

INDIANA & MICHIGAN ELECTRIC COMPANY

P. O. BOX 18
BOWLING GREEN STATION
NEW YORK, N. Y. 10004

March 1, 1982
AEP:NRC:0660

Donald C. Cook Nuclear Plant Unit Nos. 1 and 2
Docket Nos. 50-315 and 50-316
License Nos. DPR-58 and DPR-74
NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF
CIVIL PENALTIES AND NOTICE OF DEVIATION (EA 82-03)

Mr. Richard C. De Young, Director
Office of Inspection and Enforcement
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dear Mr. De Young:

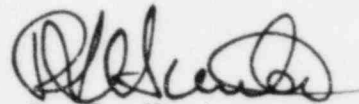
This letter and its Attachment reply to your letter of December 30, 1981, and to the two attached Appendices regarding the findings of inspections conducted at the Donald C. Cook Nuclear Plant, Units 1 and 2, during the period June 1 through August 13, 1981. By letter dated January 29, 1982, from James Lieberman to American Electric Power Service Corporation the NRC granted us an extension until March 1, 1982 to submit our response.

In your letter you raised three areas of concern: (1) inadequate implementation of the fire protection program including failure to implement the inservice testing requirements for a number of systems, (2) material false statements; and (3) failure to maintain containment integrity. The Attachment to this letter sets forth a detailed response to each item in Appendix A to your letter and to the Notice of Deviation in Appendix B.

We respectfully request your careful review of our detailed responses attached hereto. We would be pleased to

discuss these matters with you after you have had an opportunity to consider our responses. We believe that after your review you will conclude as we have that the proposed civil penalty should be substantially reduced.

Very truly yours,



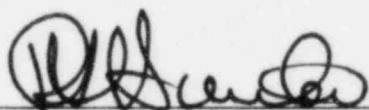
R. S. Hunter
Vice President

RSH/os
Attachments

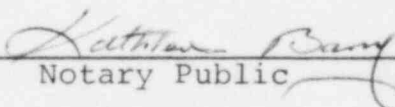
cc: John E. Dolan - Columbus
R. W. Jurgensen
W. G. Smith, Jr. - Bridgman
R. C. Callen
G. Charnoff
Joe Williams, Jr.
J. G. Keppler, Director - NRC Region III
NRC Resident Inspector at Cook Plant - Bridgman

STATE OF NEW YORK)
COUNTY OF NEW YORK)

R. S. Hunter , being duly sworn, deposes and says that he is the Vice President of Licensee Indiana & Michigan Electric Company, that he has read the foregoing response to the Notice of Violation and Proposed Imposition of Civil Penalties and to the Notice of Deviation attached to Richard C. De Young's letter of December 30, 1981 (EA-82-03) and knows the contents thereof; and that said contents are true to the best of his knowledge and belief.



Subscribed and sworn to before me this 1st day of March, 1982.



Notary Public

KATHLEEN BARRY
NOTARY PUBLIC, State of New York
No. 41-2066792
Qualified in Queens County
Certificate filed in New York County
March 30, 1983

ATTACHMENT
TO
AEP:NRC:0660

INDIANA & MICHIGAN ELECTRIC COMPANY'S
RESPONSE TO NRC NOTICE OF VIOLATION

Indiana & Michigan Electric Company (Licensee), with the assistance and input of its affiliated company American Electric Power Service Corporation (AEPSC), hereby responds to the NRC's Notice of Violation dated December 30, 1981.

NRC ALLEGATION

I.A. Technical Specification 3.7.10 for Units 1 and 2 requires that all penetration fire barriers protecting safety related areas shall be functional at all times. With one or more of the above required penetration fire barriers non-functional, a continuous fire watch shall be established within one hour.

Technical Specification 4.7.10 for Units 1 and 2 states, in part, "Each of the above required penetration fire barriers shall be verified to be functional by a visual inspection...at least once per 18 months..."

Contrary to the above:

1. As of June 4, 1981, the licensee had not verified by visual inspection that certain penetration fire barriers [fire doors and fire dampers] protecting safety related areas were functional since the requirement became effective on January 12, 1978, for Unit 1 and on December 23, 1977, for Unit 2.
2. Eighteen fire doors protecting safety related areas (including the auxiliary feedwater pump rooms and containment cabling and piping penetration areas) were not functional for the following reasons:
 - a. Sixteen doors did not have the required fire rating.
 - b. Two fire-doors were obstructed from closing.
 - c. Six fire doors had inoperable closure and/or latching mechanisms.

3. On June 4, 1981, when the NRC inspector informed licensee management that the visual inspections were overdue, the licensee failed to implement the provisions of the action statement of Technical Specification 3.7.10 and thereby satisfy the limiting condition for operation.

This is a Severity Level III violation (Supplement I). (Civil Penalty - \$10,000).

RESPONSE TO ITEM I.A

1. Admission or Denial of the Alleged Violation

The statement of facts is correct as stated. However, Licensee does not agree that Items I.A.1 and I.A.3. represent violations because they depend on a new interpretation of the Technical Specification by the NRC. Verification by visual inspection of fire doors and fire dampers (I.A.1) was not accomplished because the inspection of "penetration fire barriers", as required by Technical Specification 3/4.7.10, had never been interpreted by Licensee to include fire doors and fire dampers.

Licensee agrees that the deficiencies described in Item I.A.2 are inconsistent with commitments made to the NRC in the March 1977 Fire Hazard Analysis Report, but they are not governed by Technical Specification 3/4.7.10.

2. Reason for the Deficiency and the Reason a Formal Surveillance Program Was Not Established for Fire Doors and Fire Dampers

The reason for the nonfunctional eighteen fire doors (twenty-four deficiencies are listed in Item I.A.2.; six doors have more than one deficiency) is discussed in detail in Mr. D. V.

Shaller's letter of September 18, 1981 to Mr. J. G. Keppler (Attachment I.A.-1).

The fire door and fire damper operability was not interpreted to be encompassed within the scope of Technical Specification 3/4.7.10, for the reasons discussed in some detail below. Thus, a formal surveillance program was not implemented to verify operability of fire doors and fire dampers protecting safety related areas to satisfy the requirements of the Technical Specification. Therefore, visual checks were not performed at the frequency required by Technical Specifications (I.A.1) nor were the provisions of the Action Statement implemented when fire doors were found not functional (I.A.3.).

3. Corrective Steps Which Have Been Taken and Results Achieved

As indicated in Attachment I.A.-1, a fire patrol was established for all nonfunctional fire doors. This fire patrol was kept in place until the doors without U.L. labels were replaced. The fire doors cited as not being functional in item I.A.2 have been included in the recently developed fire door surveillance program.

4. Commitment To Expand Coverage of Technical Specification 3/4.7.10

We are redefining the scope of Technical Specification 3/4.7.10 to include fire doors and fire dampers as well as piping and cabling penetration fire seals, and will propose a

revised Technical Specification to clarify the expanded coverage. The necessary guidance for the fire door and fire damper surveillance programs, developed at AEPSC, has been transmitted to the plant for implementation. These surveillance programs will be incorporated into written plant specific procedures and each will be carried out through their initial cycle. Procedure No. 12 MHP 5030.001.001, entitled "Inspection of Plant Fire Doors", has been prepared and is now undergoing the required reviews before final approval. A similar procedure for fire dampers will be drafted by March 1, 1982. The surveillance cycle for the fire doors has been completed. The large number of fire dampers requires more time to complete their initial surveillance cycle and to make any necessary repairs. As such, our commitment to include fire dampers under Technical Specification 3/4.7.10 will not be implemented until September 1, 1982.

5. Date When Expanded Coverage of Technical Specification 3/4.7.10 Will Be Achieved

The surveillance cycle for the fire doors has been completed.^{1/} We will apply the requirements of Technical Specification 3/4.7.10 to fire doors as of April 1, 1982.

^{1/} This extensive review resulted in the discovery of two additional fire doors without U.L. labels attached to the doors. This was reported in LER No. 82-001/99T-0 enclosed with Mr. W. G. Smith's letter to Mr. J. G. Keppler dated January 21, 1982. However, the supplier's documentation supports the fact that the doors should have had a U. L. label.

Technical Specification 3/4.7.10 in a revised form will apply to fire dampers as of September 1, 1982.

6. Basis for Retraction of Violation and Civil Penalty

By letters dated September 30, 1976 (separate letters of the same date for Units 1 and 2) Licensee was requested to propose Technical Specifications in the area of fire protection systems. By letter dated December 2, 1976 we were sent sample Technical Specifications for fire protection by the NRC. The December 2, 1976 transmittal letter states in part:

"The enclosed sample Technical Specifications are intended to provide guidance in the scope and types of such specifications."

and

"The essential part of this guidance is to indicate the scope of material to be included in the Technical Specifications for your facility in the areas of equipment and administrative requirements, and the actions that we would find appropriate if a limiting condition for operation could not be met."

The limiting condition for operation in the sample Technical Specification states:

"3.7.12 All fire barrier penetration fire seals protecting safety related areas shall be intact

APPLICABILITY: All modes

ACTION:

With a fire barrier penetration fire seal not intact, a continuous fire watch shall

be established on each side of the penetration."

The sample surveillance requirements state:

- "4.7.12 Fire barrier penetration fire seals shall be functional by:
- a. A visual inspection at least once per 6 months, and
 - b. A visual inspection of a fire barrier penetration seal and a local leak test for those performing a pressure sealing function after repair."

By letter dated January 31, 1977 we submitted proposed Technical Specifications which used the above mentioned documents as guidance. Our proposed Technical Specification 3/4.7.10 covered only penetration seals as stated below:

- "3.7.10 All fire barrier penetration seals protecting safety related areas shall be intact.

APPLICABILITY: All modes

ACTION:

With a fire barrier penetration seal not intact, a fire watch shall be established on each side of the penetration.

- 4.7.10 Fire barrier penetration seals shall be verified to be functional by:
- a. A visual inspection at least once per 18 months, and

b. A visual inspection of a fire barrier penetration seal after repair or modification".

By letter dated June 24, 1977 we were requested to re-submit proposed Technical Specifications based on the revised sample Technical Specifications enclosed with that letter, with a further request to justify deviations from the revised sample. The NRC's transmittal letter of June 24, 1977 states in part:

"...we have revised the sample Technical Specifications and are enclosing a copy for your guidance. These revisions do not change the scope of the equipment or administrative controls covered by the previous sample fire protection Technical Specifications." (emphasis supplied.)

The bases of that sample Technical Specification 3/4.7.12 were included and stated the following:

"The functional integrity of the fire barrier penetration seals ensures that fires will be confined or adequately retarded from spreading to adjacent portions of the facility. This design feature minimizes the possibility of a single fire rapidly involving several areas of the facility prior to detection and extinguishment. The fire barrier penetration seals are a passive element in the facility fire protection program and are subject to periodic inspections. (emphasis supplied.)

During periods of time when the seals are not functional, a continuous fire watch is required to be maintained in the vicinity of the affected seal until the seal is restored to functional status."

By letter dated July 20, 1977 we resubmitted our proposed Technical Specifications and justified deviations from the NRC sample. Our resubmitted proposed Technical Specification 3/4.7.10 states:

"3.7.10 All fire barrier penetration seals protecting safety related areas shall be functional.

APPLICABILITY: At all times

ACTION:

- a. With a fire barrier penetration seal not functional, a fire watch shall be established on at least one side of the penetration within 1 hour.
- b. The provisions of 3.0.3 and 3.0.4 are not applicable.

4.7.10 Fire barrier penetration seals shall be verified to be functional by a visual inspection;

- a. At least once per 18 months, and
- b. Prior to declaring a fire penetration seal functional following repairs or maintenance."

Our proposed bases state:

"The functional integrity of the fire barrier penetration seals ensures that fires will be confined or adequately retarded from spreading to adjacent portions of the facility. This design feature minimizes the possibility of a single fire rapidly involving several areas of the facility prior to detection and extinguishment. The fire barrier penetration seals are a passive element in the facility fire protection program and are subject to periodic inspections.

During periods of time when the seals are not functional, a fire watch is required to be maintained in the vicinity of the affected seal until the seal

is restored to functional status." (emphasis supplied.)

Further, in justifying deviations from sample Technical Specification 3/4.7.12 contained in the June 24, 1977 letter we stated:

"7. Technical Specification 3.7.10:

We are not proposing surveillance requirement 4.7.12.2 of your sample Technical Specification 3.7.12 (our #3.7.10) because we know of no method available to perform a local leakage test following repairs or maintenance to a penetration fire seal that performs a pressure sealing function. We have made an effort to find or develop a local leakage testing method and have been unsuccessful. We request clarification on what kind of test is acceptable to the NRC."

In the four major pieces of correspondence between Licensee and the NRC in developing the scope and content of the fire protection Technical Specification 3/4.7.10, only penetration seals, not fire doors and fire dampers, were discussed. Our understanding and interpretation of this Technical Specification was consistent with this correspondence. Upon issuance of Technical Specification 3/4.7.10 by Amendment No. 22 for Unit 1 and the Operating License for Unit 2 the words "...fire seals..." were deleted throughout leaving only the words, "... penetration fire barriers..." However, we did not interpret this change as a reinterpretation of the scope of coverage of the Technical Specifications. Our understanding is supported by NRR's Safety Evaluation Report of December 12, 1977 which accompanied Amendment No. 22:

"The equipment and components currently existing at this facility included in the scope of these Technical Specification requirements are fire detectors, the fire suppression systems, the hose

stations and piping and cabling penetration fire barriers. ... The functional integrity of the penetration fire barriers provides protection to confine or retard fires from spreading to adjacent positions of the facility." (emphasis supplied.)

In the SER, "piping and cabling penetration fire barriers" and "penetration fire barriers" were used synonymously and exclusively as falling within the scope of equipment and components covered.

Thus, we believed that our understanding of the scope of Technical Specification 3/4.7.10 agreed with that of the NRC. In our view fire doors and fire dampers were never included within the scope of Technical Specification 3/4.7.10. Furthermore, a close review of the language of Technical Specification 3/4.7.10 and its bases support the interpretation taken by Licensee that it applies to passive elements only; for example, visual surveillance requirements would apply to passive elements, such as seals, not to fire doors or dampers which have many active parts required to be functional in order for the entire penetration fire barrier assembly to be operable and for which visual surveillance would not be adequate.

We acknowledge, of course, that devices provided in fire barrier penetrations such as fire doors and fire dampers restrict the spread of fire and smoke and, for CO2 protected areas, contain the extinguishing agent. As such, we now agree that these fire barriers should be included under the scope of the Technical Specifications as described in Paragraph 4 and we

now commit to do so. However, for the reasons discussed above we believe it inappropriate to find Licensee in violation of Technical Specification 3/4.7.10 at the present time. A change in the interpretation of a Technical specification must be prospective only. While the NRC may well view its interpretation of Technical Specification 3/4.7.10 consistent with its present practice, that interpretation cannot be "retrofitted" on a requirement which was understood to mean something else a few years ago.

When, on June 4, 1981, the NRC inspector informed Licensee that visual inspections of fire doors were overdue, Licensee did not implement the Action Statement of Technical Specification 3.7.10 because Licensee disagreed with the inspector that fire doors were covered by that Technical Specification. We have not changed our position regarding the correctness of our interpretation of Technical Specification 3.7.10, however, we recognize that it would be prudent and reasonable to establish a surveillance program for fire doors and fire dampers. As indicated in Paragraph 4, above, we are doing so at this time.

For all of the reasons discussed above, the violation and civil penalty for items I.A.1 and I.A.3 should be retracted.