

NOTICE OF VIOLATION

Niagara Mohawk Power Corporation  
Nine Mile Point Unit 1

Docket No. 50-220  
License No. DPR-63  
EA No. 98-178

During an NRC inspection conducted on March 9-13, 1998, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

Title 10, Code of Federal Regulations (CFR), Part 71.5 requires that each licensee who delivers radioactive material for transport by a carrier comply with the applicable requirements of the Department of Transportation (DOT) regulations in 49 CFR 170 through 189, as appropriate. 49 CFR 173.443 requires, in part, that a vehicle used to transport radioactive material as an exclusive use shipment may not be returned to service until the radiation dose rates at each accessible surface is 0.005 millisieverts per hour (0.5 millirem per hour) or less.

Contrary to the above, on February 6, 1998, the licensee returned to service a flat-bed type trailer which had been used to transport radioactive materials as exclusive use, which upon receipt at another facility was found to have radiation levels on two accessible areas of the trailer of 0.300 millisieverts per hour (30 millirem per hour) and 0.014 millisieverts per hour (1.4 millirem per hour), respectively.

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

Pursuant to the provisions of 10 CFR 2.201, Niagara Mohawk Power Corporation is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator, Region I, and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

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J. H. Mueller

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In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be placed in the NRC Public Document Room (PDR).

Sincerely,

ORIGINAL SIGNED BY:

James T. Wiggins, Director  
Division of Reactor Safety

Docket Nos. 50-220, 50-410  
License Nos. DPR-63, NPF-69

Enclosure: NRC Combined Inspection Report Nos. 50-220/98-04 and 50-410/98-04

cc w/encl:

G. Wilson, Senior Attorney

M. Wetterhahn, Winston and Strawn

J. Rettberg, New York State Electric and Gas Corporation

P. Eddy, Electric Division, Department of Public Service, State of New York

C. Donaldson, Esquire, Assistant Attorney General, New York Department of Law

J. Vinqvist, MATS, Inc.

F. Valentino, President, New York State Energy Research  
and Development Authority

J. Spath, Program Director, New York State Energy Research  
and Development Authority



If you contest this enforcement action, you should also provide a copy of your response to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

Because your response will be placed in the NRC Public Document Room (PDR), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

Dated at King of Prussia, Pennsylvania  
this 30th day of March, 1998

