

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

Commonwealth Edison
Dresden Nuclear Power Station

Docket Nos. 50-237 and 50-249
License Nos. DPR-19 and DPR-25
EA 90-168

During NRC inspections conducted on June 13 through July 31, 1990 and June 28 through September 20, 1990, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR Part 2, Appendix C (1990), 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 violation and associated civil penalty is set forth below:

10 CFR 50.59(a) states, in part, that a holder of a license may make changes in the facility as described in the safety analysis report without prior Commission approval unless the proposed change involves a change in the technical specifications incorporated in the license or an unreviewed safety question. It also states, in part, that a proposed change shall be deemed to involve an unreviewed safety question if the margin of safety as defined in the basis for any technical specification is reduced.

Section 14.2.6.4.1 of the Final Safety Analysis Report (FSAR) states, in part, that the Air Sample System be configured such that the "air sample will be drawn through the tubing, out through a drywell penetration, auto-isolation valves, and then to a continuous air monitor."

Section 14.2.4.2.C of the Updated Safety Analysis Report (USAR), which discusses offsite dose releases following a Loss of Coolant Accident (LOCA), states, in part, that the primary containment leaks 0.5 percent of the contained free volume per 24 hours at 25 psig. Section 14.2.4.3 of the USAR, which discusses post-LOCA control room dose rates, states, in part, that activity releases are based on a containment leakage rate of 1.6 percent per day.

Technical Specification 3.7.A.2.a(3) states that the maximum allowable leakage rate at a pressure of Pa, La, is equal to 1.6 percent by weight of the containment air per 24 hours at 48 psig. The bases for the surveillance requirements for Section 3.7.A.2 explain that the maximum allowable test leak rate (1.6% was derived from the maximum allowable accident leak rate of about 2 percent/day, when corrected for the effects of containment environment under accident and test conditions. The bases additionally state that the accident leak rate could be allowed to increase to about 3.2 percent/day before the guideline thyroid doses value given in 10 CFR 100 would be exceeded, so that establishing the test limit of 1.6 percent/day provides an adequate margin of safety to assure the health and safety of the general public.

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Contrary to the above, the licensee, without prior Commission approval, on a sporadic basis since 1978 and on an almost daily basis from 1987 up to discovery in June 1990, made changes to the facility as described above in the safety analysis report (automatic isolation was not provided during containment air sampling) that involved a change to the Technical Specifications (TSs) and constituted an unreviewed safety question. Specifically, use of a temporary sample pump to obtain the required daily drywell air sample would have involved a change to the TSs in that the maximum allowable leakage rate (1.6 percent/day) would have been increased by 4.73 percent/day for a total leakage of approximately 6.33 percent/day. Use of the temporary sample pump constituted an unreviewed safety question in that this amount exceeded the leakage specified in the bases for the above TS section, such that the margin of safety defined therein was eliminated.

This is a Severity Level III violation (Supplement I)
Civil Penalty - \$37,500.

Pursuant to the provisions of 10 CFR 2.201, Commonwealth Edison Company (Licensee) is hereby required to submit a written statement of explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice of Violation and Proposed Imposition of Civil Penalty (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, and if denied, the reasons why, (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 actions 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 under 10 CFR 2.201, the Licensee may pay the civil penalty by letter addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, with a check, draft, money order, or electronic transfer 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 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 in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the factors addressed in Section V.B of 10 CFR Part 2, Appendix C (1990), 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 response noted above (Reply to Notice of Violation, letter with payment of civil 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, D.C. 20555 with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137, and a copy to the NRC Resident Inspector at the Dresden Nuclear Power Station.

FOR THE NUCLEAR REGULATORY COMMISSION



A. Bert Davis
Regional Administrator

Dated at Glen Ellyn, Illinois
this 28th day of November 1990