

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 87-224

During an NRC inspection conducted on October 5-30, 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:

- A. Technical Specification Limiting Conditions for Operation (LCO) 3.1.3 and 3.1.4, require that both Emergency Cooling systems be operable whenever the reactor water temperature is greater than 212°F, and both Core Spray systems be operable whenever irradiated fuel is in the reactor vessel. For Quality Group A, B, and C components to be considered operable, Technical Specification LCO 3.2.6.a.1 requires that these components satisfy the requirements for inservice inspection in Section XI of the ASME Boiler and Pressure Vessel Code.

Contrary to the above, from June 21, 1986 until September 8, 1987 and while the reactor water temperature was greater than 212°F and irradiated fuel was in the reactor vessel, components in both Emergency Cooling Systems and both Core Spray Systems (Quality Group A, B, or C) were inoperable in that the requirements for inservice inspection of Section XI of the ASME Boiler and Pressure Vessel Code were not met. Specifically, inservice inspection weld flaw indications identified prior to the June 1986 startup were not dispositioned, as required by the inservice inspection program, prior to declaring the systems operable.

- B. 10 CFR Part 50, Appendix B, Criterion XVI requires that measures be established to assure that conditions adverse to quality and nonconformances are promptly identified and corrected.

Contrary to the above, the measures for promptly identifying and correcting conditions adverse to quality did not assure correction of nonconformances in the inservice inspection program identified during the 1986 refueling outage. Specifically,

1. Deficiency/Corrective Action Reports (DCAs) issued prior to the end of the 1986 outage documented inservice inspection weld flaw indications, but the deficiencies were not formally dispositioned prior to the reactor startup in June 1986 (i.e., DCA numbers 41, 120, 140, and 200).

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2. During an NRC inspection conducted between November 17, 1986 to January 4, 1987, and in the NRC Inspection Report (50-220/86-26) issued on February 11, 1987, the NRC indicated that (a) a Reactor Building Closed Loop Cooling heat-exchanger had failed its hydrostatic test in May 1986, and (b) although ISI personnel requested disposition of this finding via a DCA, the component was placed into service without the test failure being properly addressed. Subsequent to this inspection, this programmatic deficiency concerning disposition of ISI findings was not corrected as evidenced by the fact that other undispositioned inservice inspection deficiencies also existed at that time but were not identified and corrected.
  3. An audit by the licensee's QA organization in July 1987 (Audit Report No. SY-RG-IN-87009) identified several nonconformances in the inservice inspection procedure for control of DCAs. However, the audit deficiencies were not reviewed for the potential impact on current plant operations, even in light of the inservice inspection deficiencies identified in November 1986.
- C. 10 CFR Part 50, Appendix B, Criterion XV requires, in part, that procedures be established for the identification of nonconforming conditions, and the documentation, disposition and notification of affected organizations, so that these nonconformances may be reviewed and accepted, rejected, repaired or reworked in accordance with documented procedures. Further 10 CFR Part 50, Appendix B, Criterion V requires that activities affecting quality be accomplished in accordance with these procedures.

Quality Assurance Topical Report for Nine Mile Point, Section 15.2, Quality Administrative Procedure 14.20, entitled "Preparation of Occurrence Reports", and Administrative Procedure 10.2.2, entitled "Procedure for Reporting Variation from Normal Plant Operations, Defects and Noncompliance", require that an Occurrence Report be written and Operations Department management be notified immediately of any condition of nonconformance which could affect the operability of a safety system or compliance with a Technical Specification requirement.

Contrary to the above:

1. On August 31, 1987, a Nonconformance Report was prepared by the Quality Assurance Department concerning the improper dispositioning of weld flaw indications described in five Deficiency/Corrective Action Reports issued prior to the June 1986 startup, and Operations management was not informed of this nonconformance;
2. On September 8, 1987, the corporate licensing and engineering staff did not initiate an Occurrence Report nor contact Operations management immediately concerning the potential inoperability of safety systems and potential violation of a technical specification requirement because of the unresolved weld flaw indications.



Collectively, the violations have been categorized in the aggregate as a Severity Level III problem.

Cumulative Civil Penalty - \$100,000 - assessed equally among the violations.

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 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.

FOR THE NUCLEAR REGULATORY COMMISSION

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

Dated at King of Prussia, Pennsylvania  
this 7 day of March 1988

