

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

Niagara Mohawk Power Corporation
Nine Mile Point, Unit 1

Docket No. 50-220
License No. DPR-63
EA 87-106

During an NRC inspection conducted on May 26-27, 1987; violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR Part 2, Appendix C (1987), the Nuclear Regulatory Commission proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violations and associated civil penalty are set forth below:

I. VIOLATION ASSESSED A CIVIL PENALTY

10 CFR 71.5(a) prohibits delivery of licensed material to a carrier for transport unless the licensee complies with applicable Regulations for the Department of Transportation in 49 CFR Parts 170-189. 49 CFR 173.441(a) requires that each package of radioactive materials offered for transport shall be designed and prepared for shipment so that, under conditions normally incident to transportation, the radiation level does not exceed 200 millirem per hour at any point on the external surface of the package.

Contrary to the above, on May 15, 1987, two packages (containing a shearing machine, hydraulic equipment/hoses to operate the machine, and a support platform) were delivered to a carrier for transport (Shipment No. 1 WS-0697) to Brunswick Steam Electric Plant and were not adequately prepared for shipment as evidenced by the fact that, upon receipt of these packages at Brunswick on May 16, 1985, the external radiation levels at a point on the surface of each package were measured to be 1,500 and 1,800 millirem per hour, respectively.

This violation has been categorized as a Severity Level III violation.
(Supplement V)

Civil Penalty - \$2,500

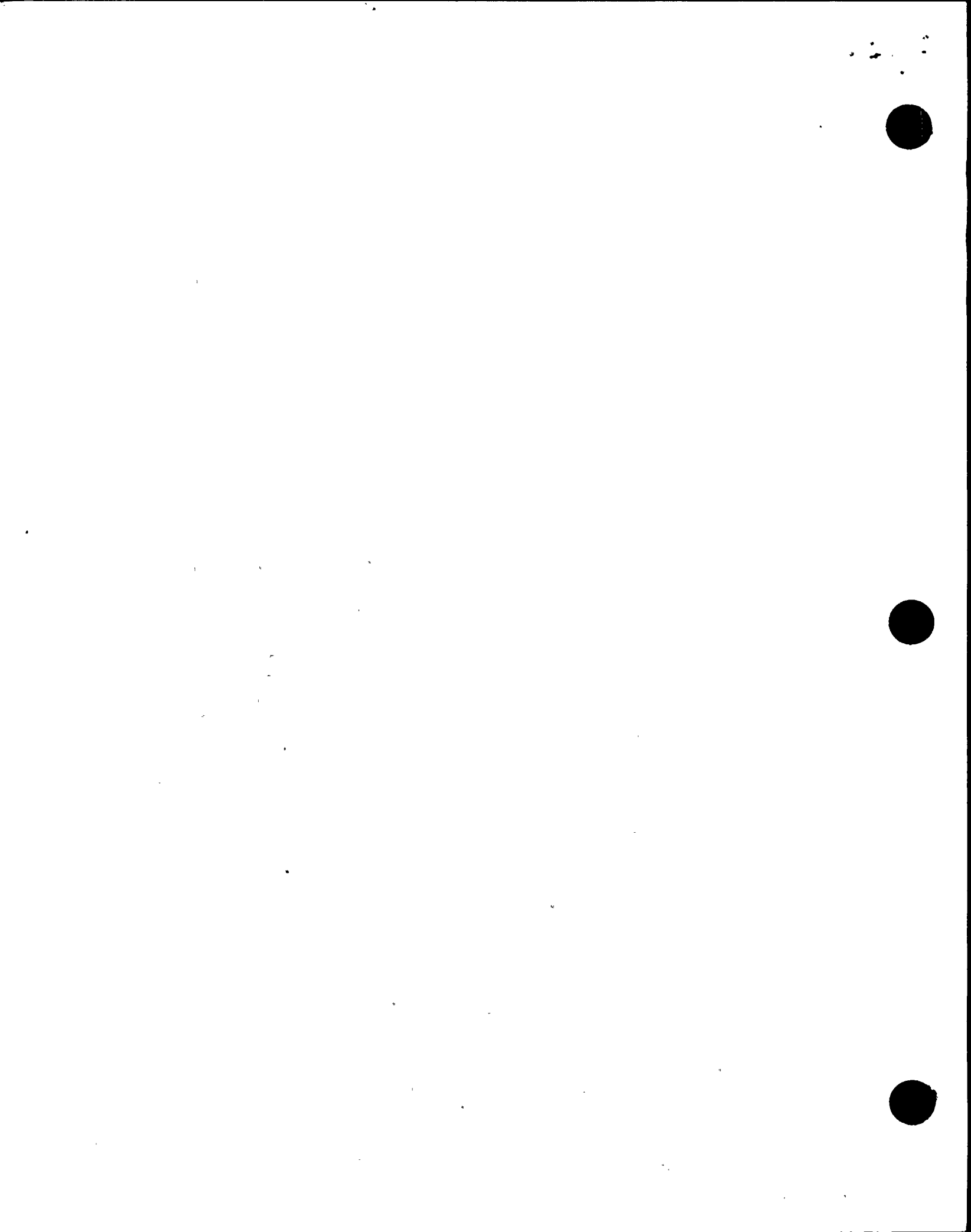
II. VIOLATION NOT ASSESSED A CIVIL PENALTY

10 CFR Section 71.5 prohibits delivery of licensed material to a carrier for transport unless the licensee complies with the applicable regulations of the Department of Transportation in 49 CFR Parts 170-189. 49 CFR 172.203(d)(i) requires that the name of each radionuclide be included in the shipping papers for any shipment. 49 CFR 172.203(d)(iii) requires that the activity contained in each package be included in the shipping papers. 49 CFR 172.204(a)(1) requires that the shipment should be accompanied by a certification by the shipper that the radioactive materials are properly described.

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Contrary to the above, on May 15, 1987, two packages were delivered to a carrier for transport to the Brunswick Steam Electric Plant, and the shipping papers did not identify the radionuclide Iron-55 nor its activity, and as a result, the accompanying shipper's certification that the materials were properly described was in error

This is a Severity Level IV violation (Supplement V).

Pursuant to the provisions of 10 CFR 2.201, Niagara Mohawk Power Corporation (Licensee) is hereby required to submit a written statement or explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice. This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each alleged violation: (1) admission or denial of the alleged violation, (2) the reasons for the violation if admitted, (3) the corrective steps that have been taken and the results achieved, (4) the corrective steps that will be taken to avoid further violations, and (5) the date when full compliance will be achieved. If an adequate reply is not received within the time specified in this Notice, an order may be issued to show cause why the license should not be modified, suspended, or revoked or why such other action as may be proper should not be taken. Consideration may be given to extending the response time for good cause shown. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

Within the same time as provided for the response required above under 10 CFR 2.201, the Licensee may pay the civil penalty by letter to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, with a check, draft, or money order payable to the Treasurer of the United States in the amount of the civil penalty proposed above, or the cumulative amount of the civil penalties if more than one civil penalty is proposed, or may protest imposition of the civil penalty in whole or in part by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should the Licensee fail to answer within the time specified, an order imposing the civil penalty will be issued. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violation(s) listed in this Notice in whole or in part, (2) demonstrate extenuating circumstances, (3) show error in this Notice, or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the five factors addressed in Section V.B of 10 CFR Part 2, Appendix C (1987), should be addressed. Any written answer in accordance with 10 CFR 2.205 should be set forth separately

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from the statement or explanation in reply pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty due which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The responses to the Director, Office of Enforcement, noted above (Reply to a Notice of Violation, letter with payment of civil penalty, and Answer to a Notice of Violation) should be addressed to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region I, and, a copy to the NRC Resident Inspector, Nine Mile Point, Unit 1, which is the subject of this Notice.

FOR THE NUCLEAR REGULATORY COMMISSION

Original Signed By
WILLIAM T. RUSSELL
William T. Russell
Regional Administrator

Dated at King of Prussia, Pennsylvania
this 13 day of August 1987

