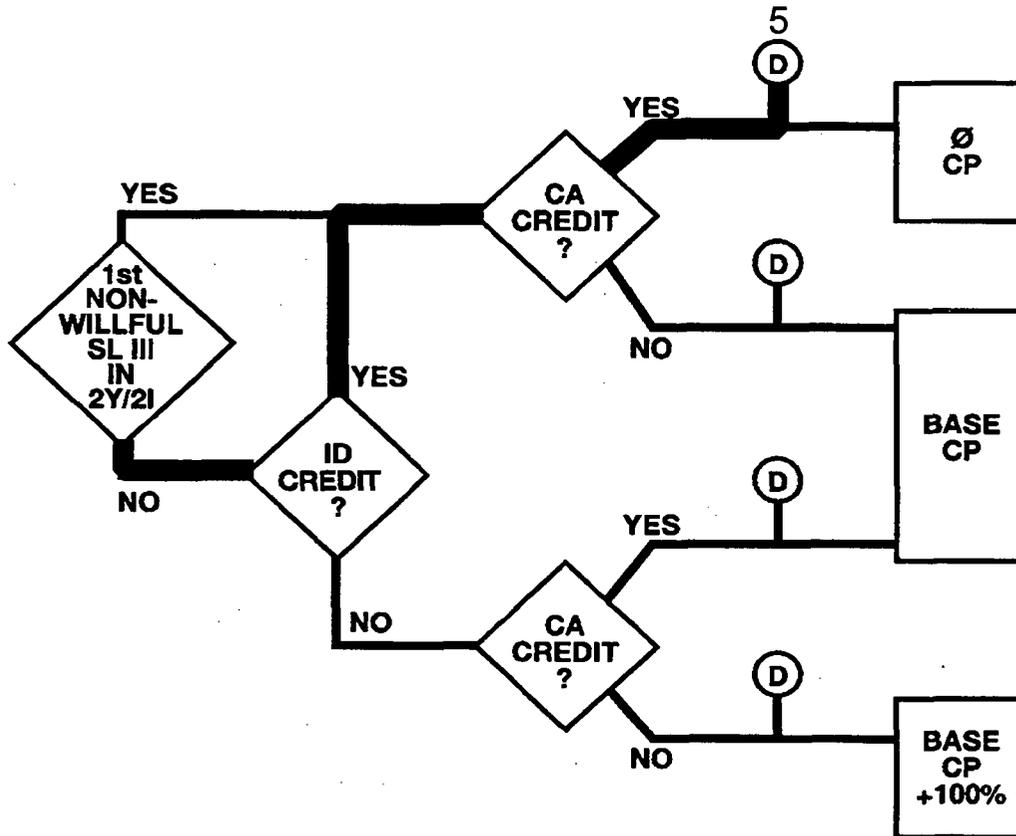
In 26 instances, the item was not the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections, the licensee received credit for actions related to identification, and the licensee received credit for corrective actions.

24 of the items were for reactor licensees.

2 of the items were for materials licensees.

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**FIGURE 9: CIVIL PENALTY PROCESS
PATH F**



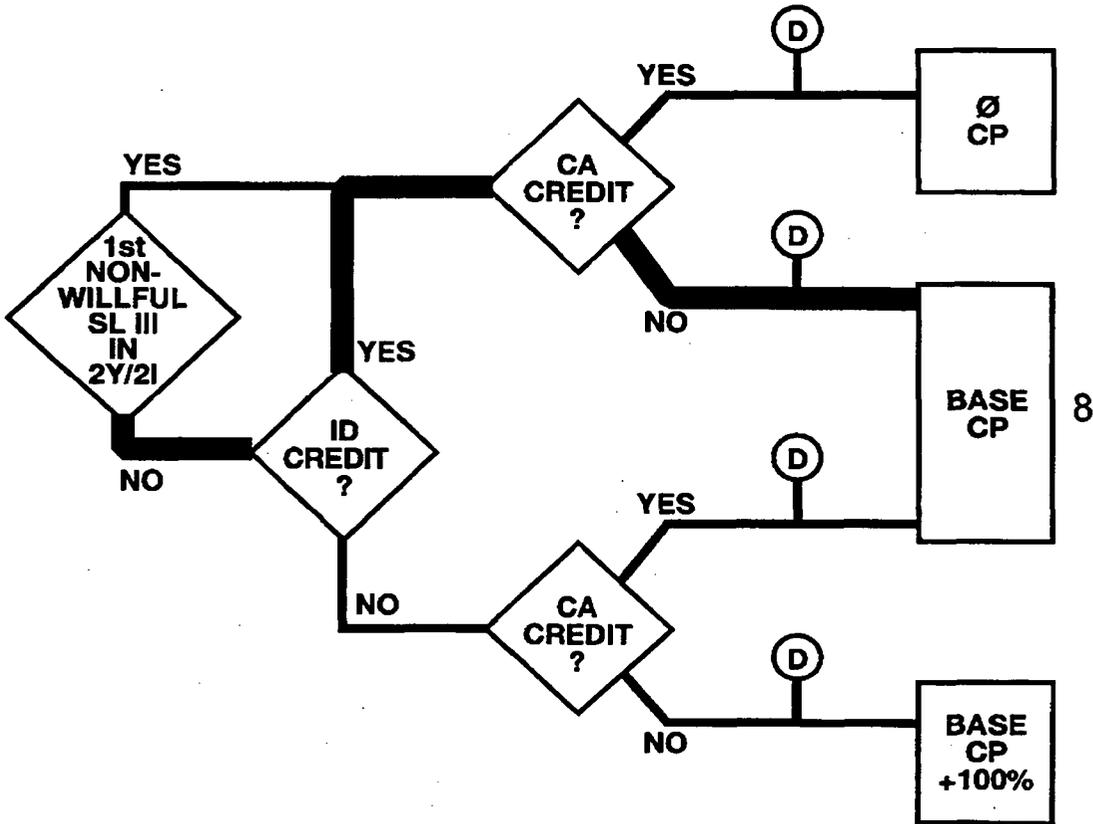
In 5 instances, the item was not the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections, the licensee received credit for actions related to identification, and notwithstanding the fact that credit was warranted for corrective actions, the NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy and issued a civil penalty.

3 of the items were for reactor licensees.

2 of the items were for materials licensees.

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**FIGURE 10: CIVIL PENALTY PROCESS
PATH G**



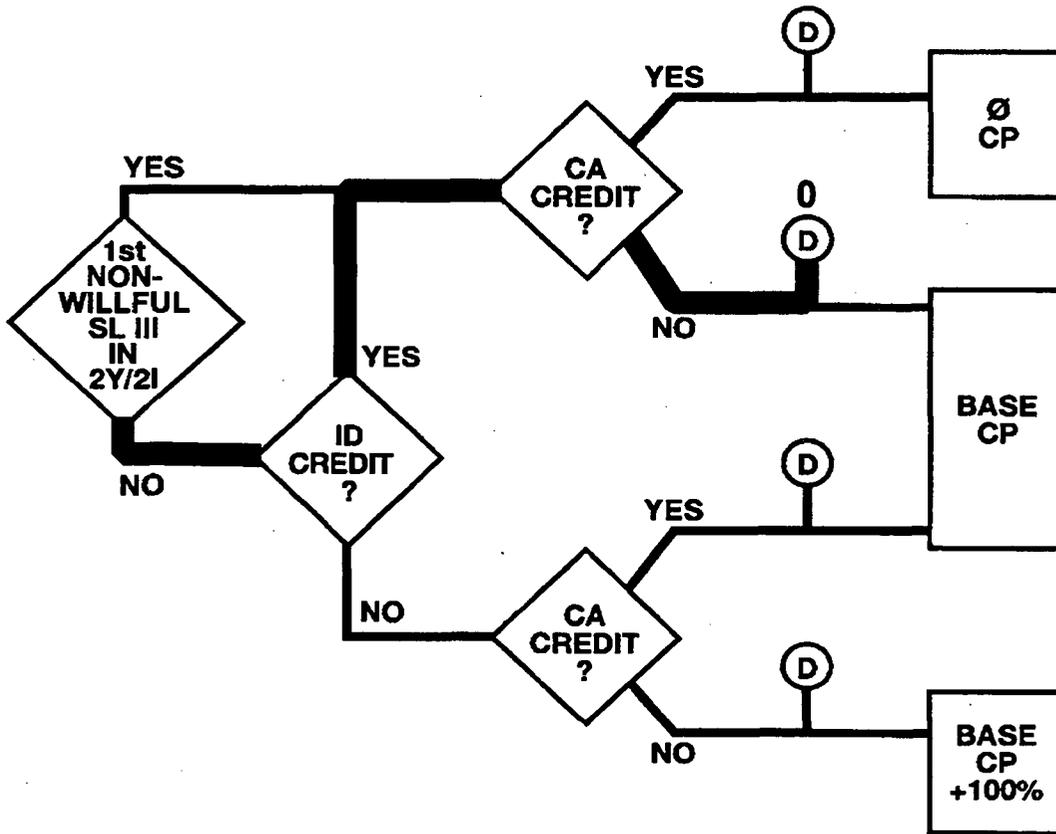
In 8 instances, the item was not the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections, the licensee received credit for actions related to identification, and the licensee did not receive credit for corrective actions.

5 of the items were for reactor licensees.

3 of the items were for materials licensees.

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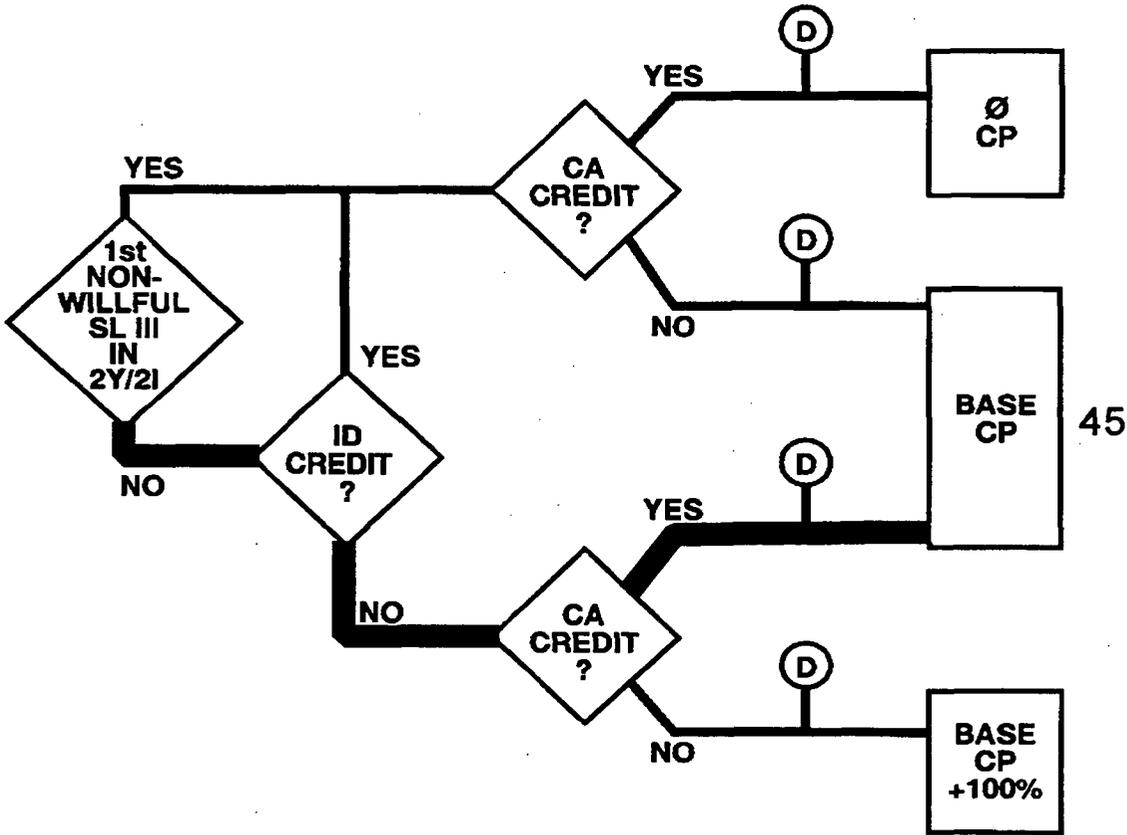
**FIGURE 11: CIVIL PENALTY PROCESS
PATH H**



There were no items assessed on this path.

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**FIGURE 12: CIVIL PENALTY PROCESS
PATH I**



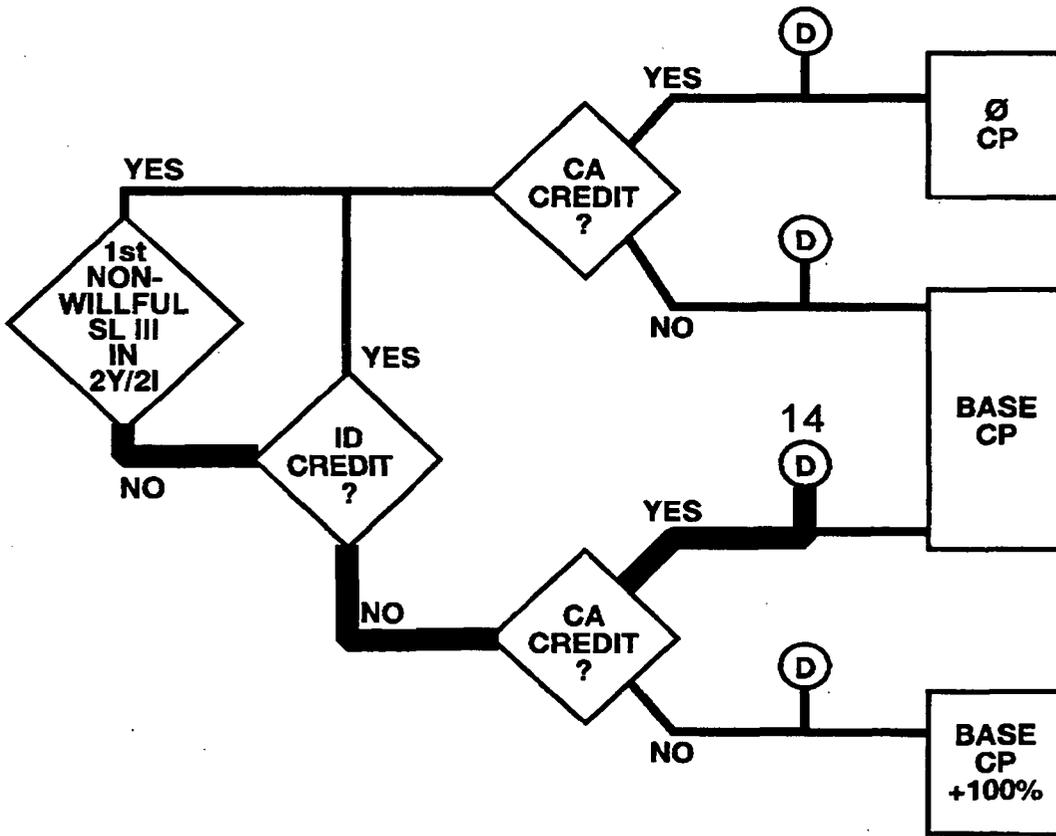
In 45 instances, the item was not the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections, the licensee did not receive credit for actions related to identification, and the licensee received credit for corrective actions.

30 of the items were for reactor licensees.

15 of the items were for materials licensees.

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**FIGURE 13: CIVIL PENALTY PROCESS
PATH J**



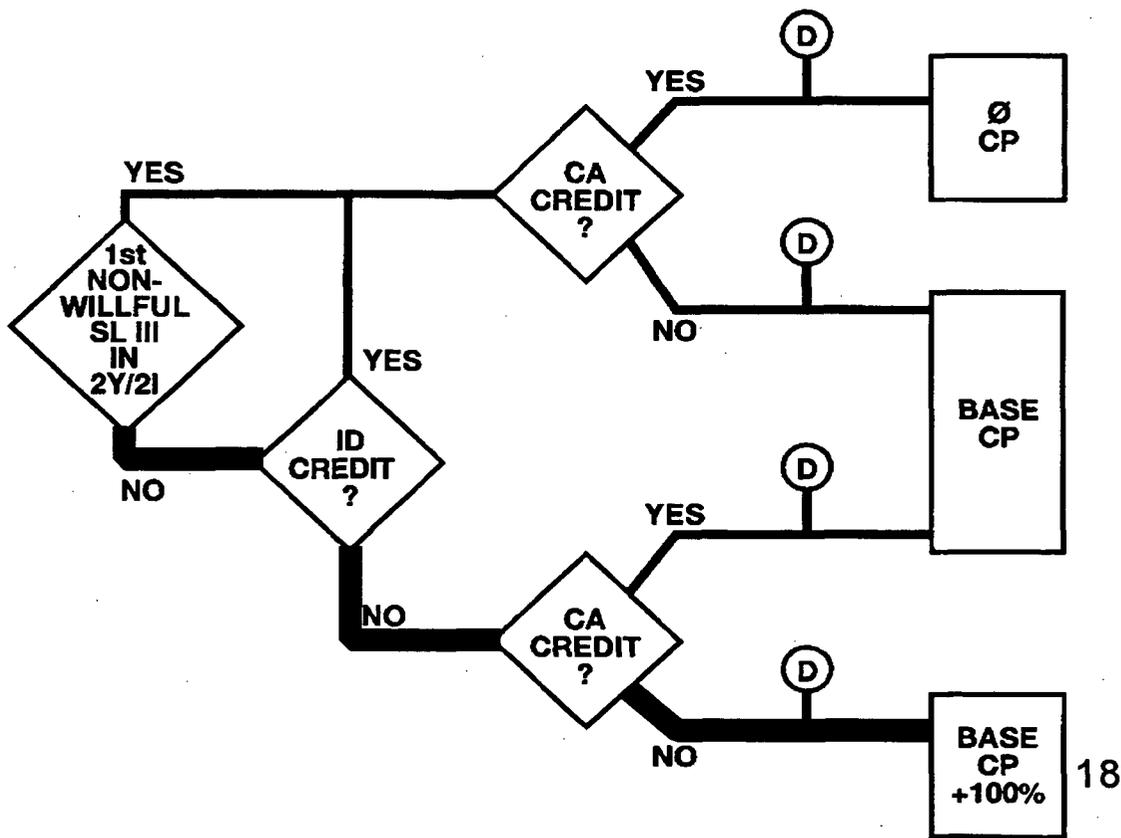
In 14 instances, the item was not the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections, the licensee did not receive credit for actions related to identification, and notwithstanding the fact that credit was warranted for corrective actions, in 6 instances the NRC exercised discretion in accordance with Section VII.A.1 and issued more than the base civil penalty and in 8 instances the NRC exercised discretion in accordance with Section VII.B.6 and refrained from issuing a civil penalty.

12 of the items were for reactor licensees. (6 items under VII.A.1 and 6 items under VII.B.6.)

2 of the items were for materials licensees. (Both items under VII.B.6.)

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**FIGURE 14: CIVIL PENALTY PROCESS
PATH K**



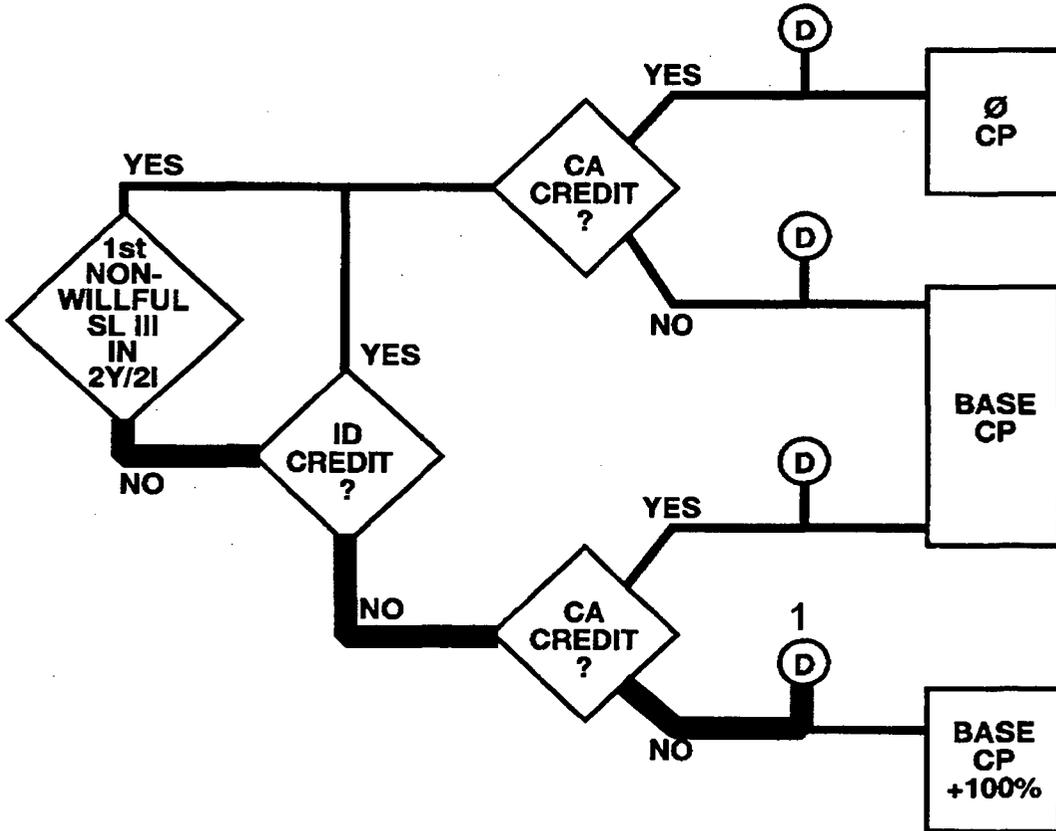
In 18 instances, the item was not the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections, the licensee did not receive credit for actions related to identification, and the licensee did not receive credit for corrective actions.

9 of the items were for reactor licensees.

9 of the items were for materials licensees.

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**FIGURE 15: CIVIL PENALTY PROCESS
PATH L**



In 1 instance, the item was not the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections, the licensee did not receive credit for actions related to identification, and notwithstanding the fact that credit was not warranted for corrective actions, the NRC exercised enforcement discretion in accordance with Section VII.B.6 and reduced the amount of the civil penalty.

This item was for a materials licensee.

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APPENDIX A: SUMMARY OF ESCALATED NOTICES OF VIOLATION (WITHOUT CIVIL PENALTIES)

***A. Z. Bullitt Avenue Ltd. Partnership, Jeannette, Pennsylvania
Supplement VI***

EA 96-476

A Notice of Violation for a Severity Level III violation was issued on January 31, 1997. The action was based on the licensee not notifying the NRC nor completing the decommissioning of its facility in Jeannette, Pennsylvania. Despite the licensee not conducting principal activities at the Jeannette facility since 1983, the licensee remained in possession of two 5 curies cesium-137 glass gauges, and decommissioning should have been completed by October 15, 1996. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Abex Corporate Research Center, Union, New Jersey
Supplement VI***

EA 97-285

A Notice of Violation for a Severity Level III violation was issued on September 10, 1997. The action was based the licensee selling its facility to Selrite Millworks Corporation (Selrite), and in so doing, transferred to Selrite three "EXIT" signs (containing between 10 and 25 curies of tritium gas), that are devices generally licensed by the NRC. However, although the signs remained in use at that location, Abex did not give Selrite a copy of 10 CFR Part 31, and, did not inform the NRC of the manufacturer's name and model number of the device transferred, the name and address of the transferee, and the name and/or position of an individual who would constitute a point of contact between the NRC and the transferee. A civil penalty was not proposed in this case because it was beyond the 5-year Statute of Limitations.

***Ambric Engineering, Inc., Philadelphia, Pennsylvania
Supplement IV***

EA 97-357

A Notice of Violation for a Severity Level III violation was issued on August 22, 1997. The action was based on the licensee not controlling and maintaining constant surveillance of licensed material that was in an unrestricted area and not in storage. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Anderson Columbia Construction, Inc., Lake City, Florida
Supplement VI***

EA 96-314

A Notice of Violation for a Severity Level III violation was issued on October 2, 1996. The action was based on an inspection concerning the use of millicurie quantities of Cesium-137 and Americium-241 to perform moisture density activities at Eglin Air Force Base, Florida, in areas of exclusive Federal jurisdiction, without either a specific or general license issued by the NRC. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

**Arctic Slope Inspection Services, Inc., Anchorage, Alaska
Supplement VI**

EA 96-449

A Notice of Violation for a Severity Level III problem was issued on February 18, 1997. The action was based on seven violations, including the failure to conduct surveys to determine radiation levels in an unrestricted area to ensure compliance with dose limits for individual members of the public. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

**Babcock & Wilcox Company, Park Township Site
Supplement VI**

EA 97-378

A Notice of Violation for a Severity Level III problem was issued on September 4, 1997. The action was based on: (1) the failure to implement ALARA practices to evaluate decontamination methods prior to implementation, (2) the failure to use engineering controls to limit the airborne concentrations of radioactive material and prevent the spread of contamination, and (3) the failure to adequately monitor concentrations of airborne activity in the vicinity of workers. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

**Berwick Hospital, Berwick, Pennsylvania
Supplement III**

EA 97-360

A Notice of Violation for a Severity Level III violation was issued on September 25, 1997. The action was based on the licensee not securing from unauthorized removal or limit access to licensed material, nor did the licensee control and maintain constant surveillance of this licensed material. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

**BJ-Titan Services, Houston, Texas
Supplement IV**

EA 97-174

A Notice of Violation for a Severity Level III violation was issued on June 12, 1997. The action was based on the licensee's failure to secure gauges containing licensed material from unauthorized removal as required by 10 CFR 20.1801. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

**Boston Edison Company, Pilgrim, Unit 1
Supplement I**

EA 96-271

A Notice of Violation for a Severity Level III problem based on two violations was issued on October 21, 1996. The first violation involved the failure to maintain primary containment integrity in accordance with Technical Specifications, in that two electrical containment penetrations were not properly protected due to improper trip-settings of 12 electrical penetration circuit breakers. The second violation involved the failure to identify and correct the above condition sooner, even though it existed as early as 1988 (and may have existed as far back as 1972). Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

***Carolina Power and Light Company, Brunswick, Units 1 and 2
Supplement I******EA 96-442***

A Notice of Violation for a Severity Level III problem based on two violations was issued on December 13, 1996. The first violation involved the failure to operate Unit 2 within steady state reactor core power level limit of 2436 (MW) in accordance with the license. The second violation involved the failure to maintain the calculated Average Planar Linear Heat Generation Rate within the limits of Technical Specifications. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

***Carolina Power & Light Company, Brunswick, Units 1 & 2
Supplements III and VII******EA 97-056***

A Notice of Violation for a Severity Level III problem was issued on April 24, 1997. The action was based on multiple failures to implement various aspects of the licensee's Access Authorization and Fitness-for-Duty programs. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

***Carolina Power & Light Company, Harris, Unit 1
Supplements III and VII******EA 97-057***

A Notice of Violation for a Severity Level III problem was issued on April 24, 1997. The action was based on multiple failures to implement various aspects of the licensee's Access Authorization and Fitness-for-Duty programs. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Centre Community Hospital, State College, Pennsylvania
Supplement V******EA 97-284***

A Notice of Violation for a Severity Level III violation was issued on July 8, 1997. The action was based on the use of iridium-192 in a High Dose Rate afterloader for surface treatment of skin cancer without its NRC license authorizing such use. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Cerac, Inc. Milwaukee, Wisconsin
Supplements IV and VI******EA 97-040***

A Notice of Violation for a Severity Level III problem was issued on April 4, 1997. The action was based on a number of violations involving effluent monitoring and release that collectively represented a breakdown in control of the licensed program. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Citizens Memorial Hospital, Bolivar, Missouri
Supplements IV and VI***

EA 96-445

A Notice of Violation for a Severity Level III problem was issued on January 28, 1997, for eight violations, considered in the aggregate to represent a significant breakdown in control of the radiation safety program. Although twice the base civil penalty would be proposed under the normal assessment process (because this was not the first escalated issue in 2 years, credit was not warranted for identification, and credit was not warranted for corrective action), the staff exercised discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty because the licensee requested termination of the license.

***Cleveland Clinic Foundation, Cleveland, Ohio
Supplement IV and VI***

EA 96-289

A Notice of Violation was issued on December 20, 1996, for a Severity Level III violation based on the failure to secure and limit access to licensed materials stored in five unattended research laboratories. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action. This action also included a \$5,000 civil penalty for a Severity Level III problem (see Appendix B).

***Cleveland Electric Illuminating Company, Perry, Units 1 and 2
Supplement I***

EA 96-367

A Notice of Violation for a Severity Level III violation was issued on November 6, 1996. The action was based on an inspection reviewing the circumstances surrounding the loss of both trains of the Emergency Closed Cooling (ECC) system and the loss of both trains of Control Room Emergency Recirculation due to low ECC temperature. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

***Commonwealth Edison Company, Dresden, Units 2 & 3
Supplement I***

EA 96-391

A Notice of Violation for a Severity Level III violation was issued on May 30, 1997. The action was based on the primary containment leakage being greater than 60 percent of leakage accident due to leakage past the Unit 3 main steam line drain primary containment isolation valves. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

***Commonwealth Edison Company, Dresden, Units 2 & 3
Supplement I***

EA 96-532

A Notice of Violation for a Severity Level III violation was issued on May 21, 1997. The action was based on the licensee's discovery that the original design modification test and subsequent surveillance tests of the control room heating, ventilation, and air conditioning system failed to ensure that the requirements and acceptance limits specified in the UFSAR were met. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

**Commonwealth Edison Company, Zion, Units 1 & 2
Supplement III**

EA 97-224

A Notice of Violation for a Severity Level III problem was issued on September 12, 1997. The action was based on failure to compensate for the unfiltered ventilation flow during fuel handling building ventilation system testing created by the routine removal of the block shield wall between the containment hatch area and the fuel handling building during refueling outages. Additionally, movement of irradiated fuel with the block shield wall removed was in violation of Technical Specifications due to a portion of the flow being allowed to bypass filters. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

**Connecticut Health Center, University Of, Farmington, Connecticut
Supplement VI**

EA 96-454

A Notice of Violation for a Severity Level III violation was issued on November 29, 1996. The action was based on a failure, pursuant to 10 CFR 20.1802, to secure from unauthorized removal or access, licensed materials that was stored in controlled or unrestricted areas. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

**Connecticut Yankee Atomic Power Company, Haddam Neck
Supplement VIII**

EA 96-001

A Notice of Violation was issued on May 12, 1997, for a Severity Level III problem involving inadequate implementation of the emergency preparedness program during the August 1996 exercise. The NRC exercised discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty. Discretion was warranted because other civil penalties were issued conjunction with the action (see Appendix B), the agency does not normally issue civil penalties for failures during an emergency exercise, and because the facility was going to shut down.

**Construction Testing & Engineering, Inc., Escondido, California
Supplements VI and VII**

EA 97-037

A Notice of Violation for a Severity Level III violation was issued on March 17, 1997. The action was based on possession and use of byproduct material in areas under exclusive Federal jurisdiction within an Agreement State without a valid NRC license and without filing for reciprocity. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

**Consumer Power Company, Big Rock Point
Supplements I & IV**

EA 97-197

A Notice of Violation for a Severity Level III violation was issued on August 12, 1997. The action was based on several incidents of failure to properly evaluate the extent of radiation levels and the potential radiological hazards to ensure compliance with 10 CFR 20.1201(a)(1). Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

***Dana-Farber Cancer Institute, Boston, Massachusetts
Supplement VI***

EA 97-067

A Notice of Violation for a Severity Level III violation was issued on March 28, 1997. The action was based on failure to secure licensed material located in laboratory areas against unauthorized removal and failure to control access. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Duke Power Company, McGuire, Unit
Supplement III***

EA 97-411

A Notice of Violation for a Severity Level III problem was issued on September 26, 1997. The action was based on multiple failures to follow procedures for security badge and access control. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

***Duquesne Light Company, Beaver Valley, Units 1 & 2
Supplement I***

EA 97-076

A Notice of Violation for a Severity Level III problem was issued on March 24, 1997, for numerous failures to follow procedures and implement appropriate work controls involving configuration control, failure to take appropriate corrective actions for past configuration control problems, and for operators inadvertently deenergizing the waste decay tank oxygen analyzers. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

***Duquesne Light Company, Beaver Valley, Units 1 & 2
Supplement I***

EA 97-255

A Notice of Violation for a Severity Level III violation was issued on July 3, 1997. The action was based on the failure to comply with Technical Specification requirements for surveillance testing of safety equipment, namely (1) emergency diesel generators, (2) reactor coolant system pressure isolation valves, (3) hydrogen recombiners, (4) reactor protection system and engineered safety feature actuation system logic and interlocks, (5) control room emergency bottled air pressurization subsystem discharge trip valves, and (6) boron injection flowpaths. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

***Entergy Operations, Inc., River Bend, Unit 1
Supplement I***

EA 96-329

A Notice of Violation for a Severity Level III violation was issued on November 7, 1996. This action was based on the licensee failing to perform required surveillances on: (1) a safety-related station battery within the required frequency, (2) the drywell air lock seal system and (3) certain motor-operated valves. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Entergy Operations, Inc., Waterford, Unit 3
Supplement I***

EA 96-255

A Notice of Violation was issued on December 26, 1996, for a Severity Level III violation. The action was based on an inspection performed at the licensee's Waterford 3 facility that identified violations involving the inservice test (IST) program. The violation involved the licensee's failure to promptly evaluate and correct known discrepancies in the IST program. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action. A \$50,000 civil penalty was also issued with this action for a Severity Level III violation that involved the actual design configuration of the containment vacuum relief system being different from that described in the plant's Final Safety Analysis Report, which resulted in certain valves not being properly tested to ensure they fulfilled the containment isolation function (see Appendix B).

***Equimed, Inc., Exton, Pennsylvania
Supplement VI***

EA 96-247

A Notice of Violation for a Severity Level III violation was issued on November 7, 1996. This action was based on the failure to follow the medical quality management program which led to misadministrations during high dose rate brachytherapy treatment of two patients. Specifically, a required check did not identify an error in the data entry for source positions. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Florida Power and Light Company, St. Lucie, Units 1 & 2
Supplement III***

EA 96-457

A Notice of Violation for a Severity Level III violation was issued on January 10, 1997. The action involved violations of significant regulatory concern associated with the engineering/modification process, security, and emergency preparedness at the St. Lucie Nuclear Plant. The action includes a problem for inadequate design control and independent review of a modification to excore nuclear instrumentation and software used for calibration of incore nuclear instrumentation, and inadequate resolution of an adverse condition related to miswiring of the excore nuclear instrumentation. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

***Florida Power Corporation (Pritt-McEnany Roofing, Inc.)
Supplement VII***

EA 96-336

A Notice of Violation for a Severity Level II violation was issued on December 5, 1996. This action was based on a violation of 10 CFR 50.7 which prohibits, in part, discrimination by a contractor of a Commission licensee against an employee for engaging in certain protected activities. Specifically, the discrimination included the discharge of a security escort as a result of the escort reporting a violation of security escort requirements.

**Florida Power Corporation, Crystal River, Unit 3
Supplement I**

**EAs 96-365, 96-465,
& 96-527**

A Notice of Violation and Exercise of Enforcement Discretion was issued on March 12, 1997. The violations identified indicated a broad spectrum of problems at the facility. The action included: (1) a Severity Level II problem for failure to meet the requirements of 10 CFR 50.59 in six cases; (2) a Severity Level III violation for failure to ensure that regulatory and plant design basis requirements are met; and, (3) a Severity Level III violation for untimely and inadequate corrective actions resulting in the failure to identify significant unreviewed safety questions and containment integrity issues. The NRC exercised discretion in accordance with Section VII.B.6 and refrained from issuing civil penalties (see Appendix E).

**Florida Power Corporation, Crystal River
Supplement I**

EA 97-094

A Notice of Violation and Exercise of Enforcement Discretion was issued June 6, 1997. The action was based on failure to report significant conditions to the NRC in the time frames required by the regulations, and failure to follow required plant procedures for ensuring timely evaluation of a potentially reportable event. A civil penalty was not proposed because the facility was shut down for an extended period which contributed to the reporting deficiencies.

**Florida Power Corporation, Crystal River
Supplement III**

EA 97-161

A Notice of Violation for a Severity Level III problem was issued on May 29, 1997. The action was based on two instances where the staff at the facility failed to control safeguards information adequately to assure access by authorized persons only. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

**Florida Power Corporation, Crystal River
Supplement I**

EA 97-162

A Notice of Violation and Exercise of Enforcement Discretion was issued June 5, 1997. The action was based on (1) the failure to identify that the addition that required operator actions to mitigate a design basis small break LOCA constituted an unreviewed safety question, and (2) the subsequent failure to obtain NRC review and approval of that mitigation strategy. A civil penalty was not proposed because the NRC determined that discretion was appropriate in accordance with Section VII.B.6 because the facility was shut down for performance reasons, including engineering violations such as the ones in this instance.

**Florida Power Corporation, Crystal River, Unit 3
Supplement III**

EA 97-330

A Notice of Violation and Exercise of Enforcement Discretion was issued on September 5, 1997 for a Severity Level III problem. The action was based on the failure to perform an adequate safety evaluation for a 1987 modification that added five protective trips to each emergency diesel generator and for failure to update the Final Safety Analysis Report to describe the added protective trips. The added trips were not bypassed during emergency operation and were not installed with two out of three coincidence logic. A single failure in the added circuitry would increase the probability of failure of the emergency diesel generators, creating an unreviewed safety question. The NRC refrained from issuing a civil penalty in accordance with Section VII.B.6 because: (1) the facility was in an extended shutdown for performance reasons, (2) the facility was scheduled to remain shutdown until completion of a comprehensive program of improvements in the engineering area, (3) the facility demonstrated that remedial actions were being taken to ensure the reestablishment of design margins for plant systems prior to restart, (4) the NRC issued previous action that included engineering violations, and (5) the licensee's decision to restart required the NRC's concurrence.

**Geomechanics, Inc., Elizabeth, Pennsylvania
Supplements IV and VI**

EA 97-042

A Notice of Violation for a Severity Level III violation was issued on April 8, 1997. The action was based on failure to secure licensed material against unauthorized removal or control access to it. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

**Georgia Power Company, Vogtle, Unit 2
Supplement I**

EA 96-479

A Notice of Violation for a Severity Level III problem was issued on December 31, 1996. The action was based on the licensee failing to establish adequate procedural guidance to assure the correct assembly and disassembly of safety-related motor coolers. As a result, the gasket for a safety injection pump inboard motor cooler was installed backwards and the plenum on the outboard motor cooler was reversed rendering the pump inoperable since September 1991. Reversed plenums were also found on four other safety-related pumps. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

**H. C. Nutting Company, Cincinnati, Ohio
Supplement IV**

EA 96-468

A Notice of Violation for a Severity Level III violation was issued on January 9, 1997. The action was based on the licensee limiting access and facility to secure access to a moisture/density gauge containing NRC-licensed material. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

*H&G Inspection Company, Inc., Houston, TX
Supplement IV*

EA 97-158

A Notice of Violation for a Severity Level III violation was issued on July 1, 1997. The action was based on the licensee not limiting the annual occupational dose to an adult radiographer's assistant to 5 rems, total effective dose equivalent. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

*Health & Human Services, Inc., Rockville, Maryland
Supplements IV and VI*

EA 97-080

A Notice of Violation for a Severity Level III problem was issued on March 20, 1997. The action was based on numerous violations which indicated a programmatic breakdown in licensed activities. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

*Honolulu Medical Group, Honolulu, Hawaii
Supplement VII*

EA 95-006

A Notice of Violation for a Severity Level II violation was issued on January 23, 1997. The action was taken because the licensee discriminated against an employee for engaging in protected activities by terminating the individual's employment. Although a base penalty would be warranted under the normal assessment process (because the violation is categorized at Severity Level II, credit was not warranted for identification, and credit was warranted for corrective action), the NRC exercised discretion in accordance with Section VII.B.6 and refrained from issuing a civil penalty because of: (1) the licensee's willingness to comply with the Department of Labor's initial finding that discrimination had occurred, (2) the licensee's willingness to settle the matter prior to an adjudicatory hearing, (3) the ultimate resolution of the matter in the settlement agreement that was reached between the licensee and the complainant, and (4) the absence of any further complaints of discrimination against the licensee since the matter arose in 1992.

*Houston Lighting & Power Company, South Texas
Supplement I*

EA 96-500

A Notice of Violation for a Severity Level III violation was issued on March 27, 1997. The action was based on excessive leakage from an emergency core cooling system valve, a significant condition adverse to quality, that existed and was not promptly identified and corrected, in that, a condition report documenting valve leakage in the system was not evaluated for possible adverse safety consequences nor was the valve repaired. Further, the licensee continued to operate the facility with a degraded condition that was not evaluated to determine whether the condition constituted a change to the facility as described in the UFSAR resulting in an unreviewed safety question. Specifically, leakage from an emergency core cooling system valve, approximately 20 times greater than that allowed by UFSAR Table 15.6-12, was identified and not properly evaluated. Although a base penalty would be warranted under the normal assessment process (because the violation was not the first escalated action in 2 years, credit was not warranted for identification, and credit was warranted for corrective action), discretion was exercised in accordance with Section VII.B.6 and the NRC refrained from issuing a penalty. Discretion was warranted because the events that led to the escalated actions involving discrimination in October 1995

and September 1996 occurred more than 2 years prior to the discovery of the violations at issue in this case.

***Hurt & Proffitt, Inc., Lynchburg, Pennsylvania
Supplements V and VI***

EA 97-209

A Notice of Violation for a Severity Level III violation was issued on June 24, 1997. The action was based on multiple failures to conduct leak testing of the sealed sources contained in the licensee's portable nuclear gauges at the required six-month frequency. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Isomedix, Inc., Vega Alta, Puerto Rico
Supplement VI***

EA 97-173

A Notice of Violation for a Severity Level III violation was issued on May 20, 1997. The action was based on an irradiator operator not being onsite for approximately 2 hours while the irradiator was operated using an automatic product conveyor system. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***J. C. Blair Memorial Hospital, Huntingdon, Pennsylvania
Supplement III***

EA 97-359

A Notice of Violation for a Severity Level III violation was issued on September 25, 1997. The action was based on the licensee not securing from unauthorized removal or limit access to licensed material, nor did the licensee control and maintain constant surveillance of this licensed material. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Jaworski Geotech, Inc., Manchester, New Hampshire
Supplements IV, V, VI***

EA 97-438

A Notice of Violation for a Severity Level III violation was issued on September 25, 1997. The action was based on the licensee not securing from unauthorized removal or limit access to a portable moisture/density gauge at a temporary jobsite, which was an unrestricted area, nor did the licensee control and maintain constant surveillance of this licensed material. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Kapi'olani Health Care System, Honolulu, Hawaii
Supplement IV***

EA 96-523

A Notice of Violation for a Severity Level III violation was issued on March 5, 1997. The action was taken because on November 18, and 20, 1996, laboratories in which microcurie quantities of iodine-125 or phosphorus-32 were stored were not locked when not occupied. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

**Kennedy Memorial Hospitals - University, Stratford, New Jersey
Supplements IV and VI**

EA 97-006

A Notice of Violation for a Severity Level III problem was issued on January 31, 1997. The action was based on six violations that included: (1) failure to maintain dose rates in contiguous unrestricted patient rooms below 2 mr in any 1 hour; (2) failure to perform dose estimates for patients in unrestricted patient rooms where the dose rates exceeded 2 mr in any 1 hour; (3) reassignment of a therapy patient's room with removable contamination greater than 200 dpm per 100 square centimeters; (4) failure to adequately train personnel on the applicable regulations, license conditions, and radiation safety procedures; (5) failure to establish a quorum at the Radiation Safety Committee meetings; and (6) failure to decay in storage byproduct material for ten half-lives prior to disposal in ordinary trash. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

**Lee, J. W. Philip, MD
Supplement VI**

EA 97-038

A Notice of Violation for a Severity Level III violation was issued on April 16, 1997. The action was based on the licensee not having a written procedure for performing decay-correction calculations required to determine treatment times for treatments performed using a strontium-90 ophthalmic applicator. As a result, 17 treatment times were incorrectly calculated. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

**Lucent Technologies, Lee's Summit, Missouri
Supplement VI and VII**

EA 96-233

A Notice of Violation for a Severity Level III violation was issued on November 1, 1996. The action was based on a violation involving failure to provide accurate and complete information in all material respects, and the failure to identify that contaminated equipment remained in AT&T Microelectronic's possession for more than 2 years after its NRC license had been terminated. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

**M&W Soils Engineering, Inc., Charlestown, New Hampshire
Supplement VI**

EA 97-065

A Notice of Violation for a Severity Level III violation was issued on February 19, 1997. The action was based on a violation where the New Hampshire licensee used three portable nuclear density gauges containing approximately 9 millicuries of Cesium-137 and 44 millicuries of Americium-241 per gauging device at approximately 12 sites in the State of Vermont, a non-Agreement State, without filing for reciprocity. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

**Massachusetts General Hospital, Boston, Massachusetts
Supplements IV and VI**

EA 96-497

A Notice of Violation for a Severity Level III violation was issued on January 27, 1997. The action was based on a violation which involved two instances of the licensee failing to secure from unauthorized

removal or limit access to licensed material. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Massachusetts Medical Center, Worcester, Massachusetts
Supplements IV and VI***

EA 97-069

A Notice of Violation for a Severity Level III violation was issued on February 28, 1997. The action was based on two examples of a failure to secure from unauthorized removal or limit access to licensed material in an unrestricted area. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Maui Memorial Hospital, Wailuku, Maui, Hawaii
Supplement VI***

EA 96-525

A Notice of Violation for a Severity Level III violation was issued on March 5, 1997. The action was based on a violation which involved the licensee not securing from unauthorized removal or access licensed material stored in a controlled area. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Merck & Company, Inc., Rahway, New Jersey
Supplement IV***

EA 97-241

A Notice of Violation for a Severity Level III violation was issued on June 26, 1997. The action involved: (1) the improper disposal of 880 microcuries of iodine-125 at a municipal waste incinerator, and (2) the failure to perform a radiation survey of the package containing the material prior to releasing it for disposal. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Midwest Imaging Diagnostic/Inc./LTD
Supplement VI***

EA 97-111

A Notice of Violation for a Severity Level III problem was issued on May 1, 1997. The action was based on six violations that collectively represent a breakdown in control of licensed program, including unauthorized use of iodine-131 and failure to establish a medical quality management program. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Mountainside Hospital, Montclair, New Jersey
Supplement V***

EA 97-245

A Notice of Violation for a Severity Level III violation was issued June 27, 1997. The action was based on the failure to follow the licensee's Quality Management Program for High Dose Rate Afterloading treatment program in that certain activities required to be performed by the licensee's Medical Physicist were at times being performed by another individual. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

Appendix A

***Navy, Department of the, Navy Drug Screening Lab
Supplements IV, V, & VI***

EA 97-143

A Notice of Violation for a Severity Level III problem was issued on May 7, 1997. The action was based on the failure of the licensee to prepare a limited quantity package such that it would maintain its integrity during transport. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***NDC Systems, Irwindale, California
Supplement VI***

EA 96-539

A Notice of Violation for a Severity Level III violation was issued on January 13, 1997. The action was based on a willful violation in which, from 1989 to November 1995, the licensee delivered gauging devices containing 150 millicurie americium-241 sources for transport, by air, to foreign countries in excepted packaging rather than in Type A packaging. Although a base civil penalty was warranted under the normal assessment process (because the action was willful, credit was not warranted for identification, and credit was warranted for corrective actions), the NRC exercised discretion and refrained from issuing a penalty because of a Confirmatory Order Modifying License that was issued in conjunction with this action (see Appendix C).

***Nebraska Public Power District, Cooper, Unit 1
Supplement III***

EA 96-307

A Notice of Violation for a Severity Level III violation was issued on November 20, 1996. The action was based on eight apparent violations of access authorization requirements, most of which had been identified by the licensee following a change in management of the security program in late 1995. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

***Nebraska Public Power District, Cooper, Unit 1
Supplement I***

EA 96-488

A Notice of Violation for a Severity Level III violation was issued on December 20, 1996. The action was based on a licensee discovery that the reset function for the RCIC turbine trip/throttle valve, was powered by an ac, not a dc motor. As a result, during certain conditions, reactor vessel level could not be automatically controlled by the RCIC system resulting in a challenge to core cooling. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

***Nebraska Public Power District, Cooper Nuclear Station
Supplement I***

EA 97-017

A Notice of Violation and Exercise of Discretion was issued June 25, 1997. The action was based on the failure to update the USAR as required by 10 CFR 50.71(e), and the failure to perform adequate written safety evaluations in accordance with 10 CFR 50.59. Although a base civil penalty was warranted under the normal assessment process (because the violation was not the first in 2 years, credit was not warranted for identification, and credit was warranted for corrective actions), discretion was exercised in accordance with Section VII.B.6 and a civil penalty was not proposed. Discretion was based on:

(1) consideration of the generally low safety significance of the violations, (2) the comprehensiveness of the licensee's corrective actions, (3) the fact that the inspections were occurring at about the same time that the Policy was revised, and (4) recognition that communications with the NRC may have inadvertently contributed to delaying the licensee's USAR upgrade program.

***New Britain General Hospital, New Britain, Connecticut
Supplement VII***

EA 96-396

A Notice of Violation for a Severity Level III violation was issued on December 20, 1996. The action was based on a violation concerning the licensee's failure to provide to the NRC information that was complete and accurate in all material respects. Specifically, the then Chief Nuclear Medicine Technologist, a first-line supervisor, made inaccurate entries into the licensee's dose calibrator constancy record. Although the violation was considered willful, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

***New England Medical Center Hospital, Boston, Massachusetts
Supplements IV and V***

EA 96-398

A Notice of Violation for a Severity Level III violation was issued on November 13, 1996. The action was based on a violation in which radiation levels exceeded 200 millirem per hour on the external surface of a package in transport. Specifically, the licensee shipped a package containing 44 millicuries of iridium-192 by common carrier vehicle (not designated as exclusive use) and the radiation level measured at a point on the external surface of the package was approximately 400 millirem per hour. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***NJS Engineering, Spearfish, South Dakota
Supplement VI***

EA 96-450

A Notice of Violation for a Severity Level III violation was issued on January 8, 1997. The action was based on a violation where the licensee did not control and maintain constant surveillance of licensed material. Specifically, a moisture/density gauge had been stored in an unlocked case inside an unlocked vehicle at a temporary jobsite without the licensee maintaining constant surveillance of the gauge. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Northern States Power Company, Prairie Island Station, Unit 2
Supplement I***

EA 97-073

A Notice of Violation for a Severity Level III violation was issued on April 30, 1997. The action was based on a heavy load being moved without written procedures. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

***Nuclear Imaging, LTD
Supplement IV***

EA 97-263

A Notice of Violation for a Severity Level III violation was issued on July 31, 1997. The action was based on the licensee failed to secure or keep under constant surveillance and immediate control all byproduct material when in transit. Specifically, a shipping package containing approximately 300 millicuries of technetium-99m was placed in a vehicle compartment for transport. The package was not locked or otherwise secured and this resulted in the package falling from the vehicle during transit. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***P & W Excavating, Inc., Warfordsburg, Pennsylvania
Supplements IV and V***

EA 97-227

A Notice of Violation for a Severity Level III violation was issued on June 17, 1997. The action was based on the failure to control and maintain constant surveillance of three gauges containing licensed material not in storage in controlled areas at the licensee's Warfordsburg facility. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Pennsylvania State University, University Park, Pennsylvania
Supplements IV, V, and VI***

EA 96-499

A Notice of Violation for a Severity Level III violation was issued on December 30, 1996. The violation involves several examples of failure to secure licensed radioactive material or limit access to material at the facility. The unsecured material included: (1) an unopened package containing licensed material in an unrestricted area; and (2) liquid waste containing licensed material in an unrestricted area. At the time each example was identified, the areas were not controlled and constant surveillance was not maintained over the licensed material. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Pennsylvania Testing Laboratory, West Pittston, Pennsylvania
Supplement VI***

EA 97-126

A Notice of Violation for a Severity Level III violation was issued on June 13, 1997. The action was based on the possession of licensed radioactive material at unauthorized locations, incomplete and inaccurate information, and failure to leak test sealed sources and detector cells containing licensed material. In addition, the license was terminated based on the fact that the company no longer possessed licensed radioactive material. The NRC found the commitments listed in a Confirmatory Action Letter (CAL) issued on April 17, 1997, were met and no further response was required regarding this CAL.

***Pensacola Testing Labs., Inc., Pensacola, Florida
Supplement VI***

EA 96-315

A Notice of Violation for a Severity Level III violation was issued on October 23, 1996. The action was based on the use of licensed material to perform moisture density activities at various military installations (areas of exclusive Federal jurisdiction) without either a specific or general license issued by the NRC

and without filing Form-241 with the NRC. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Philadelphia Electric Company, Limerick, Unit 1
Supplement I***

EA 96-209

A Notice of Violation for a Severity Level III violation was issued on October 17, 1996. This action was based on the circumstances surrounding the substantial accumulation of debris on the Unit 1 suppression pool suction strainer and the subsequent inoperability of one train of the residual heat removal (RHR) system due to a collection of fibrous material and corrosion products on the RHR pump's suction strainers. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Philadelphia Electric Company, Limerick, Units 1 & 2
Supplement I***

EA 97-340

A Notice of Violation for a Severity Level III violation was issued on September 29, 1997. The action was based on the licensee not implementing and maintaining in effect certain provisions of the approved Fire Protection Program as described in the Updated Final Safety Analysis Report (UFSAR) for the facility in that a temporary cable to provide power to the Unit 2 ADS solenoid pilot valves did not exist; and the pathways for the installation of the temporary cables for both Unit 1 and Unit 2, areas to which access may be needed for manual actuation of safe shutdown equipment, were not provided with fixed self-contained lighting units with individual 8 hour battery power supplies. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

***Philadelphia Electric Company, Peach Bottom, Units 2 & 3
and Limerick, Units 1 & 2 - Supplement III***

EA 96-243

A Notice of Violation for two Severity Level III violations was issued on February 3, 1997. The actions were based on two failures to control safeguards information. In the first case, for a period of approximately 3 weeks, an electronic copy of the Limerick Physical Security Plan, which contains Safeguards Information, was located on the PECO Nuclear Local Area Network (LAN), and the document was not under the control of an authorized individual and was available to personnel who were not authorized access to Safeguards Information. In the second case, from approximately 1988 through 1996, approximately 150 items (including aperture cards, film cartridges, and hard copies of drawing change information), that contained design features of the physical protection system that contained Safeguards Information (concerning both the Limerick and Peach Bottom sites), were stored in an uncontrolled manner at various PECO sites. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

***Philadelphia Electric Company, Peach Bottom, Units 2 & 3
Supplement I***

EA 96-370

A Notice of Violation for a Severity Level III violation was issued on January 3, 1997. The action was based a Maintenance Rule base-line inspection that determined PECO Nuclear was not adequately monitoring the performance of numerous systems and components against established goals, nor had

Appendix A

PECO Nuclear demonstrated the effectiveness of preventive maintenance on these systems and components. Both of these deficiencies were requirements of the Maintenance Rule. Although a base civil penalty would have been warranted under the normal assessment process (because this was not the first escalated issue in 2 years, credit was not warranted for identification, and credit was warranted for corrective action), the NRC exercised discretion in accordance with Section VII.B.6 and refrained from issuing a civil penalty (see Appendix E).

***Power Resources, Inc., Casper,
Supplement VI***

EA 97-218

A Notice of Violation for a Severity Level III violation was issued on July 29, 1997. The action was based on lack of management oversight that resulted in multiple violations, involving monitoring, posting, and reporting. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Professional Service Industries, Inc., Lansing, Michigan
Supplement IV***

EA 96-490

A Notice of Violation for a Severity Level III violation was issued on February 28, 1997. The action was based on a violation where the licensee did not secure from unauthorized removal or limit access to a Campbell Pacific Nuclear moisture/density gauge containing NRC-licensed material (nominally 10 millicuries (370 Mbq) of cesium-137 and nominally 50 millicuries (1850 Mbq) of americium-241 in sealed sources) at a construction site in Detroit, Michigan, nor did the licensee control and maintain constant surveillance of this licensed material. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Professional Service Industries, Inc., Bristol, Virginia
Supplement VI***

EA 97-093

A Notice of Violation for a Severity Level III problem was issued on May 22, 1997. The action involved: (1) failure to ensure that two technicians were properly trained and certified prior to using moisture/density gauges; (2) a failure to ensure that a technician received required, formal classroom training by a certified Radiation Safety Officer/Instructor; (3) the storage of a moisture/density gauge at a technician's residence contrary to license prohibitions on such storage; and (4) the performance of maintenance on a moisture/density gauge contrary to license prohibitions on such activities. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Public Service Electric and Gas Company, Hope Creek, Unit 1
Supplement I***

EA 96-281

A Notice of Violation for a Severity Level III violation was issued on October 23, 1996. The action was based on a violation where from November 1992 until March 17, 1996, the service water flow throttle valves to safety-related heat exchangers were improperly set following modification activities. As a result, the flow path was not capable of transferring sufficient cooling water from the ultimate heat sink to the heat exchangers for certain design basis postulated operating conditions. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

Roberts Construction Company, Louisa, Kentucky
Supplement IV and VI

EA 96-480

A Notice of Violation for a Severity Level III violation was issued on January 17, 1997. The action was based on a violation where the licensee failed to secure from unauthorized removal or access a portable density gauge containing licensed material located in an unrestricted area at a temporary job site in War, West Virginia. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

Shannon & Wilson, Inc., Fairbanks, Alaska
Supplement IV and VI

EA 96-446

A Notice of Violation for a Severity Level III violation was issued on January 13, 1997. The action was based on the licensee's failure to: (1) limit the annual dose to a member of the public to 0.1 rem total effective dose equivalent; and (2) make surveys to assure compliance with 10 CFR 20.1301(a). The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

Soldiers & Sailors Memorial Hospital, Wellsboro, Pennsylvania
Supplement IV

EA 97-358

A Notice of Violation for a Severity Level III violation was issued on September 25, 1997. The action was based on the licensee not securing from unauthorized removal or limit access to licensed material located in the Nuclear Medicine prep room/hot lab, which was an unrestricted area, nor did the licensee control and maintain constant surveillance of this licensed material. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

Somerset County Engineering, Somerset, New Jersey
Supplements IV, V, and VI

EA 97-043

A Notice of Violation for a Severity Level III problem was issued on April 11, 1997. The action was based on four violations that collectively represented a breakdown in control of the licensed program for moisture density gauges. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

St. Francis Hospital, Escanaba, Michigan
Supplements IV, VI, & VII

EA 96-491

A Notice of Violation was issued on May 1, 1997. The action was based a Severity Level III problem consisting of failure to monitor the external surface of a Yellow II package for radioactive contamination, failure to perform a dose calibrator constancy check at the beginning of each day of use, failure to determine the molybdenum-99 concentration prior to administering doses to patients, failure to measure the radiation levels of a Yellow II package, and failure to provide annual refresher training. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action. A civil penalty was also proposed in conjunction with this action (see Appendix B).

***St. Francis Medical Center, Honolulu, Hawaii
Supplement IV***

EA 96-524

A Notice of Violation for a Severity Level III violation was issued on March 5, 1997. The action was based on a violation in which the licensee did not secure from unauthorized removal or access licensed material stored in a controlled area. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***St. Peter's Medical Center, New Brunswick, New Jersey
Supplement III***

EA 97-406

A Notice of Violation for a Severity Level III problem was issued September 25, 1997. The action was based on four violations that collectively represented a programmatic breakdown in the control of licensed activities. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Tennessee Valley Authority, Sequoyah, Unit 1
Supplement 1***

EA 97-232

A Notice of Violation for a Severity Level III violation was issued on July 10, 1997. The action was based on the failure to establish measures to assure that a significant condition adverse to quality was promptly identified and corrected and corrective action was taken to preclude repetition. The licensee failed to adequately control reactor coolant system inventory during reduction in pressurizer level. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

***U.S. Enrichment Corporation, Paducah, Kentucky
Supplement III***

EA 97-267

A Notice of Violation for a Severity Level III problem was issued on September 22, 1997. The action was based on the licensee's failure to: (1) provide the Commission complete and accurate information, and (2) implement various aspects of the Security Plan of the Paducah Gaseous Diffusion Plant. The civil penalty was fully mitigated because: (1) it was the first escalated issue in 2 years, and (2) credit was warranted for corrective actions.

***Veterans Administration Medical Center, Baltimore, Maryland
Supplement IV***

EA 97-116

A Notice of Violation for a Severity Level III violation was issued on May 2, 1997. The action was based on the failure to secure licensed material against unauthorized removal or control access to it. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

*Veterans Administration Medical Center, Philadelphia, Pennsylvania
Supplement VII*

EA 96-182

A Notice of Violation for a Severity Level III violation was issued on September 25, 1997. The action was based on discrimination against the Radiation Safety Officer (RSO). This action was originally categorized at Severity Level II and was issued with a \$8,000 civil penalty on September 16, 1996. The NRC subsequently determined that the violation was more appropriately categorized at Severity Level III and exercised discretion in accordance with Section VII.B.6 and refrained from imposing the civil penalty. Discretion was warranted because: (1) the chastisement did not substantially affect the conditions of employment, an apology was issued, and the individual remains the RSO, (2) the Department of Labor (DOL) concluded that the licensee met the terms and conditions of outlined remedies, and (3) investigations conducted by DOL and the NRC's Office of Investigations did not substantiate continued discrimination against the RSO for contacting the NRC.

*Veterans Administration Medical Center, Wilmington, Delaware
Supplement VI*

EA 97-146

A Notice of Violation for a Severity Level III problem was issued on May 2, 1997. The action was based on violations involving: (1) failure to prepare written directives prior to the administration of iodine-131 doses greater than 30 microcuries, (2) failure to measure, each 6 months, the ventilation rates available in areas of use of radioactive gas, (3) failure to conduct reviews to verify compliance with all aspects of the quality management program at intervals no greater than 12 months, and (4) failure to establish a quorum at the RSC meetings. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

*Veterans Administration Medical Center, Houston, Texas
Supplement IV*

EA 96-534

A Notice of Violation for a Severity Level III violation was issued on March 10, 1997. The action was based on a violation in which the licensee transferred and subsequently disposed of a 130 microcurie americium-241 sealed calibration source (Model AMCK599) contained in a liquid scintillation counter by a means other than transfer to an authorized person. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

*Washington Public Power Supply System, WNP-2
Supplement III*

EA 96-267

A Notice of Violation for a Severity Level III violation was issued on October 1, 1996. The action was based on a violation involving failure of the licensee to ensure operability of equipment for systems necessary to achieve and maintain hot shutdown conditions or provide alternate or dedicated safe shutdown capability. Specifically, 16 motor-operated valves, necessary to achieve and maintain hot shutdown conditions, were potentially unable to perform their post-fire safe shutdown function because their control circuits were susceptible to fire induced hot shorts. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

*Westinghouse Electric Company, Columbia, South Carolina
Supplement VI*

EA 97-244

A Notice of Violation for a Seventy Level III violation was issued on July 28, 1997. The action was based on the licensee's failure to: (1) properly notify the NRC regarding material control and accounting discrepancies; (2) provide adequate training for certain employees that handle Special Nuclear Materials; (3) provide adequate procedures for handling and testing lead-filled rods; (4) comply with Department of Transportation requirements; and (5) adequately implement Westinghouse's Material Control and Accounting Program. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

*Wisconsin Electric Power Company, Point Beach, Units 1 & 2
Supplement I*

EA 97-075

Notices of Violation for three Severity Level III problems were issued on August 8, 1997. The action was based on: (1) failure of the corrective action system to assure adequate corrective actions were taken for conditions adverse to quality, (2) unreviewed safety questions that were created when the Residual Heat Removal and the Auxiliary Feedwater systems were operated in a manner not described in the Final Safety Analyses Report, and (3) failure to properly implement Technical Specification requirements, including correcting deficiencies and appropriately testing portions of the emergency power supply system. Although three base civil penalties would have been warranted under the normal assessment process (because this was not the first escalated issue in 2 years, credit was not warranted for identification, and credit was warranted for corrective action), the NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy. Enforcement discretion was exercised to not issue a civil penalty because: (1) the NRC had already issued a \$325,000 civil penalty (EA 96-273 dated December 3, 1996) to emphasize performance problems, (2) the licensee entered into a Confirmatory Action Letter which provided that the licensee would not operate its facility until it addressed the subject violations as well as other performance problems and met with the NRC to justify restart, (3) the licensee implemented comprehensive corrective actions, and (4) although the NRC identified a number of these issues as a result of its inspections, the NRC determined that Wisconsin Electric Power Company dedicated significant resources to successfully address the performance issues and substantially improve Point Beach's conduct of operations.

*Wisconsin Public Service Corporation, Kewaunee
Supplement I*

EA 97-235

A Notice of Violation for a Severity Level III violation was issued on August 6, 1997. The action was based on a design error that occurred during the installation of the reactor vessel level indication system that rendered the system inoperable. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

APPENDIX B: SUMMARY OF PROPOSED CIVIL PENALTIES

*Anheuser Busch, St. Louis, Missouri
Supplement VI*

EA 97-291

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,750 was issued on September 24, 1997. The action was based on a Severity Level III problem involving unauthorized disposal of licensed material. Although a penalty would not have been issued under the normal assessment process (because this was the first escalated issue in 2 years, and credit was warranted for identification), the NRC exercised discretion in accordance with Section VII.A.1 and issued a base civil penalty because the licensed material was not controlled and was found in the public domain.

*B&W Fuel Company, Lynchburg, Virginia
Supplements V and VI*

EA 96-538

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$12,500 was issued on March 4, 1997, for a Severity Level III problem. The action was based on five violations involving an event in which a low-enriched, unirradiated fuel assembly was inadvertently returned in its original shipping container to its point of origin in Germany. The violations include B&W's failure to: (1) follow its procedures for the downloading operation, (2) provide adequate procedures for the downloading operation, (3) conduct a reasonable survey of the shipping container, (4) comply with numerous transportation requirements, and (5) adequately implement material control and accounting procedures to verify the presence of the fuel assembly. A base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

*Baltimore Gas & Electric Company, Calvert Cliffs, Units 1 & 2
Supplement IV*

EA 97-192

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$176,000 was issued on August 11, 1997. The action was based on three violations constituting a Severity Level II problem involving inadequate radiological controls surrounding a spent fuel pool diving effort that very nearly caused a substantial radiation exposure in excess of regulatory limits when a diver inadvertently accessed an unauthorized and unsurveyed area of the spent fuel pool adjacent to fresh irradiated fuel. Ten other non-escalated violations were identified related to other inadequate radiological controls and inadequate control of refueling activities. Twice the base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was not warranted for corrective action.

***Barnett Industrial X-Ray, Inc., Stillwater, Oklahoma
Supplement VI***

EA 96-502

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$4,000 was issued on February 24, 1997, for a Severity Level II problem. The action was based on: (1) a deliberate failure of a radiographer and an assistant radiographer to wear personal radiation monitoring devices, including alarm ratemeters; (2) a willful failure to conduct a survey to assure that the source had been returned to its shielded position; and (3) a willful failure on the part of the radiographer to adequately supervise his assistant. Although the civil penalty would have been fully mitigated based on the normal assessment process (because this was not the first escalated action in 2 years, credit was not warranted for identification, and credit was warranted for corrective action), discretion was exercised in accordance with Section VII.A.1 and a penalty was proposed to emphasize: (1) the responsibility of ensuring that employees meet basic radiation safety requirements, and (2) the significance of the willful violations.

***Carolina Power and Light Company, Brunswick, Units 1 and 2
Supplement I***

EA 96-354

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$150,000 was issued on November 19, 1996, for two Severity Level III violations. The action was based on: (1) a failure to implement the environmental qualification (EQ) program in accordance with the requirements of 10 CFR 50.49 and (2) a longstanding failure to implement the corrective action program with regard to EQ deficiencies. A base penalty of \$50,000 was issued for the first violation because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action. Although a base penalty was warranted under the normal assessment process for the second violation (because this was not the first escalated action in 2 years, credit was not warranted for identification, and credit was warranted for corrective action), discretion was exercised in accordance with Section VII.A.1 and twice the base civil penalty was proposed because of the inadequacies identified in the past implementation of the licensee's corrective action program in the area of EQ.

***Cartier, Inc., Shelton, Connecticut
Supplement VI***

EA 97-145

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$7,500 was issued on June 18, 1997. The action was based on a Severity Level III violation involving distribution of approximately 16,000 timepieces containing up to 4.6 millicuries of tritium without an NRC license. Although the civil penalty would have been fully mitigated based on the normal assessment process (because the violation was the first escalated action within 2 years and the licensee took good corrective action), the NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy, and proposed a penalty at three times the base amount. Discretion was warranted because of: (1) the regulatory significance, (2) the inability of the NRC to conduct inspections of the licensee's activities, (3) the duration of the violation (12 years), and (4) the costs of maintaining an NRC license that the licensee avoided during the period of noncompliance.

Centerior Service Company, Perry, Units 1 & 2
Supplement VII**EA 96-253**

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$160,000 was issued on October 9, 1996, for a Severity Level II violation. The action was based on a problem involving two violations of 10 CFR 50.7, "Employee Protection." As determined in the DOL Administrative Law Judge's (ALJ) Recommended Decision and Order in case 96-ERA-6, dated June 11, 1996, the licensee instructed its contractor to terminate one insulator from his employment at the Perry Nuclear Power Plant and banned him and five additional insulators from working at any Centerior facility in retaliation for the insulators filing a civil complaint under the Atomic Energy Act. The violation is categorized at Severity Level II because it appears from the ALJ's decision that management above first line supervision was involved in the discrimination. Twice the base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was not warranted for corrective action.

Cleveland Clinic Foundation, Cleveland, Ohio
Supplement IV and VI**EA 96-289**

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$5,000 was issued on December 20, 1996, for a Severity Level III problem. This action was based on deliberate violations of license conditions that require annual radiation safety refresher training for radiation workers and annual audits of the licensed program. The violations occurred because resources available to the radiation safety officer were not adequate, and the available resources were used to address more pressing safety significant issues in the licensed program. Because the violations were willful, the NRC identified the violations, and the corrective actions were not considered prompt and comprehensive, the NRC proposed twice the base civil penalty. This action also included a Severity Level III violation without a civil penalty (see Appendix A).

Commonwealth Edison Company, Byron, Units 1 & 2
Supplement I**EA 96-508**

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$100,000 was issued on February 27, 1997, for four violations categorized as two Severity Level III problems related to the identification of excessive silt accumulation in the essential service water (ESW) cooling tower basins and the river screen house intake channel. The first problem involved the failure to (1) translate design configuration information into volumetric requirements for the ESW cooling tower makeup calculation and (2) develop an appropriate acceptance criteria for surveillance procedures to assure ESW operability. The second problem involved two failures to take appropriate corrective actions for conditions adverse to quality involving the silt accumulation and degraded ESW trash racks. A base civil penalty was proposed for each of the problems because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

Commonwealth Edison Company, LaSalle, Units 1 & 2
Supplement I**EA 96-325**

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$650,000 was issued on January 24, 1997, for violations of very significant regulatory concern associated with the potential common mode failure of the ultimate heat sink caused by repetitive fouling of the service water system

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due to the injection of foam sealant material for the repair of minor cracks in the safety-related service water intake tunnel at LaSalle County Station. The action includes: (1) a Severity Level II problem for inadequate procedures and a failure to follow procedures during the application of the sealant, and inadequate corrective actions in response to repetitive fouling of the service water system and (2) a Severity Level III problem for five inadequate procedures related to testing, backwashing, and cleaning strainers in the safety-related emergency core cooling water, residual heat removal, and non-essential service water systems, in addition to the failure to complete safety evaluations regarding strainer backwash flow and mesh size being different than that described in the FSAR. The NRC exercised discretion in accordance with Section VII.A of the Enforcement Policy for the Severity Level II problem and proposed a \$600,000 civil penalty because of the particularly poor performance in the event. A base civil penalty was proposed for the Severity Level III problem because, although the issue was the first escalated issue in 2 years, credit was not warranted for corrective action.

*Commonwealth Edison Company, Quad Cities, Units 1 & 2
Supplement I*

EA 96-530

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$50,000 was issued on June 24, 1997. The action was based on a Severity Level III problem consisting of violations involving design control of the facility's secondary containment structure's blowout panels and exterior siding. A base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

*Commonwealth Edison Company, Zion, Units 1 & 2
Supplement I*

EA 96-355

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$100,000 was issued on March 12, 1997 for a Severity Level III problem. The action is based on multiple violations that involved failures to: (1) perform adequate 10 CFR 50.59 analysis for modifications on safety-related systems; (2) follow procedures in the areas of modifications, corrective actions, operations and maintenance; (3) conduct tests to demonstrate systems would perform satisfactorily following modification; and (4) take prompt corrective action for significant conditions adverse to quality involving repetitive out-of-tolerance settings for containment spray system sodium hydroxide spray additive tank level indication and repetitive failures of a 4KV breaker. Although a base penalty would have been warranted under the normal assessment process (based on the fact that the problem was not the first escalated action within 2 years, that the NRC identified the problem, and that the corrective actions were considered prompt and comprehensive), discretion was exercised and twice the base penalty was proposed. Discretion was warranted because: (1) the root causes of the problem existed for an extended duration, and (2) the past corrective actions were ineffective.

*Commonwealth Edison Company, Zion, Units 1 & 2
Supplement V*

EA 97-048

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$50,000 was issued on June 17, 1997. The action was based on one Severity Level III problem involving multiple violations that collectively constituted a breakdown in control of the licensee's program for the transportation of radioactive material. These violations included failing to train personnel in accordance with procedures, inadequately maintaining radioactive material shipping procedures, inadequately implementing radiation control procedures, and exceeding the radiation limits specified in 49 CFR 173.425 for a shipment of

radioactive material. A base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***Commonwealth Edison Company, Zion, Units 1 & 2
Supplement III***

EAs 97-222 & 97-223

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$330,000 was issued on September 2, 1997. The action was based on three Severity Level III violations pertaining to reactivity management problems and command/control problems that occurred during the February 21, 1997 plant shutdown; the nitrogen gas displacement of reactor coolant from the reactor vessel on March 8, 1997; and the failure of the corrective action program to implement effective and lasting actions for similar previous events. While the actual safety consequence of each event was low, the events were clearly indicative of the licensee's failure to establish effective oversight of control room activities as well as a failure to learn from past mistakes of its own and industry events. Since the licensee demonstrated particularly poor performance in allowing their occurrence, the violations were directly attributable to management's ineffective development and implementation of corrective actions for previous events, and management was responsible for allowing control room conditions to degrade to a point where execution of control room responsibilities was impaired, the NRC exercised enforcement discretion in accordance with Section VII.A of the Enforcement Policy and doubled the civil penalties for each of the three issues.

***Conam Inspection, Inc., Itaska, Illinois
Supplements IV and VI***

EA 97-207

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$16,000 was issued on June 9, 1997. The action was based on a Severity Level II problem involving: (1) a failure to secure the sealed source assembly in the shielded position, (2) a failure to perform an adequate survey after each radiographic exposure, (3) a failure to limit the annual occupational dose to an adult radiographer to 5 rems, (4) a failure to submit a 30-day written report concerning a dose in excess of the occupational dose limits, and (5) a failure to wear a film badge and pocket dosimeter at all times when working with ionizing radiation. Twice the base civil penalty was proposed in this case because: (1) this was a Severity Level II problem, (2) credit was not warranted for identification, and (3) credit was not warranted for corrective action.

***Connecticut Yankee Atomic Power Company, Haddam Neck
Supplements I & VIII***

EA 96-001

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$650,000 was issued on May 12, 1997. This action was based on three Severity Level II problems consisting of multiple individual violations, one Severity Level III problem not assessed a civil penalty, and numerous Severity Level IV violations. The violations were grouped into a number of broad categories, namely, numerous longstanding deficiencies in engineering programs and practices, including plant design, design control, and engineering support, some of which led to significant safety equipment being inoperable or degraded for extended periods; numerous operational deficiencies, including inadequate procedures, failure to follow procedures, and inadequate corrective actions, which led to an event in which nitrogen gas was allowed to intrude into the reactor coolant system; and inadequate implementation of the emergency preparedness program during the August 1996 exercise. The NRC exercised civil penalty discretion in

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accordance with Section VII.A and issued \$200,000, \$150,000, and \$300,000 penalties for the three Severity Level II problems.

***Connell Limited Partnership, Tulsa, Oklahoma
Supplement VI***

EA 96-536

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$8,800 was issued on March 6, 1997, for violations classified at Severity Level II. The action was based on three violations of radiography safety requirements that resulted in a radiation exposure in excess of NRC's limits. The exposure occurred to a radiographer employed by another licensee, Tulsa Gamma Ray, Inc., who conducted radiography in Connell's facility. The exposure associated with the incident was 6.465 rems total effective dose equivalent, resulting in an exposure to the radiographer of 8.3 rems, exceeding the annual limit of 5 rems. A base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***Consolidated Edison Company, Indian Point, Unit 2
Supplement I***

***EAs 96-509, 97-031,
97-113, & 97-191***

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$205,000 was issued on May 27, 1997. The action was based on three Severity Level III violations and one Severity Level III problem consisting of four individual violations. Two of the Severity Level III violations and the Severity Level III problem was for the licensee's failure to identify and take corrective actions for significant conditions adverse to quality related to the introduction of abrasive grit into the main feedwater system, inadvertent actuation of fire dampers, and other instances which could have resulted in degradation or inoperability of safety-related equipment. The third Severity Level III violation involved a condition in which fire protection features were not provided to limit fire damage so that one train of a system necessary to achieve and maintain hot shutdown was free of fire damage. A base civil penalty was proposed in three of the cases because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action. A base civil penalty was proposed in the other case because: (1) this was not the first escalated action in 2 years, (2) credit was warranted for identification, and (3) credit was not warranted for corrective action.

***CTI, Inc., Anchorage, Alaska
Supplement VI***

EA 96-232

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$13,000 was issued on October 31, 1996. The action was based on: (1) a Severity Level II problem involving a failure to perform an adequate survey of a radiographic device, a failure to check the operability of an alarm ratemeter prior to use, a failure to immediately notify the licensee's radiation safety officer about the potential malfunction of a radiographic device and the off-scale discharge of a pocket dosimeter, and a failure to immediately send for processing a radiographer's film badge after the pocket dosimeter assigned to him discharged beyond its range; and (2) a Severity Level III problem concerning a willful failure to post a high radiation area and failure to maintain complete and accurate records regarding the posting of such areas. Base civil penalties were issued for each issue because: (1) these issues were considered willful, (2) credit was not warranted for identification, and (3) credit was warranted for the corrective actions.

**Detroit Edison company, Fermi, Unit 2
Supplement I****EA 97-201**

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$50,000 was issued on September 23, 1997. The action was based on one Severity Level III violation pertaining to the licensee's failure to implement timely and effective corrective actions to resolve electrical switch preventive maintenance (cleaning, lubricating, and cycling) problems. The failure to implement an effective preventive maintenance program resulted in the failure of several electrical disconnect switches installed in safety related and non-safety related systems. A base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

**Duke Power Company, Oconee, Units 1 & 2
Supplement II****EAs 97-297 & 97-298**

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$330,000 was issued on August 27, 1997. The action was based on a Severity Level II violation, identified during a Unit 2 shutdown on May 2, 1997, involving the high pressure injection system being found in a condition where it would be unable to perform its intended function and a Severity Level III violation involving the failure to properly implement a required augmented inspection program for identifying cracks in the high pressure injection system piping that resulted in an unisolable reactor coolant leak on April 21, 1997. The NRC exercised discretion in accordance with Section VII.A of the Enforcement Policy and a \$220,000 civil penalty was proposed for the Severity Level II violation and a \$110,000 civil penalty was proposed for the Severity Level III violation. Discretion was warranted because of: (1) the high potential safety consequence of the inoperable high pressure injection system, (2) the duration of the violation, and (3) the prior opportunities the licensee had to identify the cause of the inoperability.

**Duquesne Light Company, Beaver Valley, Unit 1
Supplement I****EAs 96-462 & 96-540**

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$160,000 was issued on March 10, 1997. The action was based on (1) a Severity Level III violation related to the licensee's failure to correct an adverse condition to quality at Unit 1 involving the operation of the reactor with two out of three pressurizer power operated relief valve (PORV) block valves shut for 13 years, and (2) a Severity Level III problem related to deficiencies associated with inadequate control of leak sealant repairs on the Unit 2 reactor head vent system (HVS). A base civil penalty was proposed in the first case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action. Although a base civil penalty would have been warranted for the second case (because this was not the first escalated action in 2 years, credit was not warranted for identification, and credit was warranted for corrective action), the NRC exercised discretion in accordance with Section VII.A.1 and doubled the civil penalty (see Appendix E).

**Entergy Operations, Inc., Arkansas Nuclear One
Supplement I****EA 96-512**

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$50,000 was issued on April 9, 1997. The action was based on violations related to an October 17, 1996 containment building fire at the company's Arkansas Nuclear One facility. The action is based on a Severity Level III problem

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consisting of: (1) a failure to maintain an adequate lube oil collection system for reactor coolant pumps, which resulted in oil accumulation on fibrous insulation, creating the potential for a fire; and (2) a failure in two instances to take prompt action to identify and correct conditions which resulted in the fire. A base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***Entergy Operations, Inc., Waterford, Unit 3
Supplement I***

EA 96-255

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$50,000 was issued on December 26, 1996, for two Severity Level III violations. The action was based on an inspection performed at the licensee's Waterford 3 facility that identified violations involving the inservice test (IST) program. The first violation involved the actual design configuration of the containment vacuum relief system being different from that described in the plant's Final Safety Analysis Report, which resulted in certain valves not being properly tested to ensure they fulfilled the containment isolation function. A base civil penalty was proposed for this violation because: (1) it was not the first escalated issue in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action. The civil penalty was fully mitigated for the second violation that involved the failure to promptly evaluate and correct known discrepancies in the IST program (see Appendix A).

***Entergy Operations, Inc., Waterford 3
Supplement I***

EA 97-099

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on May 9, 1997. The action was based on a Severity Level III problem consisting of: (1) a failure to assure containment fan cooler flows met Technical Specification surveillance acceptance requirements, (2) a failure to properly translate design basis information into accident Analyses and specifications, (3) a failure to test containment fan cooler flows under post-accident conditions, and (4) a failure to take prompt action to resolve discrepancies between design basis documents and attained flows. A base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***Environmental Protection Agency, Barrigada, Guam
Supplement VI***

EA 97-122

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,750 was issued on September 11, 1997. This action was based on an inspection conducted in February 1997, that identified a Severity Level III problem involving the licensee's storage and use of a gas chromatography unit. One of the violations, involving the failure to maintain adequate security over licensed material, was a repeat violation, and all the violations in the aggregate indicated a lack of management oversight of licensed activities. Although this was the first escalated action in 2 years, a base civil penalty was proposed in this case because credit was not warranted for corrective action.

***Fairbanks Memorial Hospital, Fairbanks, Alaska
Supplement VI***

EA 96-505

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,500 was issued on April 1, 1997. This action was based on a Severity Level III violation involving deliberate failure to

obtain the signature of the physician authorized user on a written directive before administering a dosage of I-131 of greater than 30 microcuries to a patient. The dosage administered was approximately 6.6 millicuries instead of the intended 100 microcuries, which constitutes a misadministration. Although the civil penalty would have been fully mitigated based on the normal assessment process (because the licensee identified and corrected the violation), discretion was warranted to propose a base penalty because of the deliberate nature of the violation, the involvement of the radiation safety officer, and the potential for patient harm.

Fernandez, M.D., Jose, San Juan, Puerto Rico
Supplements IV and VI

EA 97-137

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$8,000 was issued on June 11, 1997. The action involved numerous violations associated with the licensee's failure to implement various aspects of his brachytherapy program (strontium-90 ophthalmological treatments) and the failure to comply with all aspects of the "Order Modifying License No. 52-25114-01, issued on October 21, 1996. Specifically, nine violations were identified involving the failure to (1) establish a Quality Management Program, (2) appropriately secure licensed material, (3) prohibit use of licensed material by an authorized user, (4) notify patients of misadministrations within 24 hours, (5) provide patients written reports of misadministrations within 15 days, (6) leak test sealed sources, (7) inventory seal sources, (8) transfer licensed material to an authorized recipient, and (9) transfer licensed material within the time specified in the October 21, 1996 Order. The violations were categorized as a Severity Level II problem based on the NRC's conclusion that they were reflective of a significant lack of program oversight and careless disregard for regulatory requirements. Several of the violations stemmed from the failure to assure that one of the licensee's eye applicators containing Sr-90 and used for patient eye treatment was appropriately calibrated. As a consequence, more than 200 misadministrations (of greater than two times the intended dose) occurred. The ultimate health impact of the overexposures to the patients is not fully known at this time; however, patient follow-up has been coordinated with the Puerto Rico Department of Health. Twice the base civil penalty was proposed in this case because: (1) this was a Severity Level II issue, (2) credit was not warranted for identification, and (3) credit was not warranted for corrective action.

Florida Power and Light Company, St. Lucie, Units 1 & 2
Supplement III

EA 96-458

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$50,000 was issued on January 10, 1997, for a Severity Level III violation. The action involved violations of significant regulatory concern associated with the engineering/modification process, security, and emergency preparedness at the St. Lucie Nuclear Plant. The action included a problem for the failure to limit access to plant protected and vital areas and to notify the NRC. A base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was warranted for identification, and (3) credit was not warranted for corrective action.

Florida Power and Light Company, St. Lucie, Units 1 & 2
Supplement III

EA 96-464

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$100,000 was issued on January 10, 1997, for three Severity Level III violations. The action involved violations of significant regulatory concern associated with the engineering/modification process, security, and emergency

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preparedness at the St. Lucie Nuclear Plant. The action includes a problem for multiple failures to implement the Radiological Emergency Plan. The violations, although unrelated, are reflective of particularly poor overall licensee performance. A base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***Florida Power Corporation, Crystal River, Unit 3
Supplement III***

EA 97-012

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$50,000 was issued on February 28, 1997, for violations that were categorized as a Severity Level III problem. The action involved multiple violations related to the implementation of the licensee's Physical Security Plan (PSP). Specifically, six violations were identified involving the failure to: (1) maintain adequate PSP implementing procedures, (2) properly respond to a protected area alarm, (3) employ the capability to assess more than one protected area alarm at a time, (4) maintain a physical barrier to the protected area, (5) appropriately control and safeguards weapons stored in the armory, and (6) properly submit PSP changes to the NRC as required by 10 CFR 50.54(p). A base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***GCME, Inc., Depere, Wisconsin
Supplement IV, V, VI***

EA 96-256

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$5,000 was issued on October 4, 1996. The action was based on a Severity Level III problem involving failure to: (1) ensure that users of byproduct material were issued film badges, (2) secure licensed material from unauthorized removal, (3) provide training to users of byproduct material, and (4) transport licensed material in accordance with DOT requirements. Twice the base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was not warranted for corrective action.

***Grand View Hospital, Sellersville, Pennsylvania
Supplement V***

EA 97-309

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$4,400 was issued on August 13, 1997. The action is based on a Severity Level II problem involving: (1) the licensee's failure to ensure that radiation safety activities were being performed in accordance with approved procedures and regulatory requirements, and (2) the shipment of a Class 7 (radioactive) materials package, which had removable radioactive contaminants on the external surfaces of the package in excess of 270 times the allowable regulatory limits. A base civil penalty was proposed in this case because: (1) this was a Severity Level II problem, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***Grandin Testing Lab, Inc., Los Lunas, New Mexico
Supplement VI***

EA 96-382

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,500 for a Severity Level III violation, was issued on January 6, 1997. This action was based on the use of gauges in areas

of exclusive Federal jurisdiction without proper authorization from the NRC. The NRC concluded that the violation resulted from careless disregard for the applicable requirements. A base civil penalty was proposed in this case because: (1) this was considered willful, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***H.H. Holmes Testing Laboratories, Wheeling, Illinois
Supplement VI***

EA 97-237

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,500 was issued on August 22, 1997. The action is based on a Severity Level III violation involving willful failures to file an NRC Form 241. A base civil penalty was proposed in this case because: (1) this was considered willful, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***Hagerstown Construction, Hagerstown, Maryland
Supplements V & VI***

EA 97-193

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,750 was issued on July 1, 1997. The action was based on a Severity Level III violation involving numerous failures, in careless disregard to Commission requirements, to file NRC Form 241 for work involving moisture density gauges performed under an Agreement State license in States where NRC has licensing authority. The failure to file Form 241 resulted in NRC being unaware, for an extended period of time, that licensed activities were being conducted in NRC jurisdiction. A base civil penalty was proposed in this case because: (1) this was considered willful, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***HTP, Inc., Sharon, Pennsylvania
Supplement VI***

EA 97-226

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$5,500 was issued on June 18, 1997. The action was based on HTP's continued possession of sealed sources even though the HTP license expired in January 1995 and HTP was required to complete decommissioning within 26 months of that date. The violation was considered willful and was categorized at Severity Level III because HTP was given adequate notice and had not complied. Twice the base civil penalty was proposed in this case because: (1) this was considered willful, (2) credit was not warranted for identification, and (3) credit was not warranted for corrective action. The Notice provided that the NRC would withdraw the civil penalty if the licensee transferred the byproduct material to an authorized recipient within 30 days and complied with other requirements of 10 CFR 30.36. The NRC subsequently withdrew the Notice on August 18, 1997, because the licensee transferred the material and complied with other requirements.

**Illinois Power Company, Clinton
Supplements I and IV**

**EAs 96-412, 97-001,
97-002, & 97-060**

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$450,000 was issued on June 9, 1997. The action was based on one Severity Level II problem consisting of two violations and four Severity Level III problems consisting of 28 violations. The Severity Level II problem involved two significant procedure violations that occurred on September 5, 1996, when the licensee's actions to obtain single loop operation resulted in reactor coolant leakage considerably exceeding allowed Technical Specification leakage limits that required a plant shutdown. The Severity Level III problems involve (1) the use of procedures, (2) implementation of 10 CFR 50.59, (3) inoperability of an emergency diesel generator that exceeded the allowed out of service time, and (4) inoperable feedwater penetrations. The NRC exercised discretion in accordance with Section VII.A of the Enforcement Policy and issued the maximum statutory amount (\$200,00) for the Severity Level II problem and issued \$100,000 for the Severity Level III problem involving use of procedures. Discretion was warranted to emphasize: (1) the importance of strong management oversight and direction from both the site and utility in maintaining clear focus on operational safety violations, (2) the need for plant personnel to challenge and investigate discrepancies, (3) the need to adequately plan safety-significant activities, (4) the need to take timely and effective corrective actions, and (6) the need for a strong self-assessment program. Base penalties were proposed for the other three Severity Level III problems because credit was not warranted for the licensee's corrective actions.

**Illinois Power Company, Clinton
Supplement I**

EA 97-132

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$110,000 was issued on August 1, 1997. The action was based on a Severity Level III problem involving failure to properly maintain safety-related electrical breakers. Twice the base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was not warranted for corrective action.

**Indiana Department of Transportation, Indianapolis, Indiana
Supplement III**

EA 96-248

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,500 was issued on October 24, 1996, for a Severity Level III problem involving two deliberate violations for allowing an unauthorized trainee to use a moisture density gauge without completing the requisite training and for providing a thermoluminescent dosimeter, which was assigned to a project engineer, to the same unauthorized trainee. A base civil penalty was proposed in this case because: (1) it was considered willful, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

**Indianapolis, City of, Indianapolis, Indiana
Supplement VI**

EA 97-166

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,750 was issued on May 30, 1997. This action was based on a Severity Level III problem involving several violations that in the aggregate represented a breakdown in control over the licensed program for moisture density gauges. Although this was the first escalated action in 2 years, a base civil penalty was proposed in this case because credit was not warranted for corrective action.

***Koppel Steel Corporation, Beaver Falls, Pennsylvania
Supplement VII******EA 96-498***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$8,000 was issued on March 19, 1997, for a Severity Level II. The action was based on discrimination against a former Radiation Safety Officer after he provided information to an NRC inspector during an April 1996 inspection. Twice the base civil penalty was proposed in this case because: (1) this was a Severity Level II violation, (2) credit was not warranted for identification, and (3) credit was not warranted for corrective action.

***Lower Bucks Hospital, Bristol, Pennsylvania
Supplement VI******EA 97-005***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,750 was issued on May 27, 1997. This action was based on a Severity Level III problem involving failure to retrieve a cardiac pacemaker from a neighboring hospital where it was explanted. The pacemaker ended up in the normal (non-radioactive) waste stream. Although this was the first escalated action in 2 years, a base civil penalty was proposed because credit was not warranted for corrective action.

***Mallinckrodt Medical, Inc., Missouri Maryland Hospital
Supplement V******EA 97-155***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$13,750 was issued on May 30, 1997. This action is based on one violation of NRC regulations involving shipment of a Mo-99/Tc-99m generator for medical use where the radiation level at the surface of the package exceeded 200 millirems. A base civil penalty was proposed in this case because: (1) this was not the first escalated issue in 2 years, (2) credit was warranted for identification, and (3) credit was not warranted for corrective action.

***Minnesota Mining and Manufacturer Center, St. Paul, Minnesota
Supplement VI******EA 96-403***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$8,000 was issued on January 7, 1997, for a Severity Level II violation. This action was based on failure to have an operator present during certain periods when the Brookings, South Dakota, facility irradiator was operated using an automatic product conveyor system. A base civil penalty was proposed in this case because: (1) this was a Severity Level II violation, (2) credit was warranted for identification, and (3) credit was not warranted for corrective action.

***Nelson Excavating, Inc., Thomas, West Virginia
Supplement I and IV******EA 96-308***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$5,000 was issued on January 27, 1997, for a Severity Level I violation. The action was based on a problem that included use of a moisture density gauge after the license had been suspended, supplying inaccurate information as to the Radiation Protection Officer (RPO), and failure to have an RPO for over 8 years. Twice the base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was not warranted for corrective action.

***New York Power Authority, Indian Point 3
Supplement I***

EA 97-294

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on August 19, 1997. The action was based on a Severity Level III violation involving three examples of design basis information not being correctly translated in Emergency Operating Procedures and appropriate direction not being provided to operators to ensure that adequate ultimate heat sink cooling was promptly available in certain accident scenarios. A base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***Niagara Mohawk Power Corporation, Nine Mile Point
Supplement I***

***EAs 96-474, 96-475,
& 96-541***

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$200,000 was issued on April 10, 1997. The action was based on three Severity Level III violations/problems involving inadequate design controls and corrective actions, including corrective action deficiencies associated with a reactor pressure vessel overfill event. Two of the issues were issued base penalties because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action. Twice the base civil penalty was proposed for the other issue because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was not warranted for corrective action.

***Northeast Nuclear Energy Company, Millstone, Units 1, 2, & 3
Supplement III***

EA 97-104

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on June 11, 1997. The action was based on violations related to implementation of the licensee's physical security plan for the Millstone facility. The action is based on a Severity Level III problem consisting of: (1) multiple examples of failure to control safeguards information at the facility, and (2) multiple examples of failure to control vehicles in the protected area in that keys were left in the ignition. A base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was warranted for identification, and (3) credit was not warranted for corrective action.

***Northern States Power Company, Prairie Island, Units 1 & 2
Supplement I***

EA 96-402

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$50,000 was issued on January 23, 1997, for a Severity Level III violation. This action was based on a violation involving an unreviewed safety question (USQ). The USQ was created by the licensee when they took credit for the use of a non-seismic intake canal and manual operator action in an evaluation performed to address the failure of the emergency intake line to meet the FSAR design basis requirement. The use of operator action to meet the requirements of the FSAR created a USQ because it introduced the potential for creating an accident or malfunction of a type different than evaluated previously in the FSAR. The use of the non-seismic intake canal introduced the potential for increasing the probability of the consequences of the accident. Although this was the first escalated action in 2 years, a base civil penalty was proposed in this case because credit was not warranted for corrective action.

**Omaha Public Power District, Ft. Calhoun
Supplement I****EA 97-251**

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on July 30, 1997. The action was based on a Severity Level III problem involving violations of fire protection requirements at the licensee's Fort Calhoun Station facility. The violations involved: (1) failure to protect an emergency diesel generator speed sensing circuit, (2) failure to have in place a procedure to enable operators to cope with a cable spreading room fire, (3) an inadequate lubricating oil collection for reactor coolant pumps, (4) failure to post firewatch personnel and, (5) failure to adequately train fire brigade members. A base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

**Overlook Hospital, Summit, New Jersey
Supplement VI****EA 97-246**

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,750 was issued on August 21, 1997. The action was based on a Severity Level III problem involving: (1) failure to prepare a written directive prior to administering iodine-131 as sodium iodide to a patient, and (2) failure to instruct an individual in the licensee's medical quality management program. These violations contributed to a misadministration in which 7 millicuries of iodine-131 was administered instead of the intended 2 millicurie dose. A base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

**Pennsylvania Power & Light Company, Susquehanna, Units 1 & 2
Supplements I and VII****EAs 96-270 &
96-347**

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$210,000 was issued on June 20, 1997. The action was based on: (1) a Severity Level II problem involving an inoperable emergency diesel generator, the failure to follow procedures, inadequate procedures, and incomplete and inaccurate information, and (2) a Severity Level III violation involving an inoperable containment isolation valve. The NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy and issued twice the base penalty for the Severity Level II problem. Although the normal civil penalty process would have fully mitigated the penalty based on the fact that the licensee identified and corrected the problem, discretion was warranted because of the particularly poor licensee performance as evidenced by: (1) the nature of the violations associated with the Severity Level II problem, (2) the extensiveness of the problem with inaccurate records, and (3) the management and supervisory failures demonstrated by the violations. A base civil penalty was proposed for the Severity Level II violation because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***Philadelphia Electric Company, Limerick, Units 1 & 2
Supplement VII***

EA 97-050

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$80,000 was issued on August 5, 1997. The action was based on a Severity Level II problem that included two violations involving instances of record falsification at the Limerick Generating Station. In the first violation, a chemistry technician and a former chemist, at the direction of the former chemistry manager, deliberately falsified a record of the time a grab sample was taken from the Reactor Enclosure Cooling Water system. The former chemistry manager also pressured the technician and chemist to lie about their actions to licensee security personnel investigating the matter. In the second violation, a fire protection technical assistant deliberately failed to perform a fire hose station visual inspection surveillance test, yet falsified the surveillance test document to indicate the test was performed. Although the licensee's identification and correction of the problem would fully mitigate the civil penalty under the normal assessment process, the NRC exercised discretion in accordance with Section VII.A.1 and issued twice the base penalty. Discretion was warranted because the violations were considered willful.

***Power Inspection, Inc., Wexford, Pennsylvania
Supplements VI and VII***

EA 95-025

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$40,000 was issued on February 18, 1997, for a Severity Level I violation and a Severity Level I problem. The Severity Level I violation (which involved vendor-related issues), was issued for four examples of a deliberate failure to provide complete and accurate information to two NRC licensees. The Severity Level I problem (which involved radiography-related issues), was issued for deliberate failures to provide the NRC complete and accurate information and for numerous safety violations. The staff exercised discretion in accordance with Section VII.A.1 of the Enforcement Policy and issued \$20,000 for each Severity Level I issue because of the egregiousness of the violations, the extensive record falsification, and the fact that management was directly involved in the deliberate misconduct.

***Public Service Electric and Gas Company, Hope Creek, Unit 1
Supplement I***

EA 96-125

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$150,000 was issued on October 23, 1996, for three Severity Level III problems. The action was based on two inspections being performed at the Hope Creek Nuclear Generating Station that identified six violations involving: (1) two violations of failures to plan appropriate surveillance testing for control rod drive systems, (2) two violations of failures to promptly identify and correct conditions adverse to quality regarding reactor building ventilation supply duct backdraft isolation dampers and control rod withdrawal speeds being in excess of the values assumed in the Updated Final Safety Analysis Report, (3) one violation of a failure to obtain Commission approval prior to making changes to the facility's service water system design that involved an unreviewed safety question, and (4) one violation involving the failure to maintain the service water system in accordance with the Technical Specifications. A base civil penalty was proposed for each of the issues because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

**Public Service Electric and Gas Company, Salem, Units 1 & 2
Supplement VII**

EA 96-177

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$80,000 was issued on December 9, 1996, for a Severity Level II violation. The action was based on a problem involving a former manager of the licensee's Nuclear Safety Review Group who discriminated against a former Onsite Safety Review Engineer (OSRE) and a Safety Review Engineer (SRE) at the Salem Generating Station in late 1993 and early 1994. By virtue of negative comments in the OSRE's Performance Assessments, he was harassed and retaliated against by this former manager due to his involvement in events associated with a December 3, 1992 event for which the licensee was issued a separate \$80,000 civil penalty (EA 94-239). By virtue of an involuntary transfer to the Hope Creek Safety Review Group, the SRE was harassed and retaliated against by this former manager, as a result of raising a safety issue during the December 3, 1992 event. A base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

**Public Service Electric and Gas Company, Salem, Units 1 & 2
Supplement III**

EA 96-344

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$100,000 was issued on December 11, 1996, for two Severity Level III violations. The action involved three violations related to two specific events concerning the failure to adequately control access to the facility. The first violation involved a keycard photobadge station problem that could have resulted in an unauthorized individual gaining access to the protected and vital areas of the stations. The second event involved two violations where a contractor individual accessed the protected area without an adequate search after the individual had, on three occasions, alarmed two separate metal detectors at the station's access control point. A base civil penalty was proposed for each of the violations because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

**Robco Production Logging, Inc., Snyder, Texas
Supplement V and VI**

EA 96-378

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$1,100 was issued on January 2, 1997 for a Severity Level III violation. The action was based on a violation involving use of licensed material by a Texas licensee in NRC jurisdiction without filing NRC Form 241. Although the civil penalty would have been fully mitigated based on the normal assessment process (because the violation was the first escalated action in 2 years, and the corrective actions were considered prompt and comprehensive), discretion was exercised in accordance with Section VII.A.1 and a penalty was proposed to emphasize the importance of taking action to preclude further violations.

**Rochester Gas and Electric Company, Ginna, Unit 1
Supplement I**

EA 96-282

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$100,000 was issued on December 13, 1996, for a Severity Level III violation. The action was based on an inspection performed at the licensee's Ginna Nuclear Power Station that identified two violations involving the failure to adequately validate design inputs for the residual heat removal system motor-operated core

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deluge valves, as well as the failure to adequately correct this condition following its identification. Although a base penalty would have been warranted under the normal assessment process (because this was not the first escalated issue in 2 years, credit was not warranted for identification, and credit was warranted for corrective action), the NRC exercised discretion and doubled the base in order to emphasize the importance of ensuring proper analysis of design inputs for these motor-operated valves and the unacceptability of not taking appropriate steps to verify adequate design margin, given the importance of the valves to plant safety.

***Rochester Gas & Electric Company, Ginna
Supplement III***

EA 97-339

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on August 15, 1997. The action was based on two violations of security requirements that are classified in the aggregate at Severity Level III. Each violation involves inadequacies in the vehicle barriers deployed outside the outer isolation zone to prevent the malicious use of a vehicle to gain entry to the protected and vital areas. A base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***S. C. Johnson & Son, Inc., Racine, Wisconsin
Supplements IV & VI***

EA 97-338

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,500 was issued on September 3, 1997. The action was based on loss of control of licensed material. Although the civil penalty would have been fully mitigated based on the normal assessment process (because this was the first escalated action in 2 years and the corrective actions were considered prompt and comprehensive), discretion was exercised and a base civil penalty was proposed because control over the licensed material was lost and it is believed to be in a landfill in the public domain.

***Sadovsky, (DVM), Roy, North Hills, New Jersey
Supplements IV, V, & VI***

EA 97-150

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$4,000 was issued on May 1, 1997. The action was based on a Severity Level II problem involving: (1) deliberate use of licensed material at a location not authorized on the license, (2) failure to secure from unauthorized removal or access licensed materials that were stored in an unrestricted area, (3) failure to perform radiation surveys, (4) failure to supply and require the use of an individual monitoring device, (5) failure to conduct operations so that the dose in any unrestricted area from external sources does not exceed 2 millirem in any one hour, and (6) several failures to comply with Department of Transportation requirements. Civil penalty discretion was warranted given the deliberate nature, and the potential safety consequences, to the public.

***Southern Nuclear Operating Company, Inc., Farley, Units 1 & 2
Supplement 1***

EA 96-410

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$50,000 was issued on December 4, 1996, for a Severity Level III violation. The action involved a violation related to the implementation of 10 CFR Part 50 Appendix R and the licensee's Fire Protection Program. Specifically,

three examples were identified in which the licensee failed to assure that 1-hour fire barriers, in this case Kaowool enclosures, were installed on Unit 1 electrical cables associated with systems required for safe shutdown. Although this was the first escalated action in 2 years, a base civil penalty was proposed in this case because credit was not warranted for corrective action.

***St. Francis Hospital, Escanaba, Michigan
Supplements IV, VI, & VII***

EA 96-491

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$2,500 was issued on May 1, 1997. The action was based on a Severity Level III violation for a deliberate failure to maintain complete and accurate information. A base civil penalty was proposed in this case because: (1) this was a willful issue, (2) credit was warranted for identification, and (3) credit was not warranted for corrective action. A Notice of Violation was also issued in conjunction with this action (see Appendix A).

***St. Joseph's Hospital and Medical Center, Paterson, New Jersey,
Supplement VI***

EA 97-066

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,750 was issued on March 25, 1997, for a Severity Level III problem involving several violations that in the aggregate represented a lack of adequate attention to the licensed program. Although this was the first escalated action in 2 years, a base civil penalty was proposed in this case because credit was not warranted for corrective action.

***St. Mary's Hospital of Blue Spring, Blue Springs, Missouri
Supplements IV and VI***

EA 97-234

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,500 was issued on July 23, 1997. The action was based on a number of violations that were considered in the aggregate to represent a Severity Level III problem involving careless disregard of Commission requirements. Specifically, a nuclear medicine technologist as a result of careless disregard failed to perform certain NRC-required tests and procedures through complacency, rather than through mistake or error. The omissions occurred particularly when the technologist worked on weekends. A base civil penalty was proposed in this case because: (1) this issue was considered willful, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***Temple University, Philadelphia, Pennsylvania
Supplement IV***

EA 96-455

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$10,000 was issued on December 31, 1996, for two Severity Level III violations. This action was based on violations involving security of licensed material and willful failure to perform monthly spot (calibration) checks on high dose rate (HDR) brachytherapy equipment. Twice the base civil penalty was proposed for each of the two cases because: (1) the action was considered willful, (2) credit was not warranted for identification, and (3) credit was not warranted for corrective action.

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***Tennessee Valley Authority, Sequoyah, Units 1 & 2
Supplement VII***

EA 95-199

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$100,000 was issued on January 13, 1997, for a Severity Level I violation. The action was based on a violation of 10 CFR 50.7. A former Vice-President of Nuclear Operations discriminated against a former corporate manager of Chemistry and Environmental Protection, on April 5, 1993, when the manager was forced to resign from TVA because he had engaged in protected activities. Twice the base civil penalty was proposed in this case because: (1) it was a Severity Level I issue, (2) credit was not warranted for identification, and (3) credit was not warranted for corrective action.

***Tennessee Valley Authority, Sequoyah, Units 1 & 2
Supplement I***

EA 96-269

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$50,000 was issued on November 19, 1996, for a Severity Level III violation. The action involved four violations at the Sequoyah Plant related to the fire protection program, including: (1) 12 examples in which the licensee failed to implement effective and/or timely corrective actions, (2) an inoperable carbon dioxide fire suppression system for the computer room, (3) failure to perform the required surveillances for the certain penetrations in high radiation areas, and (4) failure to demonstrate the operability of the fire hose stations in the reactor buildings. A base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was warranted for identification, and (3) credit was not warranted for corrective action.

***Tennessee Valley Authority, Sequoyah, Unit 2
Supplement I***

EA 96-414

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$100,000 was issued on December 24, 1996, for two Severity Level III violations. The action involved two problems at the Sequoyah Plant, Unit 2, related to: (1) failure to implement effective and/or timely corrective actions resulting in poor plant material condition that caused and complicated recovery from a plant trip, and (2) a breakdown in the control of licensed activities involving failures in Operations, Maintenance, and Engineering activities related to replacement of an inoperable reactor trip breaker. A base civil penalty was proposed for each issue because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***Testing Laboratories, Inc., Alamogordo, New Mexico
Supplement VI***

EA 96-447

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,500 was issued on January 6, 1997, for a Severity Level III violation. This action was based on using gauges in areas of exclusive Federal jurisdiction without proper authorization from the NRC. Based on previous correspondence between NRC and the licensee regarding the need to obtain NRC authorization before conducting activities in exclusive Federal jurisdiction, the NRC has concluded that the violation resulted from at least careless disregard for the applicable requirements. A base civil penalty was proposed in this case because: (1) this issue was considered willful, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

Thermal Science, Inc., St. Louis, Missouri
Supplement VII**EA 95-009**

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$900,000 was issued on October 1, 1996, for nine Severity Level I violations. The action was based on an investigation by the Office of the Inspector General, in addition to several inspections performed by NRC staff, that identified nine Severity Level I violations. All of the violations were cited against 10 CFR 50.5, "Deliberate Misconduct," due to TSI having deliberately and repeatedly provided inaccurate or incomplete information to the NRC concerning TSI's fire endurance and ampacity testing programs for Thermo-Lag fire barriers.

Toledo Edison Company, Davis-Besse, Unit 1
Supplement III**EA 96-304**

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$50,000 was issued on October 22, 1996, for a Severity Level III violation. The action was based on an inspection conducted at the Davis-Besse Nuclear Power Station concerning: (1) certain motor operated valves potentially being unable to perform their post-fire safe shutdown function and (2) degraded radiant energy shields in the containment and containment annulus. A base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

United Nuclear Corporation, Gallup, New Mexico
Supplement VII**EA 93-170**

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$100,000 was issued on February 13, 1997, for a Severity Level II problem. The action involved the failure to comply with an NRC order to set aside certain funds for decommissioning funding and providing incomplete and inaccurate information regarding the handling of those funds and the ownership of an account. The NRC exercised its full civil penalty authority and proposed a \$100,000 penalty to emphasize: (1) that the NRC must be able to have full confidence in the honesty and integrity of licensees (especially senior licensee officials), and (2) the licensee's willingness to comply with NRC orders and regulations and to provide accurate information to the NRC. The matter was settled with the licensee paying \$99,000.

Virginia Electric Power Company, Surry, Units 1 & 2
Supplement III**EA 97-055**

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on August 29, 1997. The action was based on one Severity Level III problem consisting of three violations related to the failure to meet the requirements of the Maintenance Rule. A base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was warranted for identification, and (3) credit was not warranted for corrective action.

Washington Hospital Center, Washington, D.C.
Supplements IV and VI**EA 96-385**

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$5,000 was issued on April 10, 1997. The action was based on two Severity Level III problems involving: (1) multiple

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instances of failure to measure employee thyroid burdens, and failure to provide adequate training in this area; and (2) the loss of an iodine-125 seed, failure to perform an adequate survey in an attempt to recover the missing seed, and failure to notify the NRC of the loss of the material. A base civil penalty was proposed in one case because: (1) this was not the first escalated action in 2 years, (2) credit was warranted for identification, and (3) credit was not warranted for corrective action. A base civil penalty was proposed in the other case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

Washington Public Power Supply System, WNP-2 Supplement I

EA 96-327

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$100,000 was issued on November 26, 1996, for a Severity Level III violation. The action was based on several instances in which required surveillances were not performed. In some cases, mode changes were made without assurance that required equipment was operable, and in one case, a mode change was made with one train of the control room emergency filtration system inoperable. Although the civil penalty would have been fully mitigated based on the normal assessment process (because the licensee identified and corrected the violation), the NRC exercised discretion to propose a civil penalty. The root causes of the violation was similar to previous violations. Discretion was appropriate to emphasize the failure of the licensee's previous corrective actions to preclude similar violations from occurring, and to emphasize the fundamental importance of having an effective program for assuring that surveillances are performed as required.

Western Colorado Testing, Grand Junction, Colorado Supplement VI

EA 96-459

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,500 was issued on June 13, 1997. The action was based on a Severity Level III violation involving a willful failure to file for reciprocity prior to conducting licensed activities in non-Agreement States. A base civil penalty was proposed in this case because: (1) this issue was considered willful, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

Wisconsin Electric Power Company, Point Beach, Units, 1 & 2 Supplement I

EAs 96-215 &
96-273

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$325,000 was issued on December 3, 1996. The action was based on two inspections performed at the Point Beach Nuclear Power Plant. Three Severity Level III problems were cited for failing to adequately: (1) conduct control room activities; (2) maintain plant configuration control; and (3) conduct independent fuel dry cask storage activities. In addition, a single Severity Level III violation was cited for the licensee failing to take prompt corrective actions following the identification that the Technical Specifications for the safety-related service water system were non-conservative. Although a base civil penalty of \$12,500 was warranted under the normal assessment process for the independent fuel dry cask storage problem (because this was not the first escalated action in 2 years, it was NRC identified, and the corrective actions were considered prompt and comprehensive), discretion was exercised and the base civil penalty was doubled to emphasize the importance of properly conducting spent fuel cask loading operations. Because this was not the first escalated action in 2 years, the violations were NRC-identified, and

corrective actions were not prompt and comprehensive, the base civil penalties were doubled for each of the Severity Level III issues.

*Wisconsin Public Service Corporation, Kewaunee
Supplement I*

EA 97-087

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$50,000 was issued on July 11, 1997. The action was based on a Severity Level III problem for three violations identified by the NRC in which Kewaunee failed to meet the criteria established in 10 CFR 50, Appendix B, Criterion XI, "Test Control." Specifically, Kewaunee failed to maintain the acceptance criteria for both the residual heat removal and the auxiliary feedwater flow tests consistent with plant accident analyses assumptions, and failed to use an adequate methodology to calculate instrument accuracy for in-service testing measurements. The failure to meet the test control criteria existed from the origination of the in-service testing program until January 1997. A base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

*Wolf Creek Nuclear Operating Corporation, Wolf Creek, Unit 1
Supplement I*

EA 96-470

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$100,000 was issued on April 3, 1997. The action was based on a Severity Level III problem consisting of three violations involving: (1) the failure to correct erroneous Technical Specification clarifications after being alerted of their existence by licensee Quality Assurance findings, (2) the continued existence of an erroneous Technical Specification clarification after being informed by the NRC that it was incorrect, and (3) an unauthorized change to the Technical Specifications. Twice the base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was not warranted for corrective action.

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APPENDIX C: SUMMARY OF ORDERS

IMPOSITION OF CIVIL PENALTY ORDERS

***Barnett Industrial X-Ray, Stillwater, Oklahoma
Supplement VI***

EA 96-502

An Order Imposing Civil Penalty in the amount of \$4,000 was issued on May 23, 1997. This action was based on a Severity Level II problem involving: (1) a deliberate failure of a radiographer and an assistant radiographer to wear personal radiation monitoring devices, including alarm ratemeters; (2) a willful failure to conduct a survey to assure that the source had been returned to its shielded position; and (3) a willful failure on the part of the radiographer to adequately supervise his assistant.

***Chemetron Corporation, Newburgh Heights, Ohio
Supplement VI***

EA 93-271

An Order Imposing Civil Penalty in the amount of \$10,000 was issued on July 28, 1997. The action was based on a Severity Level III violation involving the licensee's failure to submit a complete site remediation plan on time for two sites in Ohio as required by a license condition.

***Health & Human Services, Department of, Bethesda, Maryland
Supplements IV & VI***

EA 96-027

An Order Imposing Civil Penalty in the amount of \$2,500 was issued on May 20, 1997. This action was based on a Severity Level III violation involving the failure to secure from unauthorized removal, or limit access to, licensed materials present in unattended areas.

***Innovative Weaponry, Inc., Albuquerque, New Mexico
Supplement VI***

EA 96-135

An Order Imposing Civil Penalty in the amount of \$2,500 was issued on April 10, 1997. The action was based on a Severity Level III problem involving violations of license conditions by distributing sealed light sources from a manufacturer not authorized by the license and distributing tritium sources in gunsights in configurations not authorized by the license.

***Mallinckrodt Medical, Inc., St. Louis, Missouri
Supplement V***

EA 97-155

An Order Imposing Civil Penalty in the amount of \$13,750 was issued on September 9, 1997. The action was based on a Severity Level III violation involving shipment of a Mo-99/Tc-99m generator for medical use where the radiation level at the surface of the package exceeded 200 millirems.

***Niagara Mohawk Power Corporation, Nine Mile Point, Unit 1
Supplement I***

EA 96-079

An Order Imposing Civil Penalty in the amount of \$50,000 was issued on December 3, 1996, for a Severity Level III violation. This action was based on a problem comprised of two violations involving a safety vulnerability and operation in a manner outside the design basis set forth in the FSAR, in that the reactor and turbine building blowout panels would not have relieved until a pressure in excess of the structural design pressure for the building was reached. The licensee recognized the departure from the FSAR in 1993, but did not take adequate corrective action until 1995.

***Tennessee Valley Authority, Sequoyah, Units 1 & 2
Supplement I***

EA 96-269

An Order Imposing Civil Penalty in the amount of \$50,000 was issued on March 17, 1997, for a Severity Level III violation. The action involved four violations of the fire protection program including: (1) 12 examples in which the licensee failed to implement effective and/or timely corrective actions, (2) an inoperable carbon dioxide fire suppression system for the computer room, (3) failure to perform the required surveillances for the certain penetrations in high radiation areas, and (4) failure to demonstrate the operability of the fire hose stations in the reactor buildings.

***Tennessee Valley Authority, Sequoyah, Unit 2
Supplement I***

EA 96-414

An Order Imposing Civil Penalty in the amount of \$50,000 was issued on May 23, 1997. This action was based on a Severity Level III problem related to the failure to implement effective and timely corrective actions resulting in poor plant material condition that caused and complicated recovery from a plant trip.

***The Dial Corporation, London, Ohio
Supplement IV***

EA 96-041

An Imposition of Civil Penalty in the amount of \$2,500 was issued on October 31, 1996, for a Severity Level III violation. This action was based on a violation involving loss of control of a gauge containing byproduct material.

***Washington Public Power Supply System, WNP-2
Supplement I***

EA 96-327

An Order Imposing Civil Penalty in the amount of \$100,000 was issued on February 14, 1997, for a Severity Level III violation. The action was based on several instances in which required surveillances were not performed. In some cases, mode changes were made without assurance that required equipment was operable, and in one case, a mode change was made with one train of the control room emergency filtration system inoperable.

CONFIRMATORY, MODIFICATION, SUSPENSION, AND CEASE & DESIST ORDERS

Apgee Corporation, Aliquippa, Pennsylvania**EA 96-246**

A Confirmatory Order was issued on June 26, 1997. The action was based on violations involving distribution of sealed source devices that did not conform to an NRC Sealed Source and Device Registry Certificate.

Army, Department of The, U.S. Army Tank-Automotive and Armaments Command**EA 97-059**

A Confirmatory Order Modifying License (effective immediately upon issuance), was issued on March 26, 1997. The action was based on the findings of NRC inspections conducted between June 1992 and March 1997, which demonstrate that programmatic problems exist, such as extensive loss of control of licensed material and poor communication between the Rock Island radiation protection officer and other Department of Defense installations.

Capital Engineering Services, Inc., Dover, Delaware**EA 97-202**

An Order Revoking License and an Order Prohibiting Involvement in NRC-Licensed Activities (effective immediately), was issued on May 15, 1997. The actions were based on inspection and investigation which concluded that: (1) the president of CES, an unlicensed individual, deliberately violated the conditions of an order suspending CES' license by continuing to use moisture density gauges on numerous occasions; and (2) the licensee failed to test sealed sources for leakage and/or contamination.

Envirocare of Utah, Inc., Salt Lake City, Utah**EA 97-303**

A Confirmatory Order was issued on June 25, 1997. The action was based on the NRC identifying that Envirocare had received, and had caused to be present on site, special nuclear material in excess of the 350 gram limit defined by the formula in 10 CFR 150.11. Specifically, the inspection revealed that Envirocare had caused to be present on site more than 2,400 grams of uranium-235 that had not been disposed of.

***Fernandez, M.D., Jose, San Juan, Puerto Rico
Supplement VI*****EA 96-154**

An Order Modifying License was issued on October 21, 1996. This action was based on the results of two inspections, which revealed numerous violations, including the licensee's failure to: (1) establish and maintain a quality management program which resulted in at least 104 Strontium-90 misadministrations, (2) maintain the security of byproduct material, (3) perform quarterly physical inventories of byproduct material, (4) test sealed sources for leakage at 6-month intervals, (5) notify individuals of a misadministration within 24-hours of discovery, (6) provide written reports to individuals within 15 days of discovery of a misadministration, (7) maintain misadministration records, and (8) amend its license prior to permitting an individual to work as an authorized user.

NDC Systems, Irwindale, California

EA 96-342

A Confirmatory Order Modifying License (effective immediately upon issuance), was issued on January 13, 1997. The action is based on a violation involving a willful failure to package, prior to export, gauging devices containing americium-241 in accordance with the Department of Transportation requirements.

Northeast Nuclear Energy Company, Millstone, Units 1, 2, & 3

EA 96-439

An Order was issued on October 24, 1996, requiring independent third-party oversight of the licensee's implementation of resolution of station employee's safety concerns. The action was based upon the licensee's inability to effectively implement corrective actions for problems identified by its employees.

Roy Sadovsky (DVM), Flordal Park, New York

EA 97-019

A Notice Denying License Renewal was issued on May 1, 1997. The action was based on deliberate use of licensed material at a location not authorized on the license and numerous safety violations including failure to secure from unauthorized removal or access licensed materials that were stored in an unrestricted area.

APPENDIX D: SUMMARY OF DEMANDS FOR INFORMATION

Conam Inspection, Inc., Itasca, Illinois

EA 96-441

A Demand for Information was issued on March 10, 1997, to obtain additional information that would clarify apparent inconsistencies identified in documents provided by the licensee during an NRC inspection and investigation and the transcript from a predecisional enforcement conference.

D & B Tool Company, Milford, Connecticut

EA 96-477

A Demand for Information was issued on December 11, 1996, in light of concerns that the licensee had failed to dispose of radioactive waste, to request information as to the licensee's financial condition and as to the licensee's assertion that it had an agreement with a customer to take back waste from operations performed for the customer.

GCME, Inc., Depere, Wisconsin

EA 96-377

A Demand for Information was issued on October 4, 1996, in light of numerous violations of NRC requirements, some of which were repetitive, and ineffective corrective actions. The Demand requested, in part, that the licensee: (1) describe the steps taken to ensure that sufficient management resources are available to properly conduct oversee the NRC-licensed program, (2) provide a statement as to why the NRC should conclude that the licensee is able or willing to comply with the Commission requirements, and (3) provide a statement as to why the NRC should not suspend the licensee's license.

Illinois Power Company, Clinton

EA 97-435

A Demand for Information was issued on September 26, 1997, due to continuing NRC concerns regarding the licensee's effectiveness in identifying, evaluating, and resolving potential safety problems. The Demand required the licensee to submit, under oath and affirmation: (1) the corrective actions, both taken and planned, necessary to achieve substantial improvement in the Clinton Power Station's corrective action programs, and (2) the basis for confidence, in view of demonstrated corrective action program deficiencies, that deficiencies affecting the function of safety-related equipment had been identified and corrected.

Newark Medical Associates, P.A., Newark, New Jersey

EA 97-308

A Demand for Information was issued on July 31, 1997, to provide Newark Medical Associates, P.A., the opportunity to describe why its NRC license should not be suspended or revoked.

Taylor Diagnostics Imaging, Novi, Michigan

EA 97-167

A Demand for Information was issued on June 9, 1997, to obtain information concerning the location of two calibration sources containing, respectively, 247 microcuries of cesium-137 and 304 microcuries of barium-133.

The Wackenhut Corporation, Pensacola, Florida

EA 96-384

A Demand for Information was issued on January 13, 1997 as a result of an investigation to determine whether company personnel were involved in committing deliberate violations of NRC access authorization requirements. The Demand sought assurance that Wackenhut and its employees understood their responsibilities for compliance with NRC requirements, and information on corrective actions taken as a result of an incident involving violations of access authorization procedures at Cooper Nuclear Station in October 1995.

Vectra Technologies, Inc., San Jose, California

EA 96-492

A Demand for Information was issued on January 13, 1997, as a result of inspection findings concerning VECTRA's Quality Assurance Program. The Demand sought information concerning VECTRA's management of design control and design changes.

Wittnauer Worldwide, L.P., Cayey, Puerto Rico

EA 97-344

A Demand for Information was issued on August 22, 1997, to show why the NRC should not terminate Wittnauer's license or reduce possession limits below those requiring financial assurance due to the lack of progress in complying with regulatory requirements.

APPENDIX E: SUMMARY OF CASES INVOLVING EXERCISE OF DISCRETION

Section VII.A - Escalation of Enforcement Sanctions

*Commonwealth Edison Company, LaSalle, Units 1 & 2
Supplement I*

EA 96-325

The NRC exercised enforcement discretion in accordance with Section VII.A of the Enforcement Policy and issued a Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$650,000 on January 24, 1997, for violations of very significant regulatory concern associated with the potential common mode failure of the ultimate heat sink caused by repetitive fouling of the service water system due to the injection of foam sealant material for the repair of minor cracks in the safety-related service water intake tunnel at LaSalle County Station. The action included: (1) a Severity Level II problem for inadequate procedures, failure to follow procedures, and inadequate corrective actions in response to repetitive fouling of the service water system; and (2) a Severity Level III problem for five inadequate procedures related to testing, backwashing, and cleaning strainers in the safety-related emergency core cooling water and residual heat removal systems and non-essential service water systems and the failure to complete unreviewed safety question evaluations regarding strainer backwash flow and mesh size being different than that described in the FSAR. The NRC exercised discretion for the Severity Level II problem and proposed a \$600,000 civil penalty because of the particularly poor performance in the event.

*Commonwealth Edison Company, Zion, Units 1 & 2
Supplement III*

EAs 97-222 & 97-223

The NRC exercised enforcement discretion in accordance with Section VII.A of the Enforcement Policy and issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$330,000 on September 2, 1997. The action was based on three Severity Level III violations pertaining to reactivity management problems and command/control problems that occurred during the February 21, 1997 plant shutdown, the nitrogen gas displacement of reactor coolant from the reactor vessel on March 8, 1997, and the failure of the corrective action program to implement effective and lasting actions for similar previous events. While the actual safety consequence of each event was low, the events were clearly indicative of the licensee's failure to establish effective oversight of control room activities as well as a failure to learn from past mistakes of its own and industry events. Since the licensee demonstrated particularly poor performance in allowing their occurrence, the violations were directly attributable to management's ineffective development and implementation of corrective actions for previous events, and management was responsible for allowing control room conditions to degrade to a point where execution of control room responsibilities was impaired, the NRC exercised enforcement discretion and doubled the civil penalties for each of the three issues.

*Connecticut Yankee Atomic Power Company, Haddam Neck
Supplements I and VIII*

EA 96-001

The NRC exercised enforcement discretion in accordance with Section VII.A of the Enforcement Policy and issued a Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$650,000 on May 12, 1997. This action was based on three Severity Level II problems consisting of multiple individual violations, one Severity Level III problem not assessed a civil penalty, and numerous Severity

Level IV violations. The violations were grouped into a number of broad categories, namely, numerous longstanding deficiencies in engineering programs and practices, including plant design, design control, and engineering support, some of which led to significant safety equipment being inoperable or degraded for extended periods; numerous operational deficiencies, including inadequate procedures, failure to follow procedures, and inadequate corrective actions, which led to an event in which nitrogen gas was allowed to intrude into the reactor coolant system; and inadequate implementation of the emergency preparedness program during the August 1996 exercise. Civil penalty discretion was warranted (i.e., Severity Level II problems assessed at \$200,000, \$150,000, and \$300,000) because of: (1) the high regulatory significance that the NRC attached to the violations, (2) the importance of emphasizing the need for effective management and oversight during the decommissioning process, as well as effective management and oversight of the licensee's Millstone and Seabrook facilities, and (3) the importance of emphasizing to other reactor licensees the need for effective oversight of their nuclear power plants.

***Duke Power Company, Oconee, Units 1 & 2
Supplement II***

EAs 97-297 & 97-298

The NRC exercised enforcement discretion in accordance with Section VII.A of the Enforcement Policy and issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$330,000 on August 27, 1997. The action was based on a Severity Level II violation identified during a Unit 2 shutdown on May 2, 1997, involving the high pressure injection system being found in a condition where it would be unable to perform its intended function and a Severity Level III violation involving the failure to properly implement a required augmented inspection program for identifying cracks in the high pressure injection system piping that resulted in an unisolable reactor coolant leak on April 21, 1997. Discretion was warranted and a \$220,000 civil penalty was proposed for the Severity Level II violation and \$110,000 civil penalty was proposed for the Severity Level III violation because of: (1) the high potential safety consequence of the inoperable high pressure injection system, (2) the duration of the violation, and (3) the prior opportunities the licensee had to identify the cause of the inoperability.

***Illinois Power Company, Clinton
Supplements I and IV***

***EAs 96-412, 97-001,
97-002, & 97-060***

The NRC exercised discretion in accordance with Section VII.A of the Enforcement Policy and issued a Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$450,000 on June 9, 1997. The action was based on one Severity Level II problem consisting of two violations and four Severity Level III problems consisting of 28 violations. The Severity Level II problem involved two significant procedure violations that occurred on September 5, 1996, when the licensee actions to obtain single loop operation resulted in reactor coolant leakage considerably exceeding allowed technical specification leakage limits that required a plant shutdown. The Severity Level III problems involved: (1) the use of procedures, (2) implementation of 10 CFR 50.59, (3) inoperability of an emergency diesel generator that exceeded the allowed out of service time, and (4) inoperable feedwater penetrations. The NRC exercised discretion in accordance with Section VII.A of the Enforcement Policy and issued the maximum statutory amount (\$200,00) for the Severity Level II problem and issued \$100,000 for the Severity Level III problem involving use of procedures. Discretion was warranted in these two instances to emphasize: (1) the importance of strong management oversight and direction from both the site and utility in maintaining clear focus on operational safety violations, (2) the need for plant personnel to challenge and investigate discrepancies, (3) the need to adequately plan safety-significant activities, (4) the need to take timely and effective corrective actions, and (5) the need for a strong self-assessment

program. Base penalties were proposed for the other three Severity Level III problems because credit was not warranted for the licensee's corrective actions.

*Power Inspection, Inc., Wexford, Pennsylvania
Supplements VI and VII*

EA 95-025

The staff exercised discretion in accordance with Section VII.A of the Enforcement Policy and issued a Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$40,000 on February 18, 1997, for a Severity Level I violation and a Severity Level I problem. The Severity Level I violation (which involved vendor-related issues), was issued for four examples of a deliberate failure to provide to two NRC licensees complete and accurate information. The Severity Level I problem (which involved radiography-related issues), was issued for deliberate failures to provide the NRC complete and accurate information and for numerous safety violations. The staff exercised discretion and issued \$20,000 for each Severity Level I issue because of the egregiousness of the violations, the extensive record falsification, and the fact that management was directly involved in the deliberate misconduct.

*Sadovsky, Roy (DVM), North Hills, New Jersey
Supplements IV, V and VI*

EA 97-150

The staff exercised enforcement discretion in accordance with Section VII.A of the Enforcement Policy to assess a civil penalty in the amount \$4,000 for a Severity Level II problem involving: (1) deliberate use of licensed material at a location not authorized on the license, (2) failure to secure from unauthorized removal or access licensed materials that were stored in an unrestricted area, (3) failure to perform radiation surveys, (4) failure to supply and require the use of an individual monitoring device, (5) failure to conduct operations so that the dose in any unrestricted area from external sources does not exceed 2 millirem in any 1 hour; and (6) several failures to comply with Department of Transportation requirements. Discretion was warranted given the deliberate nature, and the potential safety consequences, to the public.

*Thermal Science, Inc., St. Louis, Missouri
Supplement VII*

EA 95-009

The NRC exercised enforcement discretion in accordance with Section VII.A of the Enforcement Policy and issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$900,000 on October 1, 1996, for nine Severity Level I violations. The action was based on an investigation by the Office of the Inspector General, in addition to several inspections performed by NRC staff, that identified nine Severity Level I violations. All of the violations were cited against 10 CFR 50.5, "Deliberate Misconduct," due to Thermal Science, Inc. (TSI) having deliberately and repeatedly provided inaccurate or incomplete information to the NRC concerning TSI's fire endurance and ampacity testing programs for Thermo-Lag fire barriers. Enforcement discretion was warranted because the staff considered the egregious, deliberate, and repeated nature of these violations, and because the staff considered this matter to constitute a very significant regulatory concern which necessitated a significant enforcement action. The civil penalty was escalated to the maximum statutory limit of \$100,000 for each of the nine Severity Level I violations.

***United Nuclear Corporation, Gallup, New Mexico
Supplement VII***

EA 93-170

The NRC exercised its full civil penalty authority and issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$100,000 on February 13, 1997, for a Severity Level II problem. The action involved the failure to comply with an NRC order to set aside certain funds for decommissioning funding and providing incomplete and inaccurate information regarding the handling of those funds and the ownership of an account. Discretion was appropriate to emphasize: (1) that the NRC must be able to have full confidence in the honesty and integrity of licensees (especially senior licensee officials), and (2) the licensee's willingness to comply with NRC orders and regulations and to provide accurate information to the NRC. The matter was settled with the licensee paying \$99,000.

Section VII.A.1 - Civil Penalties

***Anheuser Busch, St. Louis, Missouri
Supplement VI***

EA 97-291

The NRC exercised discretion in accordance with Section VII.A.1 and issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,750 on September 24, 1997. The action was based on a Severity Level III problem involving unauthorized disposal of licensed material. Although a penalty would not have been issued under the normal assessment process (because the violation was the first escalated issue in 2 years and the corrective actions were prompt), discretion was exercised and a base penalty was proposed because the licensed material was not controlled and was found in the public domain.

***Barnett Industrial X-Ray, Inc., Stillwater, Oklahoma
Supplement VI***

EA 96-502

The NRC exercised discretion in accordance with Section VII.A.1 and issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$4,000 on February 24, 1997, for a Severity Level II problem. The action was based on: (1) a deliberate failure of a radiographer and an assistant radiographer to wear personal radiation monitoring devices, including alarm ratemeters, (2) a willful failure to conduct a survey to assure that the source had been returned to its shielded position, and (3) a willful failure on the part of the radiographer to adequately supervise his assistant. Although the civil penalty would have been fully mitigated based on the normal assessment process, discretion was exercised and a penalty was proposed to emphasize: (1) the responsibility of ensuring that employees meet basic radiation safety requirements, and (2) the significance of the willful violations.

***Carolina Power and Light Company, Brunswick, Units 1 and 2
Supplement I***

EA 96-354

The NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy and issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$150,000 on November 19, 1996, for two Severity Level III violations. The action was based on an inspection performed concerning: (1) a failure to implement the environmental qualification (EQ) program in accordance with the requirements of 10 CFR 50.49 and (2) a longstanding failure to implement the corrective action program with regard to EQ deficiencies. Although a base civil penalty would have normally been warranted (because this was not the first escalated action in 2 years, credit was not

warranted for identification, and credit was warranted for corrective action), the civil penalty was doubled because of the inadequacies identified in the past implementation of the licensee's corrective action program in the area of EQ. A base civil penalty was proposed for the second penalty in accordance with the normal assessment process.

*Cartier, Inc., Shelton, Connecticut
Supplement VI*

EA 97-145

The NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy and issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$7,500 on June 18, 1997. The action was based on a Severity Level III violation involving distribution of approximately 16,000 timepieces containing up to 4.6 millicuries of tritium without an NRC license. Although the civil penalty would normally have been fully mitigated under the normal process (because the violation was the first escalated action within 2 years, and credit was warranted for corrective action), discretion was exercised and a penalty at three times the base amount was proposed because of: (1) the regulatory significance, (2) the inability of the NRC to conduct inspections of the licensee's activities, (3) the duration of the violation (12 years), and (4) the costs of maintaining an NRC license that the licensee avoided during the period of noncompliance.

*Commonwealth Edison Company, Zion, Units 1 & 2
Supplement I*

EA 96-355

The NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy on March 12, 1997, and issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$100,000 for a Severity Level III problem. The action was based on multiple violations that involved failures to: (1) perform adequate 10 CFR 50.59 analyses for modifications on safety-related systems; (2) follow procedures in the areas of modifications, corrective actions, operations and maintenance; (3) conduct tests to demonstrate systems would perform satisfactorily following modification; and (4) take prompt corrective action for significant conditions adverse to quality involving repetitive out-of-tolerance settings for containment spray system sodium hydroxide spray additive tank level indication and repetitive failures of a 4KV breaker. Although a base penalty would have been warranted under the normal assessment process (based on the fact that the problem was not the first escalated action within 2 years, that the NRC identified the problem, and that the corrective actions were considered prompt and comprehensive), discretion was exercised and twice the base penalty was proposed. Discretion was warranted because: (1) the root causes of the problem existed for an extended duration, and (2) the past corrective actions were ineffective.

*Duquesne Light Company, Beaver Valley, Units 1 & 2
Supplement I*

EA 96-504

The NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy and issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$110,000 on March 10, 1997. The action was based on a Severity Level III problem related to deficiencies associated with inadequate control of leak sealant repairs on the Unit 2 reactor head vent system. Although a base penalty would normally be warranted under the normal civil penalty assessment process, discretion was exercised and the civil penalty was doubled because the violations represented particularly poor performance by the licensee's quality assurance and maintenance staffs regarding activities performed by the vendor.

***Fairbanks Memorial Hospital, Fairbanks, Alaska
Supplement VI***

EA 96-505

The NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy and issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,500 on April 1, 1997. The action was based on the failure to prepare a written directive in accordance with the medical quality assurance program. Although the civil penalty would have been fully mitigated based on the normal assessment process (because the licensee identified and corrected the violation), discretion was warranted to propose a base penalty because of the deliberate nature of the violation, the involvement of the radiation safety officer, and the potential for patient harm.

***Pennsylvania Power & Light Company, Susquehanna, Units 1 & 2
Supplements I and VII***

EA 96-270

The NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy and issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$160,000 on June 20, 1997. The action was based on a Severity Level II problem involving an inoperable emergency diesel generator, the failure to follow procedures, inadequate procedures, and incomplete and inaccurate information. Although the normal civil penalty process would have fully mitigated the penalty based on the fact that the licensee identified and corrected the problem, the NRC exercised discretion and issued twice the base penalty. Discretion was warranted because of the particularly poor licensee performance as evidenced by: (1) the nature of the violations associated with the Severity Level II problem, (2) the extensiveness of the problem with inaccurate records, and (3) the management and supervisory failures demonstrated by the violations.

***Philadelphia Electric Company, Limerick, Units 1 & 2
Supplement VII***

EA 97-050

The NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy and issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$80,000 on August 5, 1997. The action was based on a Severity Level II problem that included two violations involving instances of record falsification at the Limerick Generating Station. Although the licensee's identification and correction of the problem would fully mitigate the civil penalty under the normal assessment process, The NRC exercised discretion and issued twice the base penalty because the violations were considered willful.

***Robco Production Logging, Inc., Snyder, Texas
Supplement V and VI***

EA 96-378

The NRC exercised enforcement discretion in accordance with Section VII.A.1 and issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$1,100 on January 2, 1997, for a Severity Level III violation. The action was based on a violation involving use of licensed material by a Texas licensee in NRC jurisdiction without filing NRC Form 241. Although the civil penalty would have been fully mitigated based on the normal assessment process (because the violation was the first escalated action in 2 years, and the corrective actions were considered prompt and comprehensive), discretion was exercised and a penalty was proposed to emphasize the importance of taking action to preclude further violations.

**Rochester Gas and Electric Company, Ginna, Unit 1
Supplement I****EA 96-282**

The NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy and issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$100,000 on December 13, 1996, for a Severity Level III violation. The action was based on an inspection performed at the licensee's Ginna Nuclear Power Station that identified two violations involving the failure to adequately validate design inputs for the residual heat removal system motor-operated core deluge valves, as well as the failure to adequately correct this condition following its identification. Although a base penalty would have been warranted under the normal assessment process (because this was not the first escalated issue in 2 years, credit was not warranted for identification, and credit was warranted for corrective action), the NRC exercised discretion and doubled the base in order to emphasize the importance of ensuring proper analysis of design inputs for these motor-operated valves and the unacceptability of not taking appropriate steps to verify adequate design margin, given the importance of the valves to plant safety.

S. C. Johnson & Son, Inc., Racine, Wisconsin**EA 97-338**

The NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy and issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,500 on September 3, 1997. The action was based on unauthorized disposal of licensed material. Although the civil penalty would have been fully mitigated based on the normal assessment process (because this was the first escalated action in 2 years and the corrective actions were considered prompt and comprehensive), discretion was exercised and a base civil penalty was proposed because control over the licensed material was lost and it is believed to be in a landfill in the public domain.

**Washington Public Power Supply System, WNP-2
Supplement I****EA 96-327**

The NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy and issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$100,000 on November 26, 1996, for a Severity Level III violation. The action was based on several instances in which required surveillances were not performed. In some cases, mode changes were made without assurance that required equipment was operable, and in one case, a mode change was made with one train of the control room emergency filtration system inoperable. Although the civil penalty would have been fully mitigated based on the normal assessment process (because the licensee identified and corrected the violation), the NRC exercised discretion to propose a civil penalty. The root causes of the violation was similar to previous violations. Discretion was appropriate to emphasize the failure of the licensee's previous corrective actions to preclude similar violations from occurring, and to emphasize the fundamental importance of having an effective program for assuring that surveillances are performed as required.

**Wisconsin Electric Power Company, Point Beach, Units, 1 & 2
Supplement I**

EA 96-215

The NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy and issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$25,000 on December 3, 1996. The action was based on failing to adequately conduct independent fuel dry cask storage activities. Although a base civil penalty of \$12,500 was warranted under the normal assessment process (because this was not the first escalated action in 2 years, it was NRC identified, and the corrective actions were considered prompt and comprehensive), discretion was exercised and the base civil penalty was doubled to emphasize the importance of properly conducting spent fuel cask loading operations. Three \$100,000 civil penalties were also issued with this action (see Appendix B).

**Section VII.B.2 - Violations Identified During Extended Shutdowns
or Work Stoppages**

**Commonwealth Edison Company, LaSalle, Units 1 & 2
Supplement I**

EA 97-214

The NRC exercised enforcement discretion in accordance with Section VII.B.2 of the Enforcement Policy and did not issue citations for four Severity Level IV violations. A letter describing the action was issued on May 27, 1997. These issues satisfy the appropriate criteria in Section VII.B.2, namely (1) although the staff identified some of the violations, enforcement action was not considered necessary to achieve remedial action, (2) the violations are based on licensee activities that occurred prior to the licensee implementing an extended shutdown of the station, in December 1996, (3) the violations would not be categorized at Severity Level I, (4) the violations were not willful, and (5) actions specified in Confirmatory Action Letter RIII-96-008B requires NRC concurrence prior to the licensee restarting the station.

**Commonwealth Edison Company, LaSalle, Units 1 & 2
Supplement I**

EA 97-215

The NRC exercised enforcement discretion in accordance with Section VII.B.2 and refrained from issuing a Notice of Violation for three potential Severity Level IV violations of NRC requirements. Two of the violations involved surveillance testing (appropriate testing controls and testing acceptance criteria), and one involved fire protection (identification of an adequate safe shutdown path). Discretion was exercised because the violations were based upon activities prior to events leading to an extended plant shutdown.

**Public Service Electric Company, Salem, Units 1 & 2
Supplement I**

EA 96-548

The NRC exercised enforcement discretion in accordance with Section VII.B.2 of the Enforcement Policy on December 31, 1996, and refrained from issuing enforcement action for a potential Severity Level III violation. The violation was identified during a Licensing Bases Team Inspection. Enforcement discretion was warranted because the violation resulted from licensed activities prior to the shutdown period and have since been addressed by broad comprehensive licensee programs underway at Salem to identify and correct such problems.

**Public Service Electric Company, Salem, Units 1 & 2
Supplement I**

EA 97-052

The NRC exercised enforcement discretion in accordance with Section VII.B.2 of the Enforcement Policy on May 8, 1997, and refrained from issuing enforcement action for several potential Severity Level III violations. The violations were identified during a Safety System Functional Inspection. Enforcement discretion was warranted because the violations resulted from licensed activities prior to the shutdown period and have since been addressed by broad comprehensive licensee programs underway at Salem to identify and correct such problems.

Section VII.B.3 - Violations Involving Old Design Issues**Carolina Power & Light, Shearon Harris
Supplement I**

EA 97-288

In accordance with Section VII.B.3 of the Enforcement Policy, the NRC issued an Exercise of Enforcement Discretion letter on July 22, 1997, and refrained from issuing a Notice of Violation for a potential Severity Level III violation involving an FSAR failure to accurately reflect the EDG protection logic. Discretion was appropriate because: (1) the licensee identified the design discrepancy, (2) the issue was appropriately reported, (3) prompt actions were taken to declare the EDGs inoperable, (4) the design change was submitted to the NRC in accordance with 10 CFR 50.59(c) and 50.90, (5) the installation and testing of the modification to the EDG circuitry was timely, and (6) the design discrepancy was not likely to be identified by routine licensee efforts.

**Carolina Power & Light, Robinson
Supplement I**

EA 97-140

In accordance with Section VII.B.3 of the Enforcement Policy, the NRC issued an Exercise of Enforcement Discretion letter on April 24, 1997, and refrained from issuing enforcement action for a potential Severity Level III violation involving an FSAR failure to accurately reflect spent fuel cask handling activities. Discretion was appropriate because: (1) the movement of the spent fuel cask with all sleeve nuts detensioned and all but four of the 32 sleeve nuts removed was considered an old design issue in that the failure to analyze the cask in the subject configuration had existed since plant licensing, and there had been no prior notice so that the licensee could have reasonably identified the violation earlier, (2) the licensee was unaware of the FSAR departure, but its followup on the generic NRC questions was thorough resulting in identification of the USQ, (3) the licensee's corrective actions were comprehensive and timely, (4) routine surveillance or quality assurance reviews of the cask activity would not likely have identified the issue, (5) the licensee's FSAR review program would likely have identified the violation in light of the defined scope, thoroughness and schedule, and (6) the licensee promptly reported the condition to the NRC.

**Consolidated Edison Company, Indian Point 2
Supplement I**

EA 96-509

The NRC exercised enforcement discretion in accordance with Section VII.B.3 of the Enforcement Policy and did not issue a Notice of Violation for a potential Severity Level III violation of 10 CFR Part 50, Appendix R, involving the potential hot shorts as a result of fire damage to cables associated with both the pressurizer power operated relief valve (PORV) and block valves. This discretion was based on the

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fact that this case involved an old design issue that: (1) was identified as a result of a voluntary initiative by engineering to resolve a potential discrepancy noted during an IPE evaluation; (2) was corrected, including the planned addition of an interlock to the PORV block valves and the scheduled installation of isolation switches for the PORVs in the AFW building; and, (3) was not likely to be identified (after the violation occurred) by routine licensee efforts such as normal surveillance or quality assurance activities.

***Duke Power Company, Catawba, Units 1 & 2
Supplement I***

EA 97-036

The NRC exercised Enforcement Discretion in accordance with Section VII.B.3 of the Enforcement Policy on February 18, 1997, and did not issue a Notice of Violation for a potential Severity Level III violation involving a design deficiency associated with the auxiliary feedwater system. Discretion was warranted because: (1) the issue was licensee-identified during a licensee-initiated design review, (2) the licensee implemented timely and effective corrective action and delineated appropriate long-term corrective actions to review and identify any similar design deficiencies, (3) the design deficiency was not likely to be identified by routine licensee efforts, and (4) the initial design error occurred more than 5 years ago and is not linked to present performance.

***Duke Power Company, Oconee, Units 1 & 2
Supplement I***

EA 97-324

The NRC exercised Enforcement Discretion in accordance with Section VII.B.3 of the Enforcement Policy on July 18, 1997, and refrained from issuing enforcement action for a potential Severity Level III violation involving an old design issue involving the low pressure service water system. Discretion was appropriate because: (1) the licensee identified the design deficiency, (2) the deficiency was not likely to be identified through routine surveillance or audit activities, (3) the issue was appropriately reported, (4) prompt actions were taken to initiate a license amendment, and (5) the overall scope of the licensee's UFSAR reviews for other plant modifications was appropriate.

***Duquesne Light Company, Beaver Valley, Units 1 & 2
Supplement I***

EA 97-375

The NRC exercised enforcement discretion in accordance with Section VII.B.3 and refrained from issuing a Notice of Violation for three potential Severity Level III violations related to design issues. The violations involved: (1) reactor protection system trip functions that failed to meet certain design requirements, (2) non-seismic emergency diesel generator fire suppression system actuation relays, and (3) containment isolation check valves that did not meet their design basis requirements. Discretion was exercised because: (1) the violations were identified by the licensee's staff who exercised good questioning attitudes during voluntary initiatives, (2) corrective actions were comprehensive and timely, (3) the condition was subtle in nature and not likely to be disclosed through routine surveillance or quality assurance activities, and (4) the violations were not reasonably linked to current performance.

***Florida Power & Light Company, St. Lucie, Unit 2
Supplement I***

EA 97-176

The NRC exercised enforcement discretion in accordance with Section VII.B.3 of the Enforcement Policy and did not issue a Notice of Violation for a potential Severity Level III violation involving a design

deficiency for the Unit 2 reactor coolant pump penetration fault protection that represented an unreviewed safety question. Discretion was warranted because: (1) the issue was licensee-identified during a licensee-initiated design review, (2) the licensee implemented timely and effective corrective action, (3) the design deficiency was not likely to be identified by routine licensee efforts, and (4) the initial design error occurred more than 5 years ago and is not linked to present performance.

*Northern States Power Company, Monticello
Supplement I*

EA 97-333

The NRC exercised enforcement discretion in accordance with Section VII.B.3 and refrained from issuing a Notice of Violation for a potential Severity Level III violation of 10 CFR Part 50, Appendix B, Criterion III, "Design Control." The violation involved an error in strainer headloss specified in the original design bases. Discretion was exercised because: (1) the violation was identified by the licensee's staff, who exercised good questioning attitudes during a voluntary initiative, (2) corrective actions were comprehensive and timely, (3) the condition was subtle in nature and not likely to be disclosed through routine surveillance or quality assurance activities, and (4) the violation was not reasonably linked to current performance.

*Northern States Power Company, Prairie Island, Units 1 & 2
Supplement I*

EA 96-266

The NRC exercised enforcement discretion in accordance with Section VII.B.3 of the Enforcement Policy on October 1, 1996, and did not issue a Notice of Violation for a potential Severity Level III violation involving maintaining adequate design control for a modification installed on the auxiliary feedwater system. Discretion was warranted because the matter was based on an old design issue that: (1) was identified by the licensee as a result of a voluntary initiative that consisted of a review of the licensee's 10 CFR 50.59 safety evaluation program, (2) was promptly and effectively corrected by the licensee, (3) would have limited risk consequence for a relative small number of postulated LOCA events, and (4) would not likely have been identified by routine licensee efforts such as normal surveillance and quality assurance activities.

*Pacific Gas & Electric Company, Diablo Canyon, Units 1 & 2
Supplement I*

EA 96-501

The NRC exercised Enforcement Discretion in accordance with Section VII.B.3 of the Enforcement Policy on January 17, 1997, and did not issue a Notice of Violation for a potential Severity Level III violation involving the operability of the component cooling water system under certain degraded voltage conditions. Discretion was warranted because the licensee discovered this condition, which was not likely to be discovered as the result of routine surveillance or quality assurance activities, and the licensee took prompt and comprehensive corrective actions.

*Philadelphia Electric Company, Limerick, Units 1 & 2
Supplement I*

EA 97-051

The NRC exercised enforcement discretion in accordance with Section VII.B.3 and refrained from issuing a Notice of Violation for a potential Severity Level III violation of the license regarding fire protection. The violation involved a reduction in the licensee's ability to achieve safe shutdown in the event of a fire, in that instrument gas might not be available to operate the main steam relief valves due to postulated

damage. Discretion was exercised because: (1) the violation was identified by the licensee's staff as a result of special efforts as part of the licensee's Thermo-Lag reduction project, (2) the violation was not likely to be identified by routine licensee efforts, (3) the violation was caused by conduct that occurred over 12 years ago and is not reasonably linked to present performance, and (4) the violation was the subject of prompt and comprehensive corrective actions.

*Toledo Edison Company, Davis Besse
Supplement I*

EA 97-072

The NRC exercised enforcement discretion in accordance with Section VII.B.3 of the Enforcement Policy and did not issue a Notice of Violation for an old design issue involving errors in original calculations prepared to support the design and operation of the control room emergency ventilation system. Discretion was warranted due to the licensee's identification of the issue, which was not likely to be discovered as the result of routine surveillance or quality assurance activities, and the prompt and comprehensive corrective actions.

Section VII.B.4 - Violations Identified Due to Previous Escalated Enforcement Action

*Duquesne Light Company, Beaver Valley, Units 1 & 2
Supplement I*

EA 97-416

The NRC exercised enforcement discretion in accordance with Section VII.B.4 and refrained from issuing a Notice of Violation for a potential Severity Level III problem involving non-seismically qualified fire suppression system actuation switches and relays on emergency diesel generators and supplemental leak collection and release systems. Discretion was exercised because the violations: (1) were identified by the licensee's staff as part of the corrective action for a previous issue with non-seismically qualified relays in the fire protection system for the Unit 1 emergency diesel generator, (2) had the same root cause as the previous issue, (3) did not substantially change the safety significance or the character of the regulatory concern arising out of that finding, and (4) were the subject of comprehensive and reasonable corrective actions.

Section VII.B.5 - Violations Involving Discrimination

There were no cases that involved an exercise of this type of enforcement discretion during this fiscal year.

Section VII.B.6 - Violations Involving Special Circumstances

*Applied Research Associates, Inc., Albuquerque, New Mexico
Supplement VI*

EA 97-259

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and did not issue a Notice of Violation for a potential Severity Level III violation involving an Agreement State Licensee conducting unauthorized activities in NRC jurisdiction. Discretion was warranted because the gauges had not been used at the site, the state license specifically authorized storage at that site, and the licensee was not aware that the location was exclusive Federal jurisdiction.

**Army, Department of The, Tooele, Utah
Supplement VI**

EA 97-181

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy by refraining from issuance of a Notice of Violation involving unauthorized demolition of depleted uranium. Discretion was warranted because the licensee identified and reported the violation to the NRC, and took comprehensive corrective action to prevent recurrence.

**Baily Engineering and Testing, Inc., Pensacola, Florida
Supplement VI**

EA 96-312

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and did not issue a Notice of Violation for use of portable nuclear gauges in areas of exclusive Federal jurisdiction within the Agreement State of Florida without an NRC license. Discretion was warranted because Baily did not intentionally fail to obtain an NRC license, did not understand the regulatory requirements that pertain to areas of exclusive Federal jurisdiction, and was not informed by the Federal facility that the work was within areas of exclusive Federal jurisdiction.

**Carco Construction, Randolph, New Jersey
Supplement VI**

EA 97-287

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and did not issue a Notice of Violation for improper transfer or abandonment of generally licensed tritium "EXIT" signs at a site where Carco owned and was demolishing a building. Discretion was warranted because the signs had been improperly transferred to Carco when Carco purchased the building and Carco was therefore unaware that the signs contained NRC-licensed material.

**Citizens Memorial Hospital, Bolivar, Missouri
Supplements IV and VI**

EA 96-445

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty for a Notice of Violation issued on January 28, 1996. The action was based on eight violations, considered in the aggregate to represent significant breakdown in control of the radiation safety program. Although twice the base civil penalty would be proposed under the normal assessment process (because this was not the first escalated issue in 2 years, credit was not warranted for identification, and credit was not warranted for corrective action), the staff exercised discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty because the licensee requested termination of the license.

**Commonwealth Edison Company, LaSalle, Units 1 & 2
Supplement I**

EAs 96-392 & 97-021

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing enforcement action for three potential Severity Level III issues. The first problem involved repair activities associated with replacement of the Unit 2 "A" RHRSW pump impeller. The second problem involved inadequate corrective actions to resolve precursors that led to a rupture disk failure for the reactor core isolation cooling system, suppression pool foreign material problems, breaker alignment problems, and control switches that prematurely degraded. The third problem involved

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control room and auxiliary electric equipment room habitability problems. Discretion was exercised after considering the following: (1) significant NRC enforcement action (EA 96-325) was imposed against the licensee for a service water sealant intrusion event for which the licensee's corrective actions encompass the root causes for these apparent violations, (2) the licensee voluntarily shut down both units to address wide ranging performance problems that encompass the causes for the apparent violations, (3) the apparent violations were not willful, (4) the apparent violations were related to activities before the shutdown, (5) the apparent violations would not be classified at a level higher than Severity Level II, (6) actions specified in the Confirmatory Action Letter effectively prevented the licensee from starting the facility without NRC approval, and (7) although the NRC identified a number of the issues because of its inspections, the NRC determined that the licensee dedicated significant resources to address performance issues and improve the conduct of its operations.

***Connecticut Yankee Atomic Power Company, Haddam Neck
Supplement VIII***

EA 96-001

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty for a Notice of Violation that was issued on May 12, 1997. The action was based on a Severity Level III problem involving inadequate implementation of the emergency preparedness program during the August 1996 exercise. Discretion was warranted because other civil penalties were issued conjunction with the action (see Appendix B), the agency does not normally issue civil penalties for failures during an emergency exercise, and because the facility was going to shutdown.

***Devlin Tool Rentals, Lafayette, Louisiana
Supplement VI***

EA 97-217

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and did not issue a Notice of Violation for a violation of 10 CFR 30.18 that involved incorporating exempt quantities of cobalt-60 into steel tubes for depth control markers. Discretion was warranted because the company misunderstood the regulatory requirements as a result of a dialogue with representatives of the Agreement State of Louisiana.

***Duke Power Company, Catawba, Units 1 & 2
Supplement I***

EA 96-404

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy on February 21, 1997, and did not issue a Notice of Violation for a Severity Level III violation involving an unrecognized, unreviewed safety question concerning circuit breaker coordination in the 125-VDC systems. Discretion was warranted because: (1) although an error did exist in the safety evaluation that concluded that no USQ existed, a safety evaluation was completed in response to a 1992 Notice of Deviation and UFSAR changes were submitted to the NRC for formal review, (2) the NRC review of these changes took almost 2 years and the licensee was not notified of the USQ issue until September 1996, (3) upon notification of the existence of the USQ the licensee implemented prompt and appropriate action, including delay of restart of the Catawba units and submittal of an operating license amendment, and (4) appropriate guidance to the licensee staff to increase the level of awareness of 10 CFR 50.59 issues has been provided and a policy of management review of potential USQs has been instituted.

Edward M. Chadborne, Pensacola, Florida
Supplement VI

EA 96-310

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy on October 7, 1996, and did not issue a violation for failure to file NRC Form-241 or obtain an NRC license before using a gauge containing licensed material within the physical borders of an Agreement State but in an area under exclusive Federal jurisdiction (an Air Force base). The company had relied on the Air Force base for information about applicable requirements and believed that the work was covered under the company's Agreement State license.

Florida Power Corporation, Crystal River 3
Supplement VII

EA 96-335

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy on December 5, 1996, and did not issue a violation. The action was based on an investigation that substantiated that a contractor of the licensee discriminated against a contractor employee for engaging in protected activities. The violation normally would have been categorized at Severity Level II; however, enforcement discretion was warranted in this case due to the licensee's overall performance in immediately attempting to correct the contractor's adverse action. Therefore, no violation was issued to the licensee in this matter.

Florida Power Corporation, Crystal River 3
Supplement I

EAs 96-365, 96-465
& 96-527

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and did not issue civil penalties for violations involving a broad spectrum of problems in the engineering program at Crystal River Unit 3. The action included: (1) a Severity Level II problem for failure to meet the requirements of 10 CFR 50.59 in six cases, (2) a Severity Level III violation for failure to ensure that regulatory and plant design basis requirements are met, and (3) a Severity Level III violation for untimely and inadequate corrective actions resulting in the failure to identify significant unreviewed safety questions and containment integrity issues. Discretion was warranted in that: (1) NRC issued a \$500,000 civil penalty on July 10, 1996 (EA 95-126), that included sanctions for engineering violations; (2) following NRC identification of the current issues, FPC voluntarily extended the shut down of the Crystal River facility and developed a comprehensive program for problem identification and correction; (3) FPC demonstrated that remedial action would be taken to ensure reestablishment of design margins for plant systems prior to plant restart; and (4) FPC's decision to restart the Crystal River facility required NRC concurrence in accordance with a Confirmatory Action Letter issued on March 4, 1997.

Florida Power Corporation, Crystal River 3
Supplement I

EA 97-094

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy on June 6, 1997, and refrained from issuing a civil penalty for a Severity Level III problem involving multiple failures to report significant conditions to the NRC within required time-frames. Discretion was appropriate because: (1) the facility was shutdown for an extended period, (2) the NRC issued previous enforcement actions and civil penalties, and (3) the licensee's decision to restart the facility required NRC concurrence.

***Florida Power Corporation, Crystal River
Supplement I*****EA 97-162**

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty for a Notice of Violation at Severity Level III. The violation involved: (1) the failure to identify that the addition of required operator actions to mitigate a design basis small break LOCA constituted an unreviewed safety question (USQ); and (2) the subsequent failure to obtain NRC review and approval of that mitigation strategy. Discretion was exercised because: (1) the facility was shutdown for performance reasons which involved a Severity Level II problem for failure to perform adequate reviews pursuant to 10 CFR 50.59; (2) the facility would remain shutdown until completion of a comprehensive program of improvements in the engineering area; (3) the licensee had demonstrated that remedial action was being taken to ensure reestablishment of design margins for plant systems prior to plant restart; (4) NRC issued a \$500,000 civil penalty on July 10, 1996 (EA 95-126), that included sanctions for engineering violations; and (5) the licensee's decision to restart the facility would require NRC concurrence in accordance with a Confirmatory Action Letter issued on March 4, 1997.

***Florida Power Corporation, Crystal River 3
Supplement I*****EA 97-330**

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and did not issue a civil penalty for one Severity Level III problem involving failure to perform an adequate safety evaluation for a 1987 modification that added five protective trips to each EDG and for not updating the FSAR to describe the added EDG protective trips. Discretion was warranted in that: (1) NRC issued a \$500,000 civil penalty on July 10, 1996 (EA 95-126), that included sanctions for engineering violations; (2) following NRC identification of the current issues, FPC voluntarily extended the shut down of the Crystal River facility and developed a comprehensive program for problem identification and correction; (3) FPC demonstrated that remedial action would be taken to ensure reestablishment of design margins for plant systems prior to plant restart; and, (4) FPC's decision to restart the Crystal River facility required NRC concurrence in accordance with a Confirmatory Action Letter issued on March 4, 1997.

***Gulf Asphalt Corporation, Panama City, Florida
Supplement VI*****EA 96-471**

The NRC exercised of Enforcement Discretion in accordance with Section VII.B.6 of the Enforcement Policy on December 10, 1996, and refrained from issuing a Notice of Violation for the failure to obtain a specific NRC license or file for reciprocity prior to using licensed material in areas under exclusive Federal jurisdiction. A Notice of Violation was not issued because the licensee did not understand the regulatory requirements pertaining to work in areas of exclusive Federal jurisdiction and was unaware that it was conducting operations in such areas.

***Health & Services, Department of, Bethesda, Maryland
Supplement IV*****EA 97-238**

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and did not issue a Notice of Violation for deliberate misuse of licensed material that resulted in contamination and overexposure to a pregnant researcher and a member of the public at the National

Institutes of Health (NIH). Discretion was warranted because NIH fully cooperated with the subsequent investigation, there is no evidence that NIH contributed directly or indirectly to the deliberate misuse of the licensed material, and NIH could not reasonably foresee that an employee or employees would maliciously misuse radioactive material.

Honolulu Medical Group, Honolulu, Hawaii
Supplement VII

EA 95-006

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty for a Notice of Violation for a Severity Level II violation that was issued on January 23, 1997. The action was taken because the licensee discriminated against an employee for engaging in protected activities by terminating the individual's employment. Although a base penalty would be warranted under the normal assessment process (because the violation is categorized at Severity Level II, credit was not warranted for identification, and credit was warranted for corrective action), the NRC exercised discretion and refrained from issuing a civil penalty because of: (1) the licensee's willingness to comply with the Department of Labor's initial finding that discrimination had occurred, (2) the licensee's willingness to settle the matter prior to an adjudicatory hearing, (3) the ultimate resolution of the matter in the settlement agreement that was reached between the licensee and the complainant, and (4) the absence of any further complaints of discrimination against the licensee since the matter arose in 1992.

Houston Lighting & Power Company, South Texas
Supplement I

EA 96-500

The NRC exercised discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty for a Notice of Violation for a Severity Level III violation that was issued on March 27, 1997. The action was based on excessive leakage from an emergency core cooling system valve, a significant condition adverse to quality, that existed and was not promptly identified and corrected, in that, a condition report documenting valve leakage in the system was not evaluated for possible adverse safety consequences nor was the valve repaired. Further, the licensee continued to operate the facility with a degraded condition that was not evaluated to determine whether the condition constituted a change to the facility as described in the UFSAR resulting in an unreviewed safety question. Specifically, leakage from an emergency core cooling system valve, approximately 20 times greater than that allowed by UFSAR Table 15.6-12, was identified and not properly evaluated. Although a base penalty would be warranted under the normal assessment process (because the violation was not the first escalated action in 2 years, credit was not warranted for identification, and credit was warranted for corrective action), discretion was exercised and the NRC refrained from issuing a penalty. Discretion was warranted because the events that led to the escalated actions involving discrimination in October 1995 and September 1996 occurred more than 2 years prior to the discovery of the violations at issue in this case.

J & M Testing Labs, Inc., Tampa, Florida
Supplement VI

EA 96-472

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy on December 10, 1996, and refrained from issuing a Notice of Violation for the failure to obtain a specific NRC license or file for reciprocity prior to using licensed material in areas under exclusive Federal jurisdiction. A Notice of Violation was not issued because the licensee did not understand the

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regulatory requirements pertaining to work in areas of exclusive Federal jurisdiction and was unaware that it was conducting operations in such areas.

Larry M. Jacobs & Associates, Pensacola, Florida
Supplement VI

EA 96-313

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy on October 7, 1996, and did not issue a violation for failure to file NRC Form-241 or obtain an NRC license before using a gauge containing licensed material within the physical borders of an Agreement State but in an area under exclusive Federal jurisdiction (an Air Force base). Discretion was appropriate because the company had relied on the Air Force base for information about applicable requirements and believed that the work was covered under the company's Agreement State license.

NDC Systems, Irwindale, California
Supplement VI

EA 96-539

The NRC exercised discretion in accordance with Section VII.B.6 and refrained from issuing a civil penalty for a Notice of Violation for a Severity Level III violation that was issued on January 13, 1997. The action was based on a willful violation in which, from 1989 to November 1995, the licensee delivered gauging devices containing 150 millicurie americium-241 sources for transport, by air, to foreign countries in excepted packaging rather than in Type A packaging. Although a base civil penalty was warranted under the normal assessment process (because the action was willful, credit was not warranted for identification, and credit was warranted for corrective actions), the NRC exercised discretion and refrained from issuing a penalty because of a Confirmatory Order Modifying License that was issued in conjunction with this action (see Appendix C).

Nebraska Public Power District, Cooper Nuclear Station
Supplement I

EA 97-017

The NRC exercised discretion in accordance with Section VII.B.6 of the Enforcement Policy and issued a Notice of Violation and Exercise of Discretion on issued June 25, 1997. The action was based on the failure to update the USAR as required by 10 CFR 50.71(e), and the failure to perform adequate written safety evaluations in accordance with 10 CFR 50.59. Although a base civil penalty was warranted under the normal assessment process (because the violation was not the first in 2 years, credit was not warranted for identification, and credit was warranted for corrective actions), discretion was exercised and a civil penalty was not proposed. Discretion was based on: (1) consideration of the generally low safety significance of the violations, (2) the comprehensiveness of the licensee's corrective actions, (3) the fact that the inspections were occurring at about the same time that the Policy was revised, and (4) recognition that communications with the NRC may have inadvertently contributed to delaying the licensee's USAR upgrade program.

Okaloosa Asphalt, Inc., Shalimar, Florida
Supplement VI

EA 96-311

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy on October 7, 1996, and did not issue a violation for failure to file NRC Form-241 or obtain an NRC license before using a gauge containing licensed material within the physical borders of an Agreement State but in an area under exclusive Federal jurisdiction (an Air Force base). Discretion of appropriate

because the company had relied on the Air Force base for information about applicable requirements and believed that the work was covered under the company's Agreement State license.

*Pennsylvania Testing Laboratory, West Pittston, Pennsylvania
Supplement VI*

EA 97-126

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy on June 13, 1997, and refrained from issuing a civil penalty for a Severity Level III violation based on the possession of licensed radioactive material at unauthorized locations, incomplete and inaccurate information, and failure to leak test sealed sources and detector cells containing licensed material. Discretion was warranted in this case because the license was terminated based on the fact that the company no longer possessed licensed radioactive material.

*Philadelphia Electric Company, Peach Bottom, Units 2 & 3
Supplement I*

EA 96-370

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and did not issue a Notice of Violation on January 3, 1997, for a Severity Level III violation. The action was based on a Maintenance Rule base-line inspection that determined that the licensee was not adequately monitoring the performance or condition of numerous systems and components against established goals, nor had the licensee demonstrated the effectiveness of preventive maintenance on these systems and components. Both of these deficiencies were in noncompliance with the Maintenance Rule. Although a base civil penalty would have been warranted under the normal assessment process (because this was not the first escalated issue in 2 years, credit was not warranted for identification, and credit was warranted for corrective action), the NRC exercised discretion in accordance with Section VII.B.6 and refrained from issuing a civil penalty. Enforcement discretion was warranted because: (1) the overall excellent material condition of the Peach Bottom facility and (2) the very good performance record that the licensee had demonstrated in the maintenance area, evidenced by few examples of performance-based maintenance problems. By proposing to exercise discretion and not propose a civil penalty in this case, the staff is balancing the licensee's programmatic failure to comply with the Maintenance Rule with its strong overall performance in the maintenance area.

*Public Service Electric Company, Salem, Units 1 & 2
Supplement I*

EA 97-204

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy on June 6, 1997, and refrained from issuing additional violations or civil penalties related to the findings of a March 31, 1997, Office of Investigations report (I-95-013) that concluded the licensee willfully operated outside its design basis and failed to notify the NRC in a timely manner of the situation. The issue involved a 1993 notification from the Nuclear Steam Supply System vendor that nonconservatism existed in the setpoint methodology for the Pressurizer Overpressure Protection System (POPS). The licensee took 9 months to address the significant condition adverse to quality and when the condition was addressed, the licensee's corrective actions relied on actions that would have required NRC review and approval. Such approval was not sought. Partly as a result of this performance, significant enforcement action was taken on October 16, 1995, (EAs 95-062, 95-065 & 95-117) and a \$600,000 civil penalty was issued. Discretion was warranted because: (1) the OI findings were the result of, or closely related to, the violations for which civil penalties were already assessed as part of the October 1995 significant enforcement action; (2) the OI findings were matters that occurred in 1993 and 1994 prior to the extended

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shutdown which began in 1995 and were not indicative of current performance; (3) there were significant changes in the management team and personnel at Salem, and significant positive changes in the approach to identification and correction of problems; and (4) the OI conclusion did not involve a conclusion of deliberate wrongdoing.

Selrite Millworks Corporation, Union, New Jersey Supplement VI

EA 97-286

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and did not issue a Notice of Violation for improper transfer of generally licensed tritium "EXIT" signs at the time of sale of a building owned by Selrite. Discretion was warranted because the signs had been improperly transferred to Selrite when Selrite purchased the building and Selrite was therefore unaware that the signs contained NRC-licensed material.

Tri-State Testing, Tampa, Florida Supplement VI

EA 96-473

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy on December 10, 1996, and refrained from issuing a Notice of Violation for the failure to obtain a specific NRC license or file for reciprocity prior to using licensed material in areas under exclusive Federal jurisdiction. Discretion was appropriate because the licensee did not understand the regulatory requirements pertaining to work in areas of exclusive Federal jurisdiction and was unaware that it was conducting operations in such areas.

Veterans Administration Medical Center, Philadelphia, Pennsylvania Supplement VII

EA 96-182

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy on September 25, 1997, and refrained from imposing a civil penalty for a Notice of Violation for a Severity Level III violation based on discrimination against the Radiation Safety Officer (RSO). This action was originally categorized at Severity Level II and was issued with a \$8,000 civil penalty on September 16, 1996. The NRC subsequently determined that the violation was more appropriately categorized at Severity Level III and exercised discretion in accordance with Section VII.B.6 and refrained from imposing the civil penalty. Discretion was warranted because: (1) the chastisement did not substantially affect the conditions of employment, an apology was issued, and the individual remains the RSO, (2) the Department of Labor (DOL) concluded that the licensee met the terms and conditions of outlined remedies, and (3) investigations conducted by DOL and the NRC's Office of Investigations did not substantiate continued discrimination against the RSO for contacting the NRC.

Wisconsin Electric Power Company, Point Beach, Units 1 & 2 Supplement I

EA 97-075

The NRC exercised enforcement discretion in accordance with Section VII.B.6 and refrained from issuing civil penalties for three Notices of Violation that were issued on August 8, 1997. The three Severity Level III problems were based on: (1) failure of the corrective action system to assure adequate corrective actions were taken for conditions adverse to quality, (2) unreviewed safety questions that were created when the Residual Heat Removal and the Auxiliary Feedwater systems were operated in a manner not described in the Final Safety Analyses Report, and (3) failure to properly implement Technical

Specification requirements, including correcting deficiencies and appropriately testing portions of the emergency power supply system. Although three base civil penalties would have been warranted under the normal assessment process (because this was not the first escalated issue in 2 years, credit was not warranted for identification, and credit was warranted for corrective action), the NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy. Discretion was exercised because: (1) the NRC had already issued a \$325,000 civil penalty (EA 96-273 dated December 3, 1996) to emphasize performance problems, (2) the licensee entered into a Confirmatory Action Letter which provided that the licensee would not operate its facility until it addressed the subject violations as well as other performance problems and met with the NRC to justify restart, (3) the licensee implemented comprehensive corrective actions, and (4) although the NRC identified a number of these issues as a result of its inspections, the NRC determined that Wisconsin Electric Power Company dedicated significant resources to successfully address the performance issues and substantially improve Point Beach's conduct of operations.

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APPENDIX F: SUMMARY OF ACTIONS AGAINST LICENSED INDIVIDUALS

ORDERS AND DEMANDS FOR INFORMATION (DFIs)

None

NOTICES OF VIOLATION (NOVs)

Roger E. Jones

IA 96-073

A Notice of Violation for a Severity Level III violation was issued on November 19, 1996, as a result of the licensed operator's failure of a chemical test for drugs.

James P. Ryan

IA 97-007

A Notice of Violation for a Severity Level III violation was issued on January 31, 1997, as a result of the licensed's operator's failure of a chemical test for drugs.

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APPENDIX G: SUMMARY OF ACTIONS AGAINST NON-LICENSED INDIVIDUALS

ORDERS

Jeffrey Barnhart

IA 97-049

An Order Prohibiting Involvement in NRC-Licensed Activities was issued on June 23, 1997. The action was based on an investigation that concluded that Mr. Barnhart deliberately falsified information provided on an application to obtain access authorization. The Order Prohibits Mr. Barnhart's involvement in NRC-licensed activities for a period of 5 years and was based on Mr. Barnhart's assumption of the identity of his deceased brother and his providing false statement regarding his history of drug use and past conviction for possession of illegal drugs. The false information he submitted was material to the NRC in that verification of an individual's true identity, an individual criminal history and suitability for the granting of unescorted access are essential elements of the licensee's access authorization program required by 10 CFR 73.56.

Daniel R. Baudino

IA 97-032

An Order Prohibiting Involvement in NRC-Licensed Activities for a period of 5 years was issued on May 27, 1997. The action was based on an investigation that concluded that Mr. Baudino deliberately violated 10 CFR 50.5 (Deliberate Misconduct) by submitting false information as to his criminal history on his personal history questionnaires. The Order prohibits Mr. Baudino's involvement in NRC-licensed activities.

Aharon Ben-Haim

IA 97-065

An Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately) Pending Further Order was issued on July 31, 1997. The action was based on evidence obtained during an Office of Investigations investigation that indicated that Dr. Ben-Haim, acting in the capacity of consultant to Newark Medical Associates, deliberately prepared an inaccurate application for an NRC license for that entity. The application listed an individual as the sole authorized user and radiation safety officer (RSO) even though that individual had no knowledge of the application and had never agreed to fulfill those functions. After a license was granted that named the individual as the authorized user and RSO, Newark Medical Associates conducted licensed activities, with the knowledge of Dr. Ben-Haim in his capacity as consultant, even though the named individual did not ever serve as authorized user or RSO.

Aharon Ben-Haim

IA 97-068

An Order Prohibiting Involvement in NRC Licensed Activities (Effective Immediately) for a period of 5 years was issued on August 27, 1997. This action was based on evidence obtained during an investigation by the NRC Office of Investigations (OI) that Dr. Ben-Haim, acting in the capacity of consultant to Newark Medical Associates (licensee): (1) deliberately prepared an inaccurate application for an NRC license by naming as the physician authorized user and radiation safety officer (RSO), an individual who had no knowledge of the application and who had never agreed to fulfill those functions; and (2) assisted the licensee in the conduct of licensed activities with the knowledge that the named individual did not ever serve as authorized user or RSO. The NRC staff concluded that Dr. Ben-Haim's actions constituted violations of 10 CFR 30.10, "Deliberate Misconduct." Therefore, the NRC modified

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the Order to: (1) further address the findings of the OI investigation; (2) supplement the findings in the Order; (3) continue the prohibition against involvement in NRC-licensed activities on the part of Dr. Ben-Haim for a period of 5 years from July 31, 1997 (Effective Immediately).

Sue A. Blacklock

IA 97-059

An Order Prohibiting involvement in NRC-Licensed Activities for a period of 5 years was issued on August 5, 1997. The action was based on an investigation conducted by the Office of Investigation, that determined that Ms. Blacklock deliberately directed falsification of Reactor Enclosure Cooling Water sample documentation on February 7, 1996.

Joseph R. Bynum

IA 96-101

An Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately) was issued on January 13, 1997, to the Vice-President of Fossil Operations for the Tennessee Valley Authority (TVA). The action was based on an NRC investigation and testimony before the Department of Labor. In reviewing this case, the NRC concluded that Mr. Bynum deliberately violated Section 211 of the Energy Reorganization Act and 10 CFR 50.5 (Deliberate Misconduct), the deliberate misconduct causing the licensee to be in violation of 10 CFR 50.7 (Employee Protection), by Mr. Bynum ordering the forced resignation of Mr. Jocher, a former corporate manager of Chemistry and Environmental Protection, based upon Mr. Jocher's engaging in protected activities. The Order removed Mr. Bynum from engaging in NRC-licensed activities for a period of 5 years from May 1, 1993.

Magdy Elamir

IA 97-064

An Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately) Pending Further Order was issued on July 31, 1997. The action was based on evidence obtained during an Office of Investigations (OI) investigation that indicated that Dr. Elamir, the owner of Newark Medical Associates, deliberately submitted an inaccurate application for an NRC license for that entity. The application listed an individual as the sole authorized user and radiation safety officer (RSO) even though that individual had no knowledge of the application and had never agreed to fulfill those functions. After a license was granted which named the individual as the authorized user and RSO, Newark Medical Associates conducted licensed activities even though the named individual did not ever serve as authorized user or RSO.

Magdy Elamir

IA 97-070

An Order Prohibiting Involvement in NRC Licensed Activities (Effective Immediately) for a period of 5 years was issued on September 15, 1997. The action was based on evidence obtained during an investigation by the NRC Office of Investigations (OI) that Dr. Elamir: (1) submitted an inaccurate application for an NRC license by naming as the physician authorized user and radiation safety officer (RSO), an individual who had no knowledge of the application and who had never agreed to fulfill those functions; and (2) caused and permitted the licensee to conduct licensed activities without any physician authorized user or RSO. The NRC concluded that Dr. Elamir's actions constituted violations of 10 CFR 30.10, "Deliberate Misconduct." Therefore, the NRC issued a second Order to further address the findings of the OI investigation and to continue the prohibition against Dr. Elamir's involvement in NRC-licensed activities for a period of 5 years from July 31, 1997 (Effective Immediately).

David Johns

IA 97-026

An Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately) was issued on May 15, 1997. The action was based on inspection and investigation which concluded that Mr. Johns, an unlicensed individual who is the president of CES, deliberately violated the conditions of an order suspending CES' license by continuing to use moisture density gauges on numerous occasions.

Krishna Kumar

IA 97-011

An Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately) was issued on February 18, 1997, to an unlicensed individual that was the President of Power Inspection, Inc., (PI) an NRC licensee. The action was based on an inspection and investigation that concluded that Mr. Kumar engaged in deliberate misconduct by deliberately submitting to NRC licensees inaccurate information concerning: (1) eddy current qualification certification examination results and personnel certification summaries; and (2) the trustworthiness and reliability of two individuals, when Mr. Kumar knew that the individuals had used illegal substances. In addition, Mr. Kumar engaged in deliberate misconduct by directing PI employees to fabricate source utilization logs for radiography performed and by providing to the NRC a letter which contained inaccurate information relating to whether corrective actions had been taken in response to violations listed in a previous Notice of Violation.

John Maas

IA 96-100

A Confirmatory Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately) was issued on December 12, 1996. The action was based on an inspection and a plea of guilty in U.S. District Court, on the which the NRC concluded that Mr. Maas deliberately violated the Deliberate Misconduct rule (10 CFR 30.10) while serving as President of National Circuits Caribe, Inc. by abandoning devices containing byproduct material at the licensee's facility in Puerto Rico. The Order prohibits Mr. Maas from engaging in NRC-licensed activities for a period of 5 years.

Mr. Darryl D. McNeil

IA 97-001

An Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately) was issued on March 24, 1997, to an unlicensed individual who formerly worked as a security officer at Florida Power Corporation's Crystal River site. The action was based on an investigation conducted by the Office of Investigation, that determined that Mr. McNeil deliberately conspired to cover up the loss of control of a security badge. The Order removes Mr. McNeil from engaging in NRC-licensed activities for a period of 1 year.

James Mulkey

IA 97-012

An Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately) was issued on February 18, 1997, to an unlicensed individual who was the Vice President/Radiation Safety Officer of Power Inspection, Inc. (PI), an NRC licensee. The action was based on an inspection and investigation that concluded that Mr. Mulkey engaged in deliberate misconduct by: (1) submitting to NRC licensees inaccurate information concerning eddy current qualification certification examination results and personnel certification summaries; (2) providing to the NRC a letter which contained inaccurate information relating to whether corrective actions had been taken in response to a previous Notice of

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Violation; and (3) providing false information to the NRC during a telephone discussion with a representative of the NRC.

James C. Nelson

IA 97-004

An Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately) was issued on January 27, 1997. The action was based on deliberate misconduct, in violation of 10 CFR 30.10 of the Commission's regulations. Specifically, Mr. Nelson deliberately permitted use of a portable moisture density gauge containing NRC-licensed material while under an Order Suspending License (Effective Immediately) prohibiting use and caused the licensee to be in violation of 10 CFR 30.34. Further, Mr. Nelson deliberately provided information to the NRC regarding the identity of the Radiation Protection Officer on the license renewal application that he knew was inaccurate. Based on these deliberate actions, the Order prohibits involvement in NRC-licensed activities for a period of 5 years.

Robert J. Nelson

IA 97-033

An Order Prohibiting Involvement in NRC-Licensed Activities for a period of 1 year was issued on August 18, 1997. The action was based on an investigation conducted by the Office of Investigations, that determined that Mr. Nelson deliberately falsified a quality assurance document describing the replacement of a valve gasket on January 3, 1996. Furthermore, this action was warranted because Mr. Nelson was not forthright in providing information to both the licensee and the NRC.

Steven F. Nevin

IA 97-060

An Order Prohibiting involvement in NRC-Licensed Activities for a period of 3 years was issued on August 5, 1997. The action was based on an investigation conducted by the Office of Investigation, that determined that Mr. Nevin deliberately falsified records of Reactor Enclosure Cooling Water sample documentation on February 7, 1996.

Cecil Ray Owen

IA 96-103

An Order Prohibiting Involvement in NRC-Licensed Activities for a period of 1 year was issued on January 2, 1997, to an unlicensed individual who formerly worked as a contract millwright at the North Anna Power Station. The action was based on an investigation conducted by the Office of Investigation, that determined that Mr. Owen completed a background questionnaire for a position at North Anna and deliberately did not identify his previous employment where he was terminated for a positive drug test.

Roy Sadovsky

IA 97-024

An Order Prohibiting Involvement in NRC-licensed Activities (Effective Immediately) was issued on May 1, 1997. The action was based on an inspection and investigation, that determined that Dr. Sadovsky was deliberately engaged in violations of NRC requirements.

Derek Stephens

IA 97-008

A Confirmatory Order Prohibiting Involvement in NRC-Licensed Activities, effective immediately upon issuance, was issued on April 15, 1997. The action was based on inspection and investigation that concluded that Mr. Stephens deliberately violated 10 CFR 30.10 and 10 CFR 34.33(a) by failing to wear

personal monitoring devices (i.e., alarming ratemeter, film badge, and pocket dosimeter) while conducting radiographic activities. In addition, the NRC concluded that Mr. Stephens failed to supervise his assistant as the assistant approached the exposure device without a survey instrument and attempted to disassemble the equipment. The NRC concluded that this latter instance represented careless disregard for NRC requirements.

Lonnie Randell Wilson

IA 97-050

An Order Prohibiting Involvement in NRC-Licensed Activities was issued on June 26, 1997. The action was based on deliberate falsification of information provided on an application to obtain access authorization. The Order prohibits Mr. Wilson's involvement in NRC-licensed activities for a period of 5 years and was based on false information regarding whether he had ever tested positive for drugs or ever been removed or denied access to a nuclear power plant.

NOTICES OF VIOLATION (NOVs)

Robert C. Allen

IA 96-065

A Notice of Violation was issued on October 18, 1996, for a Severity Level III violation. The action was based on deliberate violation of approved, detailed written procedures for the venting of the Unit 1 pressurizer relief tank.

Robert Beltran

IA 96-074

A Notice of Violation was issued on November 21, 1996, for a Severity Level III violation. The action was based on submitting false employment information claiming employment with an employer for 5 years, when in fact, he had never been employed by said employer.

Richard M. Gracin

IA 96-052

A Notice of Violation was issued on December 19, 1996, for a Severity Level III violation. The action was based on deliberately providing information to an NRC inspector and to licensee representatives that was inaccurate.

Jose R. Garza

IA 97-038

A Notice of Violation for a Severity Level III violation was issued on July 30, 1997. The action was based on Mr. Garza providing the NRC with incomplete and inaccurate information. Contrary to station requirements, Mr. Garza withheld information from his employer that was material to his continued employment.

David A. Harris

IA 96-062

A Notice of Violation was issued on October 22, 1996, for a Severity Level III violation. The action was based on submitting a urine sample that had been altered or tampered with in that its temperature was significantly elevated in excess of 20°F above normal body temperature.

Jeffrey W. Holybee

IA 97-072

A Notice of Violation for a Severity Level III violation was issued on September 12, 1997. The action was based on Mr. Holybee submitting information that was inaccurate, and such information was material to the NRC. The information concerned inaccurate information on an access authorization application.

Subhash Khullar

IA 97-031

A Notice of Violation and Demand for Information for a Severity Level II violation was issued on March 21, 1997. The action was based on the licensee certified, on a Form NRC-314 dated February 26, 1990, that all byproduct material had been disposed of when, in fact, all byproduct material had not been disposed of.

David Kirkland

IA 97-010

A Notice of Violation for a Severity Level III violation was issued on April 1, 1997. The action was based on the individual causing the licensee to be in violation of 10 CFR 35.25(a)(2) by administering 6.6 millicuries of iodine-131 to a patient without first obtaining the signature of an authorized user on a written directive, even though he knew that the licensee's medical quality management program required a signed written directive prior to the administration of the dosage.

Michael S. Krizmanich

IA 97-014

A Notice of Violation for a Severity Level III violation was issued on February 18, 1997. The action was based on a violation of 10 CFR 30.9 and 10 CFR 34.27. Specifically, the licensee's utilization logs maintained at the licensee's Wexford, Pennsylvania, office were inaccurate because they were neither "current" nor created on the date of use of the source, but in fact, were created at a later time in order to address questions asked by the NRC during a previous NRC inspection.

Lee Myers, Ph.D.

IA 97-017

A Notice of Violation for a Severity Level III violation was issued on March 7, 1997. The action was based on the individual causing the licensee to be in violation of a license requirement by allowing patient treatments to continue without monthly calibration checks of the high dose rate afterloader, even though he knew that the checks were required.

Michael Muszynski

IA 96-067

A Notice of Violation was issued on December 20, 1996, for a Severity Level III violation. The action was based on deliberately submitting to the licensee information that was incomplete or inaccurate in some respect material to the NRC.

John R. Raskovsky

IA 97-037

A Notice of Violation for a Severity Level III violation was issued on June 18, 1997. The action was based on a violation of 10 CFR 50.5(a)(2). Mr. Raskovsky deliberately falsified access authorization documents in order to obtain unescorted access to numerous NRC-regulated nuclear power plants.

Kelly N. Ross

IA 97-075

A Notice of Violation for a Severity Level III violation was issued on September 16, 1997. The action was based on Mr. Ross submitting information that was inaccurate, and such information was material to the NRC. The information concerned inadequate information on an access authorization application.

Randall L. Rumley

IA 97-071

A Notice of Violation for a Severity Level III violation was issued on September 12, 1997. The action was based on the fact that Mr. Rumley: (1) defeated a breathing zone air sampler by placing a rubber glove over the air sampler at the respective work station, (2) transferred an unknown (uncertain weight) quantity of low enriched uranium powder from a container into another container of enriched uranium powder, and (3) transferred the same without using a ventilated enclosure. Mr. Rumley's actions caused the licensee to be in violation of the above procedural requirements.

Marvin N. Shook

IA 97-073

A Notice of Violation for a Severity Level III violation was issued on September 12, 1997. The action was based on Mr. Shook submitting information that was inaccurate, and such information was material to the NRC. The inaccurate information concerned the omission of material information on an access authorization application.

Donald Smith

IA 97-056

A Notice of Violation for a Severity Level III violation was issued on July 23, 1997. The action was based on Mr. Smith, a Burns Contract alarm station operator, providing his management with inaccurate information related to his triggering of tamper alarms at the St. Lucie secondary alarm station.

George W. Stewart

IA 97-015

A Notice of Violation for a Severity Level III violation was issued on February 18, 1997. The action was based on a violation of 10 CFR 30.9 and 10 CFR 34.27. Specifically, the licensee's utilization logs maintained at the licensee's Wexford, Pennsylvania, office were inaccurate because they were neither "current" nor created on the date of use of the source, but in fact, were created at a later time in order to address questions asked by the NRC during a previous NRC inspection.

Ronald Stewart

IA 97-018

A Notice of Violation for a Severity Level III violation was issued on April 4, 1997. The action was based on the deliberate failure to provide complete and accurate information during the preemployment process. Specifically, Mr. Stewart failed to include his history of criminal convictions on the Personal History Questionnaire, that was used as the basis for granting him unescorted access. This information was material to the NRC in that verification of an individual's criminal history and suitability for the granting of unescorted access is an essential element of the licensee's access authorization program required by 10 CFR 73.56.

DEMANDS FOR INFORMATION (DFIs)

Michael Bath

IA 96-077

A Demand for Information was issued on December 10, 1996, to request information regarding the individual's involvement in station rounds not being properly performed at the Susquehanna Steam Electric Station.

Finis Scott Bandy

IA 97-057

A Demand for Information was issued on July 22, 1997, to obtain information as to why the NRC should not take enforcement action against Mr. Bandy for deliberately omitting certain criminal history information on an application for unescorted access to the Fort Calhoun Station.

Jeffrey Lee Barnhart

IA 97-022

A Demand for Information was issued on April 24, 1997, as a result of the NRC staff's conclusion that Mr. Barnhart deliberately falsified information on his security questionnaire, including statements regarding past drug use, and worked under the assumed name of his deceased brother.

Ron Brown

IA 96-084

A Demand for Information was issued on December 10, 1996, to request information regarding the individual's involvement in station rounds not being properly performed at the Susquehanna Steam Electric Station.

Louis Corazza

IA 96-078

A Demand for Information was issued on December 10, 1996, to request information regarding the individual's involvement in station rounds not being properly performed at the Susquehanna Steam Electric Station.

Ronald Dalmas

IA 96-088

A Demand for Information was issued on December 10, 1996, to request information regarding the individual's involvement in station rounds not being properly performed at the Susquehanna Steam Electric Station.

John Evans

IA 96-079

A Demand for Information was issued on December 10, 1996, to request information regarding the individual's involvement in station rounds not being properly performed at the Susquehanna Steam Electric Station.

Michael Fedorca

IA 96-085

A Demand for Information was issued on December 10, 1996, to request information regarding the individual's involvement in station rounds not being properly performed at the Susquehanna Steam Electric Station.

Carl Gentilesco

IA 96-080

A Demand for Information was issued on December 10, 1996, to request information regarding the individual's involvement in station rounds not being properly performed at the Susquehanna Steam Electric Station.

Mark Haile

IA 96-093

A Demand for Information was issued on December 10, 1996, to request information regarding the individual's involvement in station rounds not being properly performed at the Susquehanna Steam Electric Station.

Thomas Kinsey

IA 96-089

A Demand for Information was issued on December 10, 1996, to request information regarding the individual's involvement in station rounds not being properly performed at the Susquehanna Steam Electric Station.

Michael Krebs

IA 96-092

A Demand for Information was issued on December 10, 1996, to request information regarding the individual's involvement in station rounds not being properly performed at the Susquehanna Steam Electric Station.

Mark Lindsey

IA 96-081

A Demand for Information was issued on December 10, 1996, to request information regarding the individual's involvement in station rounds not being properly performed at the Susquehanna Steam Electric Station.

Anthony Maruca

IA 96-095

A Demand for Information was issued on December 10, 1996, to request information regarding the individual's involvement in station rounds not being properly performed at the Susquehanna Steam Electric Station.

Dino Mazarki

IA 96-097

A Demand for Information was issued on December 10, 1996, to request information regarding the individual's involvement in station rounds not being properly performed at the Susquehanna Steam Electric Station.

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Bernard McGaugh

IA 96-094

A Demand for Information was issued on December 10, 1996, to request information regarding the individual's involvement in station rounds not being properly performed at the Susquehanna Steam Electric Station.

Craig Merluzzi

IA 96-082

A Demand for Information was issued on December 10, 1996, to request information regarding the individual's involvement in station rounds not being properly performed at the Susquehanna Steam Electric Station.

Glenn Miller

IA 96-091

A Demand for Information was issued on December 10, 1996, to request information regarding the individual's involvement in station rounds not being properly performed at the Susquehanna Steam Electric Station.

Lee Myers, Ph.D.

IA 96-114

A Demand for Information was issued on December 31, 1996, to request information regarding the individual's involvement in allowing patient therapy treatments to continue even though the individual knew that the High Dose Rate Applicator had not received its required monthly checks for 4 months.

Daniel Torres Ortiz

IA 97-025

A Demand for Information was issued on April 25, 1997, for facts surrounding strontium-90 source verification service provided by Mr. Ortiz.

George Paresa

IA 96-086

A Demand for Information was issued on December 10, 1996, to request information regarding the individual's involvement in station rounds not being properly performed at the Susquehanna Steam Electric Station.

Alan Shaffer

IA 96-098

A Demand for Information was issued on December 10, 1996, to request information regarding the individual's involvement in station rounds not being properly performed at the Susquehanna Steam Electric Station.

Wilbur Shaffer

IA 96-090

A Demand for Information was issued on December 10, 1996, to request information regarding the individual's involvement in station rounds not being properly performed at the Susquehanna Steam Electric Station.

John Sorenson

IA 96-083

A Demand for Information was issued on December 10, 1996, to request information regarding the individual's involvement in station rounds not being properly performed at the Susquehanna Steam Electric Station.

Ricardo Tomasacci

IA 96-087

A Demand for Information was issued on December 10, 1996, to request information regarding the individual's involvement in station rounds not being properly performed at the Susquehanna Steam Electric Station.

Andrew Ulitney

IA 96-096

A Demand for Information was issued on December 10, 1996, to request information regarding the individual's involvement in station rounds not being properly performed at the Susquehanna Steam Electric Station.

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**APPENDIX H: SUMMARY OF ACTIONS
AGAINST NON-LICENSED PERSONS
OTHER THAN INDIVIDUALS**

NOTICES OF VIOLATION (NOVs)

None

CIVIL PENALTIES

*Thermal Science, Inc., St. Louis, Missouri
Supplement VII*

EA 95-009

The NRC exercised enforcement discretion in accordance with Section VII.A of the Enforcement Policy and issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$900,000 on October 1, 1996, for nine Severity Level I violations. The action was based on an investigation by the Office of the Inspector General, in addition to several inspections performed by NRC staff, that identified nine Severity Level I violations. All of the violations were cited against 10 CFR 50.5, "Deliberate Misconduct," due to Thermal Science, Inc. (TSI) having deliberately and repeatedly provided inaccurate or incomplete information to the NRC concerning TSI's fire endurance and ampacity testing programs for Thermo-Lag fire barriers. Enforcement discretion was warranted because the staff considered the egregious, deliberate, and repeated nature of these violations, and because the staff considered this matter to constitute a very significant regulatory concern which necessitated a significant enforcement action. The civil penalty was escalated to the maximum statutory limit of \$100,000 for each of the nine Severity Level I violations.

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**APPENDIX I: SUMMARY OF CASES INVOLVING
DISCRIMINATION*****Cleveland Electric Illuminating Company, Perry, Units 1 and 2
Supplement VII*****EA 96-253**

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$160,000 was issued on October 9, 1996, for a Severity Level II violation. The action was based on a problem involving two violations of 10 CFR 50.7, "Employee Protection." As determined in the DOL Administrative Law Judge's (ALJ) Recommended Decision and Order in case 96-ERA-6, dated June 11, 1996, the licensee instructed its contractor to terminate one insulator from his employment at the Perry Nuclear Power Plant and banned him and five additional insulators from working at any Centerior facility in retaliation for the insulators filing a civil complaint under the Atomic Energy Act. The violation is categorized at Severity Level II because it appears from the ALJ's decision that management above first-line supervision was involved in the discrimination.

***Florida Power Corporation, Crystal River 3
Supplement VII*****EA 96-335**

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy on December 5, 1996, and did not issue a violation. The action was based on an investigation which substantiated that a contractor of the licensee discriminated against a contractor employee for engaging in protected activities. The violation normally would have been categorized at Severity Level II; however, enforcement discretion was warranted in this case due to the licensee's overall performance in immediately attempting to correct the contractor's adverse action. Therefore, no violation was issued to the licensee in this matter.

***Florida Power Corporation (Pritt-McEnany Roofing, Inc.)
Supplement VII*****EA 96-336**

A Notice of Violation was issued on December 5, 1996 for a Severity Level II violation. This action was based on a violation of 10 CFR 50.7 which prohibits, in part, discrimination by a contractor of a Commission licensee against an employee for engaging in certain protected activities. Specifically, the discrimination included the discharge of a security escort as a result of the escort reporting a violation of security escort requirements.

***Honolulu Medical Group, Honolulu, Hawaii
Supplement VII*****EA 95-006**

A Notice of Violation for a Severity Level II violation on January 23, 1997. The action was taken because the licensee discriminated against an employee for engaging in protected activities by terminating the individual's employment.

***Koppel Steel Corporation, Beaver Falls, Pennsylvania
Supplement VII*****EA 96-498**

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$8,000, for a Severity Level II violation, was issued on March 19, 1997. The action was based on discrimination against a

Appendix I

former Radiation Safety Officer after he provided information to an NRC inspector during an April 1996 inspection.

*Public Service Electric and Gas Company, Salem, Units 1 & 2
Supplement VII*

EA 96-177

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$80,000 was issued on December 9, 1996, for a Severity Level II violation. The action was based on a problem involving a former manager of the licensee's Nuclear Safety Review Group who discriminated against a former Onsite Safety Review Engineer and a Safety Review Engineer at the Salem Generating Station in late 1993 and early 1994.

APPENDIX J: SUMMARY OF HEARING ACTIVITY

Barnett Industrial X-Ray, Inc.

A request for a hearing dated June 16, 1997, was submitted by Barnett X-Ray, Inc., a radiography licensee, regarding an Order Imposing Civil Monetary Penalty for three violations that involved a substantial potential for the whole body exposure to a radiographer to be in excess of NRC limits. On October 15, 1997, the staff and the licensee filed a joint settlement agreement for approval by the Atomic Safety and Licensing Board, and the Licensing Board approved the settlement and dismissed the proceeding on October 24, 1997.

Ben-Haim, Aharon, Ph.D.

A request for a hearing and a request to stay the immediate effectiveness of an Order were received on August 19, 1997. The Order prohibits the individual from involvement in NRC-licensed activities. On September 18, 1997, the Licensing Board ruled that it would not rescind the immediate effectiveness of the Order. The hearing on the Order is pending.

Elamir, Magdy, M.D.

A request for a hearing was received on October 4, 1997, regarding an Order prohibiting the individual from involvement in NRC-licensed activities. The hearing is pending.

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APPENDIX K: SUMMARY OF 10 CFR 2.206 ACTIVITY

Director's Decision-97-07

A petition was received on May 30, 1996, on Westinghouse Electric Corporation requesting the staff to take immediate action and issue a Show Cause Order or civil penalty pertaining to Westinghouse's allegedly providing false information to a Department of Labor Administrative Law Judge concerning qualifications for health physics technicians. This issue was addressed in Director's Decision-97-07, dated March 20, 1997.