

January 6, 2010
EN-10-001

OFFICE OF ENFORCEMENT
NOTIFICATION OF SIGNIFICANT ENFORCEMENT ACTION

Licensee: Babcock and Wilcox (EA-09-263)
Nuclear Operations Group, Inc.
Lynchburg, VA
Docket No. 70-27

Subject: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY-
\$32,500

This is to inform the Commission that a Notice of Violation and Proposed Imposition of a Civil Penalty will be issued on or about January 11, 2010, to Babcock and Wilcox Nuclear Operations Group, Inc. (B&W -NOG). This action is based on a Severity Level III violation of Safety Condition S-2 of their license involving the failure of the licensee to declare an Alert emergency classification in a timely manner as required by Appendix G to their Emergency Plan. Specifically, on July 15, 2009, the licensee failed to declare an Alert for more than 2 hours even though staff members were cognizant that during that time, critically controls associated with a band saw reservoir did not exist and that the lost controls could not be immediately reestablished. Although the failure to declare an Alert in a timely manner did not result in any actual consequences in this case, the potential consequences of an untimely emergency declaration could have been significant under different circumstances.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$32,500 is considered for a Severity Level III violation. Because B&W-NOG has been the subject of escalated enforcement within the last two years (see EA-08-171), the NRC considered whether credit was warranted for *Identification* and *Corrective Actions* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. Credit is not warranted for identification because the conditions for declaring an Alert were self-revealing and readily apparent. Credit is warranted for corrective actions because the actions were considered to be prompt and comprehensive. These actions included, in part, (1) revision to the B&W-NOG reportability procedure, (2) training of Emergency Directors on lessons learned from the incident, and (3) incorporation of lessons learned into annual training. Therefore, to emphasize the importance of prompt identification of violations and compliance with the licensee's Emergency Plan, the NRC proposes imposition of a Civil Penalty in the base amount of \$32,500 for this SL III violation.

In addition, a Severity Level III problem associated with three procedural violations was identified as a result of this incident. The three violations involved the failure of the licensee (1) to ensure that the band saw's built-in coolant reservoir was disabled and not usable prior to operation of the band saw, (2) to establish controls on the band saw cutting fluid reservoir to prevent process changes which would make a criticality accident possible such as accumulation of cutting fluid or fissile material in the reservoir, and (3) to evaluate an accident scenario or establish appropriate

controls preventing the accumulation of high enriched uranium and moderator in the band saw cutting fluid reservoir, an unfavorable geometry vessel. The staff determined that credit is

warranted for Identification and Corrective Actions regarding this problem and, therefore, in accordance with the Enforcement Policy, a civil penalty is not proposed for these violations. The corrective actions included (1) the immediate completion of an extent of condition review to determine if similar unfavorable geometry conditions existed and establishment of an investigation team; (2) a review of the failure mode of the favorable geometry coolant system; (3) revision of the safety release program to include independent verification; (4) review of Nuclear Criticality Safety Releases for the past ten years to confirm that similar oversights did not occur; (5) communication of the incident to all B&W-NOG onsite management; and (6) plans to adequately disable the saw reservoir prior to full production restart.

It should be noted that the licensee has not been specifically informed of the enforcement action. The schedule of issuance and notification is:

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| Mailing of Notice | January 11, 2010 |
| Telephone Notification of Licensee | January 11, 2010 |

The State of Virginia will be notified.

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Electronic Distribution: EN-10-001, January 6, 2010

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