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***OFFICE OF ENFORCEMENT  
ANNUAL REPORT***

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*Fiscal Year 1998*

*U.S. Nuclear Regulatory Commission*

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## *Abstract*

This annual report of the U.S. Nuclear Regulatory Commission's Office of Enforcement describes enforcement activities occurring during fiscal year 1998 (October 1, 1997 through September 30, 1998). The report addresses significant policy changes, highlights significant enforcement actions, and includes summaries of cases involving exercise of discretion, discrimination and actions involving individuals. It also addresses implementation, staff guidance, and initiatives for the agency's enforcement program. A variety of statistical tables and figures are also included.

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## *Overview of NRC Enforcement Program*

The Commission has developed an enforcement program and Enforcement Policy to support the NRC's overall safety mission in protecting the public and the environment. Consistent with that purpose, enforcement action should be used as a deterrent to emphasize the importance of compliance with regulatory requirements, and to encourage prompt identification and prompt, comprehensive correction of violations.

Violations are identified through inspections and investigations. All violations (except minor violations) are subject to civil enforcement action and may also be subject to criminal prosecution. After an apparent violation is identified, it is assessed in accordance with the Commission's Enforcement Policy. The Policy is published as NUREG-1600, Rev. 1, "General Statement of Policy and Procedure for NRC Enforcement Actions," to provide widespread dissemination. Because it is a policy statement and not a regulation, the Commission may deviate from this statement of policy and procedure as appropriate under the circumstances of a particular case.

There are three primary enforcement sanctions available: Notices of Violation, civil penalties, and orders. A Notice of Violation (NOV) identifies a requirement and how it was violated, and formalizes a violation pursuant to 10 CFR 2.201. A civil penalty is a monetary fine issued under authority of Section 234 of the Atomic Energy Act (AEA) or Section 206 of the Energy Reorganization Act (ERA). Section 234 of the AEA provides for penalties of up to \$100,000 per violation per day; but that amount has been adjusted by the Debt Collection Improvement Act of 1996 to be \$110,000. The Commission's order issuing authority under Section 161 of the AEA is broad and extends to any area of licensed activity that affects the public health and safety. Orders modify, suspend, or revoke licenses or require specific actions by licensees or persons. The Commission's regulations provide for issuing orders to persons who are not themselves licensed. NOV's and civil penalties are issued based on violations. Orders may be issued for violations, or in the absence of a violation, because of a public health or safety issue.

The first step in the enforcement process is assessing the severity of the violation. Severity Levels range from Severity Level I, for the most significant violations, to Severity Level IV for those of more than minor concern. Minor violations are not subject to formal enforcement action. Severity levels may be increased for cases involving a group of violations with the same root cause, repetitive violations, or willful violations.

A predecisional enforcement conference may be conducted with a licensee before making an enforcement decision if escalated enforcement action (i.e., Severity Level I, II, or III violations, civil penalties or orders) appears to be warranted, and if the NRC concludes that it is necessary or the licensee requests it. If the NRC concludes that a conference is not necessary, it may provide a licensee with an opportunity to respond to the apparent violations before making an enforcement decision or issue the enforcement action if a civil penalty is not warranted. The purpose of the conference is to obtain information that will assist the NRC in determining the appropriate enforcement action, such as: (1) a common understanding of facts, root causes and missed opportunities associated with the apparent violations, (2) a common understanding of corrective action taken or planned, and (3) a common understanding of the significance of issues and the need for lasting comprehensive corrective action. The decision to hold a conference does not mean that the agency has determined that a violation has occurred or that enforcement action will be taken. In accordance with the Enforcement Policy, conferences are normally open to public observation.

Civil penalties are considered for Severity Level III violations and are normally assessed for Severity Level I and II violations and knowing and conscious violations of the reporting requirements of Section 206 of the Energy Reorganization Act.

The NRC imposes different levels of civil penalties based on a combination of the type of licensed activity, the type of licensee, the severity level of the violation, and (1) whether the licensee has had any previous escalated enforcement action (regardless of the activity area) during the past 2 years or past 2 inspections, whichever is longer; (2) whether the licensee should be given credit for actions related to identification; (3) whether the licensee's corrective actions are prompt and comprehensive; and (4) whether, in view of all the circumstances, the matter in question requires the exercise of discretion. Although each of these decisional points may have several associated considerations for any given case, the outcome of the assessment process for each violation or problem, absent the exercise of discretion, is limited to one of the following three results: no civil penalty, a base civil penalty, or twice the base civil penalty.

If a civil penalty is to be proposed, a written Notice of Violation and Proposed Imposition of Civil Penalty is issued and the licensee has 30 days to respond in writing, by either paying the penalty or contesting it. The NRC considers the response, and if the penalty is contested, may either mitigate the penalty or impose it by order. Thereafter, the licensee may pay the civil penalty or request a hearing.

In addition to civil penalties, orders may be used to modify, suspend, or revoke licenses. Orders may require additional corrective actions, such as removing specified individuals from licensed activities or requiring additional controls or outside audits. Persons adversely affected by orders that modify, suspend, or revoke a license, or that take other action may request a hearing.

The NRC issues a press release with a proposed civil penalty or order. All orders are published in the *Federal Register*.

## *Office of Enforcement*

The Office of Enforcement (OE) exercises oversight of NRC enforcement programs, provides programmatic and implementation direction to regional and headquarters offices conducting or involved in enforcement activities, and ensures that regional enforcement programs are adequately carried out.

The Office of Enforcement reports to the Executive Director for Operations (EDO) through the Deputy Executive Director for Regulatory Effectiveness.

The Office of Enforcement has 16 full-time employees (FTEs) assigned for headquarters activities and 12 FTEs assigned for regional activities (although these FTEs report to the Regional Administrators).

## ***1. Enforcement Policy Changes***

This section describes the 3 revisions to the Enforcement Policy that were made during fiscal year 1998.

### ***A. October 8, 1997: Clarification on Release of OI Reports Associated With Conferences Involving Discrimination and Role of the Complainant (62 FR 52577)***

On October 8, 1997, the Commission published a revision to the Enforcement Policy that clarified the procedures associated with predecisional enforcement conferences based on reports of the NRC Office of Investigations (OI) associated with discrimination. On March 24, 1997, the Commission published changes to the Enforcement Policy concerning predecisional conferences based on discrimination. Consistent with the Statement of Consideration for those changes, Section V of the Policy was modified to reflect that the OI report *may* be made public. Also, additional language was added to clarify that the purpose of the complainant's participation in a conference is to provide information to the NRC to assist the staff in its deliberations.

### ***B. January 13, 1997: Deliberate Misconduct Rule (63 FR 1982)***

On January 13, 1997, the Commission published revisions to the Enforcement Policy to conform to modifications to the Deliberate Misconduct Rule. These modifications extend that Rule to applicants for NRC licenses, applicants for, and holders of, certificates of compliance, early site permits, standard design certifications, or combined licenses issued under part 52, applicants for or holders of certificates of registration, quality assurance approvals, and the employees, contractors, subcontractors, and consultants of those persons. By a separate action published in this issue of the Federal Register, the Commission also issued a final rule amending 10 CFR parts 30, 32, 40, 50, 52, 60, 61, 70, 71, 72, 110, and 150.

### ***C. May 13, 1998: Multiple Revisions Based on 2-Year Review (63 FR 26630)***

On May 13, 1998, the Commission published a complete revision of the agency's Enforcement Policy (NUREG-1600, "General Statement of Policy and Procedure for NRC Enforcement Actions") based on (1) a 2-year review of the revised Enforcement Policy, that was effective June 30, 1995, and (2) a consolidation of changes to the Enforcement Policy since June 30, 1995.

## ***2. Implementation, Staff Guidance, & Initiatives***

This section addresses implementation initiatives and changes during fiscal year 1998, including completion of a 2-year review of the Enforcement Policy, staff guidance and training, and availability of enforcement information on the Internet.

### ***A. Two-Year Review of the Enforcement Policy***

On June 30, 1995, the Nuclear Regulatory Commission (NRC) issued a complete revision of the Enforcement Policy (60 FR 34381). In approving the 1995 revision to the Enforcement Policy, the

Commission directed the staff to perform a review of its implementation of the Policy after approximately 2 years of experience and to consider public comments.

The staff completed this review in November of 1997, and the review was subsequently published as NUREG-1622 in April 1998. The report included 20 recommendations ranging from program implementation issues to Enforcement Policy revisions.

### ***B. Revision of NRC Enforcement Manual***

The NRC Enforcement Manual (Manual), is designed to assist the NRC staff in implementing the Commission's enforcement program. The Office of Enforcement published a full revision of the Manual as NUREG/BR-0195, Rev. 2 in August 1998. The changes reflected in the revision were based on revisions to the Enforcement Policy and previous Enforcement Guidance Memoranda.

### ***C. Enforcement Guidance Memoranda (EGMs)***

The normal method for the Director, OE, to issue additional enforcement guidance is through the issuance of an EGM. EGMs may add guidance for Enforcement Policy application, revise existing guidance on processing enforcement actions, or transmit temporary guidance.

Thirteen EGMs were issued in fiscal year 1998.

- ◆ EGM 97-016 - Clarification of Guidelines for Violations Involving Deliberate Misuse of Licensed Material - Reissued November 4, 1997.
- ◆ EGM 97-017 - Enforcement Discretion Pertaining to Violations of 10 CFR 70.24, Criticality Accident Requirements at Commercial Nuclear Power Plants - Issued October 10, 1997.
- ◆ EGM 97-018 - Coordination of Disputed Enforcement Actions with the Office of Enforcement - Issued October 10, 1997.
- ◆ EGM 97-019 - Revision of Potential 10 CFR 50.59 Violations - Issued October 24, 1997.
- ◆ EGM 97-020 - Modification to Standard Forms for Notice of Violation and Modification of EGM 97-018 - Issued December 17, 1997.
- ◆ EGM 98-001(T) - Loss or Improper Disposal of sources (Enforcement Manual, Section 8.6.2) - Issued February 5, 1998.
- ◆ EGM 98-002 - Disposition of Violations of Appendix R, Sections III.G and III.L regarding Circuit Failures - Issued March 2, 1998.
- ◆ EGM 98-003 - Guidance on the Release of OI Synopses in Discrimination Cases - Issued March 25, 1998.
- ◆ EGM 98-004 - Categorizing the Severity Level of Violations Involving Security and Control of Licensed Material - Issued April 24, 1998.

- ◆ EGM 98-005 - Guidance for Dispositioning Violations of the Timeliness in Decommissioning of Material Facilities Rule - Issued July 9, 1998.
- ◆ EGM 98-006 - Interim Guidance for Severity Level IV Violations - Issued July 27, 1998.
- ◆ EGM 98-007 - Extension of Exercise of Discretion for FSAR Discrepancies Identified While the Licensee has a Defined Program for Identifying Such Discrepancies - Issued September 15, 1998.
- ◆ EGM 98-008 - Interim Guidance for Severity Level IV Violations - Materials Licensees - Issued September 15, 1998.

#### ***D. Enforcement Training***

The Office of Enforcement routinely provides training on the enforcement program through several NRC training courses. During fiscal year 1998, OE provided comprehensive enforcement training in the Fundamentals of Inspection Course (FOIC) in June 1998 and the "NRC: What It Is and What It Does," in August 1998.

The Office of Enforcement also provided extensive training on the treatment of Severity Level IV violations (as addressed in EGM 98-006) by way of video conferencing and regional counterpart meetings.

The regions also provided training on the enforcement program in the regional offices.

#### ***E. Enforcement Information on the Internet***

To ensure timely and widespread public dissemination of enforcement information, OE continues to electronically publish enforcement information on the Internet. A home page for the enforcement program was established on the World Wide Web in May 1996. The home page includes a general description of the enforcement program and its mission, enforcement contacts, the Enforcement Policy (NUREG-1600, Rev. 1), the NRC Enforcement Manual (NUREG/BR-0195, Rev. 2), the policy statement for "Nuclear Employees Raising Safety Concerns Without Fear of Retaliation," a link to Department of Labor (DOL) adjudicatory decisions, and upcoming predecisional enforcement conferences. It also includes a copies of significant enforcement actions that the agency has issued arranged by reactor, materials, and individual actions. The Internet address for OE's home page is: [www.nrc.gov/OE/](http://www.nrc.gov/OE/).

### ***3. Escalated Enforcement and Administrative Items***

During fiscal year 1998, the agency issued 200 individual escalated enforcement items. Escalated enforcement items include individual civil penalties (76), orders (other than orders imposing civil penalties) (16), and Notices of Violation for Severity Level I, II, or III violations (108). Note that an enforcement case or enforcement action issued to a licensee may include more than one individual enforcement item. Table 1 includes a numerical breakdown of escalated enforcement items and Demands for Information issued by each regional office.

Table 2 includes a statistical summary of escalated enforcement items based on the type of licensee, vendor, or individual.

***Timeliness of Enforcement Actions***

The average time to issue escalated enforcement actions (excluding orders) is a performance measure used by the NRC. For actions that do not involve an investigation, the measurement period begins on the date of the inspection exit meeting. For actions that involve an investigation, but no referral to the Department of Justice (DOJ), the measurement period begins on the date of issuance of the report of investigation. For actions that involve an investigation and referral to DOJ, the measurement period begins on the date DOJ informs the NRC that the NRC may proceed with civil action. For actions that involve discrimination and Department of Labor (DOL) proceedings, the measurement period begins when there is an appropriate decision in the DOL process or sufficient evidence from the NRC's processes to support actions.

On the basis of the defined measurement period, escalated enforcement actions (excluding orders) are to be issued within an average of no more than 90 days. During fiscal year 1998 this standard was met, with enforcement actions issued in an average time of 80.6 days. During fiscal year 1997, enforcement actions were issued in an average time of 88.5 days. During fiscal year 1996, enforcement actions were issued in an average time of 84.5 days.

***Civil Penalty Assessment Process: Determining Whether a Civil Penalty Should Be Proposed***

If the NRC concludes that a violation should be categorized at Severity Level I, II, or III, the staff then considers whether (for a licensed facility), a civil penalty should be proposed for the violation. For the majority of cases, in accordance with Section VI.B.2 of the Enforcement Policy, the civil penalty assessment process considers: (1) whether the licensee has had any previous escalated enforcement action (regardless of the activity area) during the past 2 years or past 2 inspections, whichever is longer; (2) whether the licensee should be given credit for actions related to identification; (3) whether the licensee's corrective actions are prompt and comprehensive; and (4) whether, in view of all the circumstances, the matter in question requires the exercise of discretion. Depending on the outcome of the civil penalty process, the staff will conclude whether an escalated Notice of Violation should be issued with or without a civil penalty. Figure 1 of this report includes a graphic representation of the civil penalty process and includes a statistical breakdown of the 154 individual enforcement issues or enforcement items assessed under the process. It should be noted that an enforcement case or enforcement action issued to a licensee may include more than one individual enforcement item. It should also be noted that this number does not directly correlate to the 184 escalated Notices of Violation issued with and without civil penalties in Table 1 because the civil penalty assessment process only applies to licensees and because not all cases were assessed under the civil penalty assessment process.

Total Escalated NOVs w/o penalty and civil penalties	NOVs Issued to Individuals	NOV Issued to a Vendor	Enforcement Discretion
184	- 17	- 1	- 12 = 154

Specifically, 17 Notices of Violation were issued to individuals, 1 Notice of Violation was issued to a vendor, and 12 enforcement issues were based solely on an exercise of discretion in accordance with Section VII.A of the Enforcement Policy (Escalation of Enforcement Sanctions) or Section VII.B.6 of the Enforcement Policy (Violations Involving Special Circumstances). Figure 2 of this report includes a graphic representation of the civil penalty process and includes a statistical breakdown of the 68 individual reactor enforcement issues or enforcement items assessed under the process. Figure 3 includes the statistical breakdown of the

86 individual materials enforcement items. Figures 4 through 15 include the statistical breakdown of enforcement issues based on the 12 possible paths of the civil penalty assessment process flowchart.

### *A. Escalated Notices of Violation (Without Civil Penalties)*

During fiscal year 1998, the agency issued 108 escalated Notices of Violation (without civil penalties). (This number reflects the number of individual enforcement issues versus the number of enforcement cases issued during the year.) Eighteen of these items were issued to individuals and other non-licensed persons. See Section 5 for more information on enforcement items issued to individuals and other non-licensed persons. Appendix A includes a short summary description of each of the enforcement issues as well as a summary of the civil penalty assessment process, i.e., why a civil penalty was not proposed.

### *B. Civil Penalty Actions*

During fiscal year 1998, the agency issued 76 individual civil penalty issues. Appendix B includes a short summary description of each of these items, as well as a summary of the civil penalty assessment process, i.e., why a civil penalty was proposed. Table 3 includes statistical information on civil penalties and Table 4 includes a statistical analysis of the range of civil penalties for both reactor and materials licensees. As stated before, an enforcement action may include more than one individual civil penalty issue.

During fiscal year 1998, two enforcement actions included civil penalties in excess of \$300,000. These actions included:

1. \$2,100,000 - Northeast Utilities: Millstone, (EAs 96-034, 96-067, 96-086, 96-106)
2. \$330,000 - Commonwealth Edison Company: Quad Cities (EA 97-591)

The \$2,100,000 civil penalty issued to Northeast Utilities was the largest civil penalty proposed since the \$1,250,000 civil penalty issued to Peach Bottom in 1988 for operators being inattentive to duties in the control room.

### *C. Orders*

During fiscal year 1998, the agency issued 16 orders. Seven of these orders were issued to licensees while nine of the orders were issued to individuals. (See Section 5 for more information on enforcement actions issued to individuals and other non-licensed persons.) Appendix C includes a short summary description of each of the eight orders issued to licensees. In addition, six civil penalty imposition orders were issued.

### *D. Demands for Information*

During fiscal year 1998, the agency issued three formal Demands for Information to licensees. Appendix D includes a short summary description of each of these actions. (See Section 5 for more information on Demands for Information issued to individuals.)

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### *E. Summary of Significant Actions*

The NRC considers violations categorized at Severity Level I and II to be very significant. The agency also considers enforcement actions consisting of multiple Severity Level III violations to be very significant. During fiscal year 1998, the agency issued two enforcement cases including two individual Severity Level I issues. The agency issued six enforcement cases including 10 individual Severity Level II issues. The agency issued 10 multi-action enforcement cases including 25 individual Severity Level III issues. These significant cases are listed below. Case summaries are included in the referenced appendix.

#### SEVERITY LEVEL I CASES

*Construction Products Research, Inc., Fairfield, CT* *EA 97-471*  
*Five Star Products, Inc*  
*Supplement VII*

A Notice of Violation for a Severity Level I violation was issued on January 16, 1998, based on discrimination against an individual for raising safety concerns. (Appendix A.)

*Mallinckrodt Medical Incorporated* *EA 97-342 & 97-355*  
*Supplement IV*

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$55,000 was issued on December 17, 1997, based in part on a Severity Level I problem involving failure to limit the annual shallow-dose equivalent of an occupational worker to 50 rems and failure to make or cause to be made surveys to assure compliance with 10 CFR Part 20. (Appendix B.)

#### SEVERITY LEVEL II CASES

*Breitling USA Watch Co.,* *EA 98-163*  
*Supplement VI*

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$26,400 was issued on July 10, 1998, for two Severity Level II problems that involved the possession and use, as well as distribution, of NRC licensed material without possessing NRC licenses authorizing these activities. (Appendix B.)

*Colon-Vaquar, Jose, M.D., Manati, PR* *EA 98-184*  
*Supplement VI*

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$4,400 was issued on May 22, 1998, for a Severity Level II problem that involved two misadministrations, a Severity Level III problem, and a Severity Level III violation. (Appendix B.)

*Commonwealth Edison Co., Quad Cities  
Supplement I*

EA 98-231

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$88,000 was issued on September 11, 1998, for a Severity Level II problem that involved 16 violations that represented inadequacies in the licensee's capability to shutdown the facility following a postulated design basis fire. (Appendix B.)

*Department of the Army, Tank- Automotive and Armaments Command  
Supplement IV & VI*

EA 97-350

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$16,000 was issued on November 12, 1997, for two Severity Level II problems including failures to: (1) properly store licensed material, conduct annual inspections and inventories, provide training, conduct tests by persons authorized to do so, conduct surveys, and perform maintenance in accordance with procedures; and (2) provide notifications to the NRC. (Appendix B.)

*Duke Power Company, Oconee  
Supplement I*

EA 98-268

A Notice of Violation for a Severity Level II violation was issued on August 5, 1998. The action was based on: (1) the failure to implement the requirements of 10 CFR 50, Appendix B, Criterion III, to incorporate design basis requirements into drawings and procedures; and, (2) the failure to maintain Technical Specification (TS) equipment in an operable condition. (Appendix A.)

*Northeast Nuclear Energy, Millstone, Units 1,2 &3  
Supplement I*

EA 96-034, 96-067, 96-086, & 96-106

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$2,100,000 was issued on December 10, 1997, for three Severity Level II and one Severity Level III problems. (Appendix B.)

MULTIPLE SEVERITY LEVEL III CASES

*Commonwealth Edison Company, Quad Cities, Units 1&2  
Supplement I*

EA 97-591

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$330,000 was issued on March 12, 1998. This action is based on two Severity Level III problems. (Appendix B.)

*Consolidated Edison Company, Indian Point, Unit 2  
Supplement I*

EA 97-367

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$110,000 was issued on October 7, 1997. The action was based on a Severity Level III problem and a Severity Level III violation. (Appendix B.)

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**Consolidated Edison Company, Indian Point, Unit 2  
Supplement I****EA 97-576, 98-056, & 98-192**

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$110,000 was issued on July 6, 1998. The action was based on a Severity Level III problem and two Severity Level III violations. (Appendix A and B.)

**Frontier Production Logging  
Supplement VI****EA 97-327**

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,750 was issued on November 7, 1997. The action was based on a Severity Level III violation and a Severity Level III problem.

**GPU Nuclear Incorporated, Oyster Creek Nuclear Generating Station  
Supplement I****EA 97-421**

A Notice of Violation was issued on November 17, 1997, for three Severity Level III violations. (Appendix A.)

**GPU Nuclear Corporation, Three Mile Island, Unit 1  
Supplement I****EA 97-070, 97-117, 97-127  
& 97-256**

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$210,000 was issued on October 8, 1997, for four Severity Level III problems and a Severity Level III violation. (Appendix B.)

**Haines & Kibblehouse, Inc., Skippack, PA  
Supplements IV & VI****EA 97-556**

A Notice of Violation for two Severity Level III problems. (Appendix A.)

**Ohio State University  
Supplement VI, V & VI****EA 97-258**

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$13,000 was issued on October 23, 1997, for a Severity Level II problem and two Severity Level III problems. (Appendix B.)

**Public Service Electric and Gas Company, Hope Creek  
Supplement I****EAs 97-144 & 97-563**

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 for a Severity Level III violation and a Severity Level III problem was issued on March 20, 1998.

A Notice of Violation for a Severity Level III problem and a Severity Level III violation was issued on March 4, 1998.

### ***F. Enforcement Trends***

During fiscal year 1998, the agency issued 200 escalated enforcement actions (108 escalated NOV's, 76 civil penalties, and 16 orders) versus 264 for fiscal year 1997, 191 for fiscal year 1996 and 159 for fiscal year 1995. This represents an approximate 24% reduction from fiscal year 1997 and a 5% increase over fiscal year 1996 and 20% increase over fiscal year 1995.

Statistical comparisons between fiscal years 1997, 1996, and 1995 are included in each of the tables of this report. However, it should be noted that direct correlations between fiscal year 1995 and the other fiscal years is difficult because of the major policy change that occurred in June of 1995.

Table 5 of this report includes a 2-year history of individual escalated enforcement items by specific reactor sites. Based on a 2-year period, reactor sites are ranked in order of the largest civil penalty amounts assessed and the largest total number of combined civil penalty items and escalated Notices of Violations without civil penalties issued. A 2-year period is used for this ranking because it represents a sufficient time-frame to provide perspectives on performance and enforcement activity. Two years is also the time period used in the Enforcement Policy for reviewing past performance. This table also provides enforcement data for the last 12 months at each of the sites listed. Unlike other tables that include data based on *proposed* actions, the data in this table accounts for any withdrawals or modifications from the original proposed action.

During the 2-year period between fiscal years 1997 and 1998, the agency issued a total of 191 individual civil penalties and individual Severity I, II, and III Notices of Violation without civil penalties to 57 (or 80%) of the reactor sites. Fourteen sites did not receive any escalated enforcement action during this period. Of the 57 sites, 16 sites received 1 escalated enforcement item (16 issues), 11 sites received 2 individual escalated enforcement items (22 issues), and 30 sites received more than 2 individual escalated enforcement items (153 issues). Thus, 30 sites (or 42%) accounted for 153 (or 80%) of the escalated actions issued.

Of the 191 individual escalated items, 117 were civil penalties issued to 47 (or 66%) of the 71 reactor sites. Twenty-four (or 34%) of the sites did not receive a civil penalty.

Of the 47 sites that did receive a penalty, 19 sites had 1 civil penalty item (19 civil penalties) 9 sites had 2 individual civil penalty items each (18 civil penalties), and 18 sites had more than 2 individual civil penalty items (80 civil penalties) for a total of 117 individual civil penalties. Thus, 18 sites (or 25%) accounted for 80 (or 68%) of the civil penalties issued.

A summary of civil penalty trends for reactor licensees over the last four fiscal years is included on the next page.

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### Civil Penalty Trends for Reactor Licensees

#### *Fiscal Year 1998*

- ▶ 42 licensees did not receive a civil penalty (CP)
- ▶ 29 licensees received civil penalties (46 individual CPs)
- ▶ 5 licensees had more than 2 civil penalties (20 individual CPs) ✎ 43% of CPs
- ▶ 2 licensees had 2 CPs (4 individual CPs) ✎ 9% of CPs
- ▶ 22 licensees had 1 CP (22 individual CPs) ✎ 48% of CPs

#### *Fiscal Year 1997*

- ▶ 36 licensees did not receive a civil penalty (CP)
- ▶ 35 licensees received civil penalties (70 individual CPs)
- ▶ 9 licensees had more than 2 civil penalties (35 individual CPs) ✎ 50% of CPs
- ▶ 9 licensees had 2 CPs (18 individual CPs) ✎ 26% of CPs
- ▶ 17 licensees had 1 CP (17 individual CPs) ✎ 24% of CPs

#### *Fiscal Year 1996*

- ▶ 42 licensees did not receive a civil penalty (CP)
- ▶ 29 licensees received civil penalties (50 individual CPs)
- ▶ 5 licensees had more than 2 civil penalties (21 individual CPs) ✎ 42% of CPs
- ▶ 5 licensees had 2 CPs (10 individual CPs) ✎ 20% of CPs
- ▶ 19 licensees had 1 CP (19 individual CPs) ✎ 38% of CPs

#### *Fiscal Year 1995*

- ▶ 56 licensees did not receive a civil penalty (CP)
- ▶ 15 licensees received civil penalties (25 individual CPs)
- ▶ 4 licensees had more than 2 civil penalties (14 individual CPs) ✎ 56% of CPs
- ▶ 0 licensees had 2 CPs
- ▶ 11 licensees had 1 CP (11 individual CPs) ✎ 44% of CPs

#### **4. Cases Involving Exercise of Discretion**

Section VII of the Enforcement Policy addresses those cases where, notwithstanding the normal guidance contained in the Policy, the NRC may choose to exercise discretion and either escalate or mitigate enforcement sanctions within the Commission's statutory authority to ensure that the resulting enforcement action appropriately reflects the level of NRC concern regarding the violation at issue and conveys the appropriate message to the licensee. During fiscal year 1998, 69 escalated cases involved an exercise of discretion. Sixty of the cases were for reactor licensees and nine cases were for materials licensees.

Section VII.A of the Enforcement Policy provides that the NRC may increase a sanction up to its full enforcement authority where the action is warranted without applying the normal civil penalty assessment process (Section VI.B.2). It also provides for either increasing the amounts of civil penalties or proposing civil penalties where the normal process would result in no civil penalty. During fiscal year 1998, 11 cases

involved this exercise of discretion. Six cases were for reactor licensees and five cases were for materials licensees.

Section VII.B.1 provides that NOVs need not be issued for Severity Level IV violations that meet specific criteria. Cases that are subject to this enforcement discretion are not described in this report.

Section VII.B.2 provides that civil penalties or NOVs need not be issued for violations identified during extended shutdowns or work stoppages if they are licensee-identified, based upon activities prior to the events leading to the shutdown, non-willful, and not categorized at Severity Level I. This exercise of discretion provides that the licensee's decision to restart the plant requires NRC concurrence. During fiscal year 1998, 19 cases involved this exercise of discretion. Eighteen cases were for reactor licensees and one case was for a materials licensee.

Section VII.B.3 provides that civil penalties or NOVs need not be issued for old design issues that are licensee-identified and corrected and were not likely to have been identified earlier through routine surveillance. During fiscal year 1998, 16 cases involved this exercise of discretion. All 16 cases were for reactor licensees.

Section VII.B.4 provides that civil penalties or NOVs need not be issued for violations identified due to previous escalated enforcement action if the violation was licensee-identified, it has a similar root cause as a previous escalated action, it does not substantially change the regulatory concern out of the initial action, and it was corrected. During fiscal year 1998, two cases involved this exercise of discretion. Both cases were for reactor licensees.

Section VII.B.5 provides that civil penalties or NOVs need not be issued for violations involving discrimination issues if they are licensee-identified and corrected. During fiscal year 1998, no cases involved this exercise of discretion.

Section VII.B.6 provides that civil penalties or NOVs need not be issued for violations involving special circumstances. During fiscal year 1998, 21 cases involved this exercise of discretion. Eighteen cases were for reactor licensees and three cases were for materials licensees.

Appendix E includes a summary of the escalated cases issued during fiscal year 1998 that involved an exercise of discretion.

## ***5. Actions Against Individuals & Other Non-Licensed Persons***

During fiscal year 1998, the agency issued 31 actions against individuals and other non-licensed persons. The following sections provide a breakdown of the actions based on whether the actions were issued to licensed or non-licensed individuals, as well as other non-licensed persons (e.g., vendors). The section on orders includes orders that were issued to individuals that prohibited or limited their activities in NRC-licensed activities during the fiscal year.

### ***A. Actions Against Licensed Individuals***

During fiscal year 1998, the agency issued 7 NOVs to licensed individuals. Appendix F includes a short summary description of these actions.

### ***B. Actions Against Non-Licensed Individuals***

During fiscal year 1998, the agency issued 9 orders, 10 NOVs, and 2 DFIs, to non-licensed individuals. Appendix G includes a short summary description of each of these actions.

### ***C. Actions Against Non-Licensed Persons Other Than Individuals***

During fiscal year 1998, the agency issued one NOV, one civil penalty, and one DFI to a non-licensed person (vendor) other than an individual. Appendix H includes a short summary description of this action.

## ***6. Cases Involving Discrimination***

During fiscal year 1998, the agency issued three enforcement actions for violations involving discrimination. The NRC subsequently withdrew one of the actions. Appendix I includes a short description of each of the three actions involving discrimination that were issued during the fiscal year.

## ***7. Hearing Activities***

During fiscal year 1998, four cases had some type of hearing activity, i.e., hearing request, settlement, dismissal, discovery, hearing proceeding, appeal, etc. Appendix J includes a short summary of each of these cases.

## ***8. 10 CFR 2.206 Petitions***

During fiscal year 1998, there were no cases that had some type of petition activity pending before the Office of Enforcement during the fiscal year, i.e., petition request, NRC staff review, Director's Decision, etc.

## ***9. Withdrawn and Modified Enforcement Actions***

During fiscal year 1998, two civil penalty enforcement actions were completely withdrawn and four civil penalties were withdrawn. Appendix L includes a short summary description of the two withdrawn cases that were proposed in fiscal year 1997. The other cases are described in either Appendix A or Appendix B and include the basis for withdrawal.

**TABLE 1: ESCALATED ENFORCEMENT ITEMS & DEMANDS FOR INFORMATION**

	Region I	Region II	Region III	Region IV	Other <sup>1</sup>	Total FY 98	Total FY97	Total FY 96	Total FY 95
Conferences	48	24	28	21	1	122	181	143	117
Escalated NOVs w/o Civil Penalties	36	22	28	20	2	108	124	96	76
Proposed Civil Penalties	35	8	21	11	1	76	112	78	56
Imposed Civil Penalties	2	1	2	1	0	6	10	9	10
Civil Penalties Paid	28	6	23	11	0	68	108	56	47
Orders	5	4	2	5	0	16	28	17	22
Demands for Information	2	0	2	2	0	6	35	7	8
<b>Total</b>	<b>156</b>	<b>65</b>	<b>106</b>	<b>71</b>	<b>4</b>	<b>402</b>	<b>597</b>	<b>405</b>	<b>339</b>

<sup>1</sup> This category includes actions initiated by the Office of Enforcement (OE), the Office of Nuclear Reactor Regulation (NRR), and the Office of Nuclear Material Safety and Safeguards (NMSS). During this fiscal year:

- ◆ NRR conducted one conference and issued 2 escalated NOVs.
- ◆ NMSS issued 1 escalated NOV with a civil penalty.

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**TABLE 2: ESCALATED ENFORCEMENT ITEMS  
BY TYPE OF LICENSEE, VENDOR, OR INDIVIDUAL**

Type of Licensee	Escalated NOVs (w/o penalty)	Civil Penalties	Orders	Total FY98	Total FY97	Total FY 96	Total FY 95
Academic	1	3	0	4	3	5	3
Physician	4	2	1	7	9	3	2
Fuel Facility	1	4	1	6	5	3	1
Gauge User	18	6	2	26	31	23	29
Hospital	10	3	0	13	33	13	12
Irradiator	0	0	0	0	1	0	0
Radiographer	6	1	1	8	9	12	11
Pharmacy	1	0	0	1	0	1	3
Operating Reactor	33	47	1	81	112	87	50
Research Reactor	2	0	0	2	0	0	0
Materials Distributer	0	2	0	2	1	2	0
Mill	0	0	0	0	1	1	0
Other	12	7	0	19	17	10	11
Well Logger	2	1	1	4	1	0	0
Vendor	1	0	0	1	1	8	5
Licensed Individual	7	0	0	7	2	6	7
Non-Licensed Individual	10	0	9	19	38	19	23
<b>Total</b>	<b>108</b>	<b>76</b>	<b>16</b>	<b>200</b>	<b>264</b>	<b>191</b>	<b>159</b>

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**TABLE 3: CIVIL PENALTY INFORMATION**

	FY98	FY97	FY 96	FY 95
Number of Proposed Civil Penalties	76	112	78	59
Number of Imposed Civil Penalties	6	10	9	10
Number of Civil Penalties Paid	68	108	56	47
Amount of Proposed Civil Penalties	\$5,206,600	\$7,422,300	\$3,832,500	\$2,263,950
Amount of Imposed Civil Penalties	\$115,650	\$285,250	\$44,500	\$615,250
Amount of Civil Penalties Paid	\$6,493,573	\$6,657,300	\$3,014,000	\$2,265,949

**NOTE:** This table includes information based on individual civil penalty assessments. An enforcement action may include more than one individual civil penalty. In addition, a civil penalty may be proposed in one fiscal year and paid or imposed in another fiscal year.

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**TABLE 4: CIVIL PENALTY RANGES**

*Reactor Licensees*

Civil Penalty Amounts	Number of Penalties FY 98	Number of Penalties FY 97	Number of Penalties FY 96	Number of Penalties FY 95
< \$50,000	0	1	0	3
\$50,000 - 55,000	35	41	24	7
\$55,001 - \$99,999	2	2	5	3
\$100,000 - 110,000	6	17	21	9
\$110,001 - \$200,000	0	6	0	3
\$200,001 - \$300,000	1	2	0	0
> \$300,001	3	1	0	0
Total	47	70	50	25

*Material Licensees*

Civil Penalty Amounts	Number of Penalties FY 98	Number of Penalties FY 97	Number of Penalties FY 96	Number of Penalties FY 95
0 - \$2,500	3	12	18	9
\$2,501 - \$5,000	10	17	2	12
\$5,001 - \$7,500	4	2	1	3
\$7,501 - \$10,000	4	5	4	3
\$10,001 - \$25,000	3	4	3	6
\$27,500	2	0	0	1
\$55,000	3	0	0	0
\$100,000	0	1	0	0
\$200,000	0	0	0	0
Total	29	41	28	34

**NOTE:** This table includes information based on individual proposed civil penalty assessments. An enforcement action may include more than one individual civil penalty. In addition, this table does not include the \$900,000 penalty issued to a vendor in fiscal year 1997.

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**TABLE 5: 2-YEAR ESCALATED ITEM HISTORY  
FOR REACTOR SITES**

Facility	FY 1997 - FY 1998			FY 1998		
	Civil Penalty Amount	Civil Penalties	Escalated NOVs (w/o penalty)	Civil Penalty Amount	Civil Penalties	Escalated NOVs (w/o penalty)
Millstone	\$2,210,000	6	1	\$2,155,000	5	1
Haddam Neck	650,000	3	2	0	0	1
LaSalle	650,000	2	0	0	0	0
Zion	590,000	6	1	110,000	1	0
Clinton	560,000	6	0	0	0	0
Quad Cities	523,000	5	0	473,000	4	0
Indian Point 2	425,000	8	1	220,000	4	1
Oconee	330,000	2	1	0	0	1
Point Beach	325,000	4	3	0	0	0
Nine Mile Point	305,000	5	0	105,000	2	0
Susquehanna	265,000	3	0	55,000	1	0
Perry	260,000	3	2	100,000	2	1
Sequoyah	250,000	4	2	0	0	1
Calvert Cliffs	231,000	2	1	55,000	1	1
Pilgrim	220,000	4	1	220,000	4	0
Beaver Valley	215,000	3	2	55,000	1	0
Waterford	215,000	3	2	110,000	1	1
Three Mile Island	210,000	4	2	210,000	4	2
Hope Creek	205,000	4	3	55,000	1	2
St. Lucie	188,000	3	3	88,000	1	2
Salem	180,000	3	2	0	0	2
Fort Calhoun	165,000	2	0	110,000	1	0

**TABLE 5: 2-YEAR ESCALATED ITEM HISTORY  
FOR REACTOR SITES - CONT.**

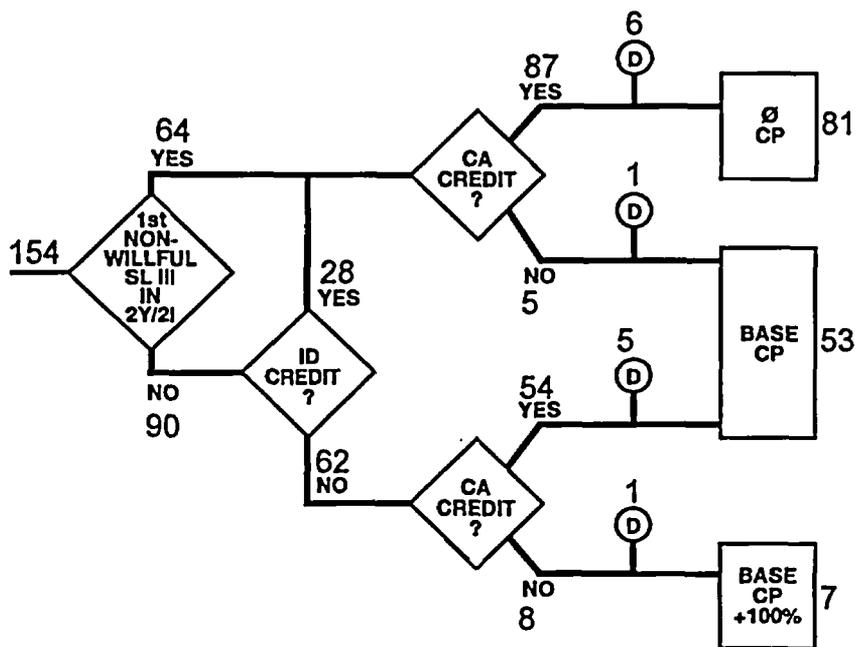
Facility	FY 1997 - FY 1998			FY 1998		
	Civil Penalty Amount	Civil Penalties	Escalated NOVs (w/o penalty)	Civil Penalty Amount	Civil Penalties	Escalated NOVs (w/o penalty)
Byron	155,000	3	1	55,000	1	1
Ginna	155,000	2	0	0	0	0
Brunswick	150,000	2	2	0	0	0
Limerick	135,000	2	3	55,000	1	0
Cooper Station	110,000	1	3	110,000	1	0
Indian Point 3	110,000	2	0	55,000	1	0
Prairie Island	100,000	2	1	50,000	1	0
WNP-2	100,000	1	3	0	0	2
Wolf Creek	100,000	1	0	0	0	0
Oyster Creek	55,000	1	4	55,000	1	4
Peach Bottom	55,000	1	2	55,000	1	0
Braidwood	55,000	1	1	55,000	1	1
Palisades	55,000	1	0	55,000	1	0
River Bend Station	55,000	1	1	55,000	1	0
Robinson	55,000	1	1	55,000	1	1
Shearon Harris	55,000	1	1	55,000	1	0
Surry	55,000	1	1	0	0	0
Vermont Yankee	55,000	1	0	55,000	1	0
Crystal River	50,000	1	7	0	0	0
ANO	50,000	1	1	0	0	1
Kewaunee	50,000	1	1	0	0	0
Davis-Besse	50,000	1	0	0	0	0

**TABLE 5: 2-YEAR ESCALATED ITEM HISTORY  
FOR REACTOR SITES - CONT.**

Facility	FY 1997 - FY 1998			FY 1998		
	Civil Penalty Amount	Civil Penalties	Escalated NOVs (w/o penalty)	Civil Penalty Amount	Civil Penalties	Escalated NOVs (w/o penalty)
Farley	50,000	1	0	0	0	0
Fermi	50,000	1	0	0	0	0
Palo Verde	50,000	1	0	50,000	1	0
Dresden	0	0	3	0	0	1
Big Rock Point	0	0	1	0	0	0
Catawba	0	0	1	0	0	1
Cook	0	0	1	0	0	1
McGuire	0	0	1	0	0	0
San Onofre	0	0	1	0	0	1
Seabrook	0	0	1	0	0	1
South Texas Project	0	0	1	0	0	0
Vogtle	0	0	1	0	0	0
Watts Bar	0	0	1	0	0	1

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**FIGURE 1: ANALYSIS OF ESCALATED ITEMS PROCESSED UNDER CIVIL PENALTY PROCESS**



154 individual enforcement items were evaluated in accordance with the civil penalty assessment process.

In 64 instances, the item was the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections.

In 90 instances, the item was NOT the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections.

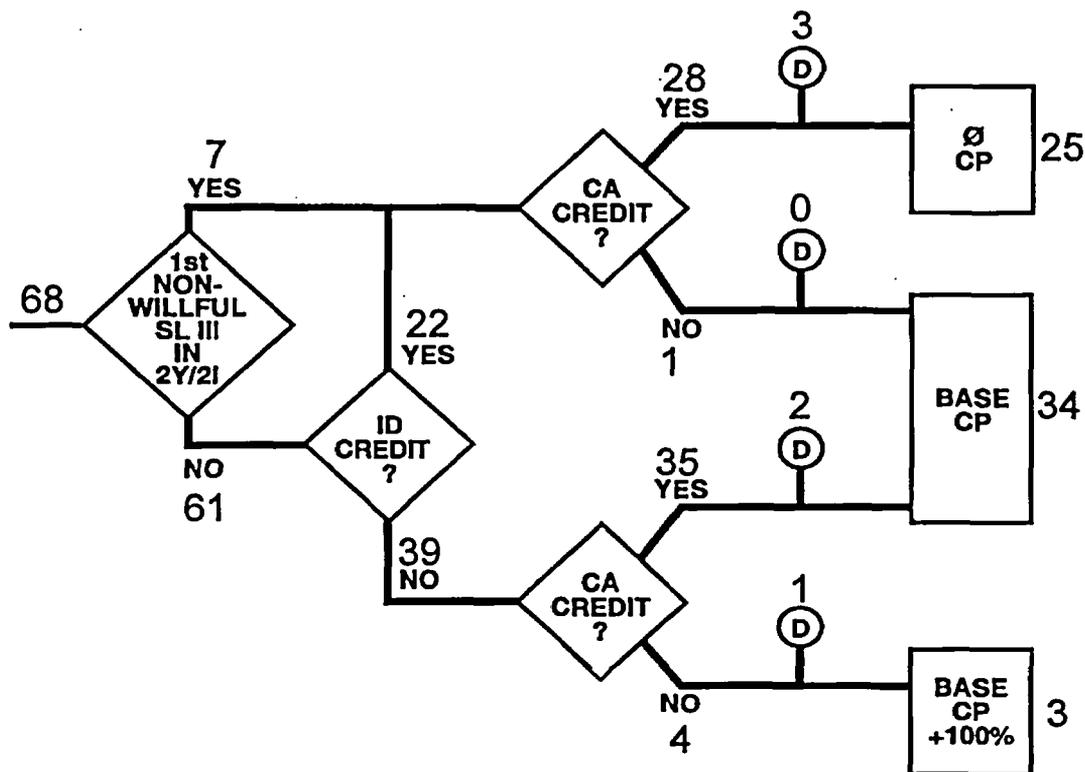
Of the 90 applicable items, the licensee was given credit for actions related to identification in 28 instances and NOT given credit in 62 instances.

Of the total 154 items, the licensee was given credit for corrective actions in 141 instances (92% of the items) and NOT given credit in 13 instances.

Discretion was exercised in 13 instances (11 times under Section VII.A.1 and 2 times under VII.B.6). This represents approximately 8% of the individual enforcement issues.

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**FIGURE 2: ANALYSIS OF REACTOR ITEMS PROCESSED UNDER CIVIL PENALTY PROCESS**



68 individual reactor enforcement items were evaluated in accordance with the civil penalty assessment process.

In 7 instances, the item was the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections.

In 61 instances, the item was NOT the first non-willful Severity Level III enforcement action that the licensee had during the past 2 years or past 2 inspections.

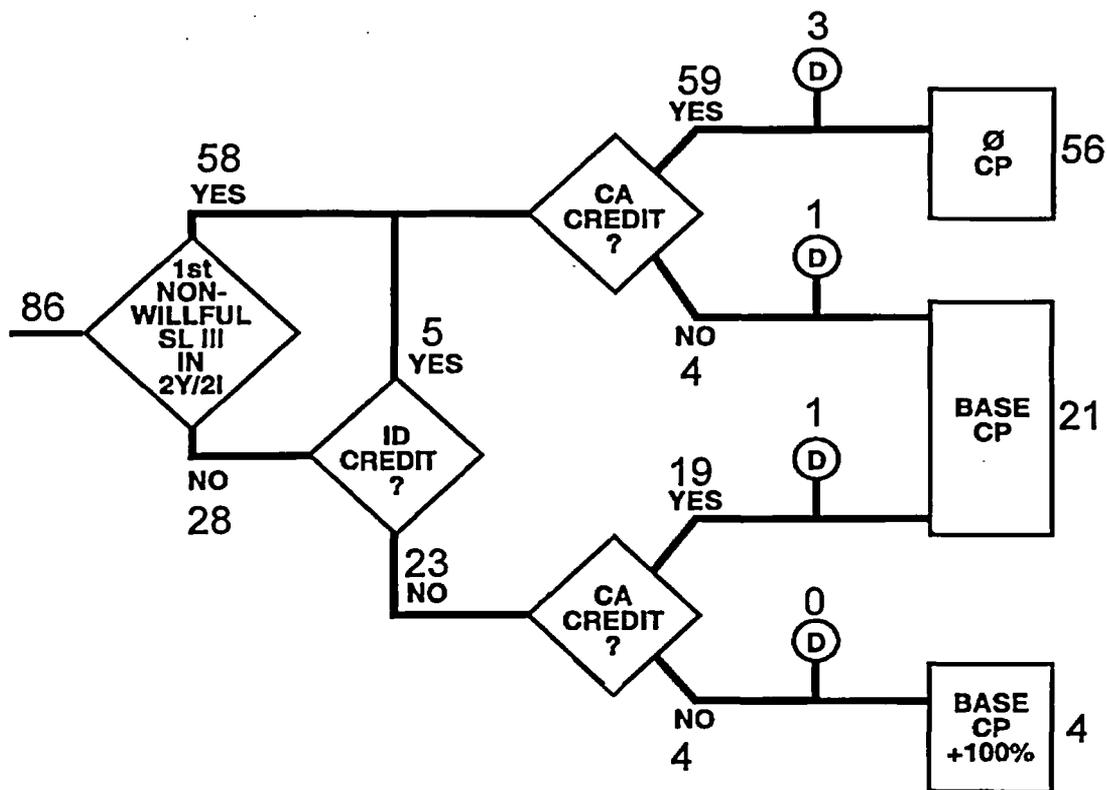
Of the 61 applicable items, the licensee was given credit for actions related to identification in 22 instances and NOT given credit in 39 instances.

Of the total 68 items, the licensee was given credit for corrective actions in 63 cases (approximately 93% of the items) and NOT given credit in 5 instances.

Discretion was exercised in 6 instances (5 times under Section VII.A.1 and 1 time under Section VII.B.6). This represents approximately 9% of the individual reactor enforcement issues.

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**FIGURE 3: ANALYSIS OF MATERIALS ITEMS PROCESSED UNDER CIVIL PENALTY PROCESS**



86 individual reactor enforcement items were evaluated in accordance with the civil penalty assessment process.

In 58 instances, the item was the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections.

In 28 instances, the item was NOT the first non-willful Severity Level III enforcement action that the licensee had during the past 2 years or past 2 inspections.

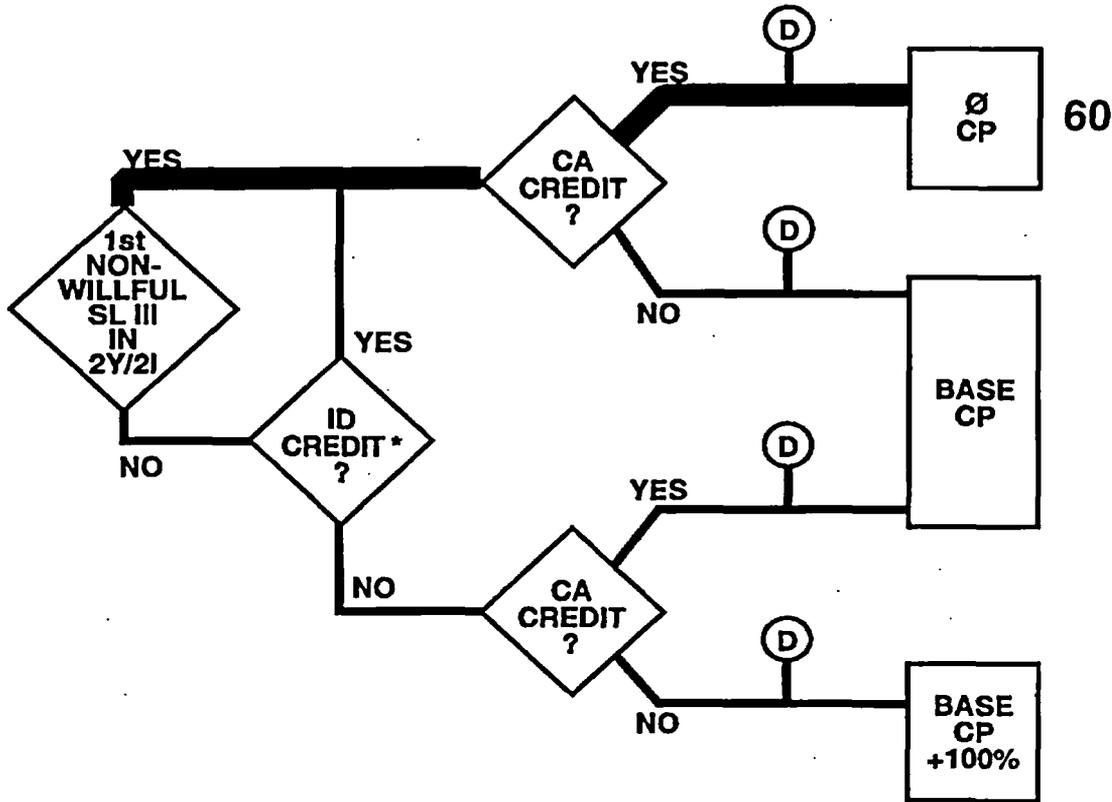
Of the 28 applicable items, the licensee was given credit for actions related to identification in 5 instances and NOT given credit in 23 instances.

Of the total 86 items, the licensee was given credit for corrective actions in 78 cases (approximately 91% of the items) and NOT given credit in 8 instances.

Discretion was exercised in 7 instances (6 times under Section VII.A.1 and 1 time under Section VII.B.6). This represents approximately 8% of the individual materials enforcement issues.

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**FIGURE 4: CIVIL PENALTY PROCESS  
PATH A**



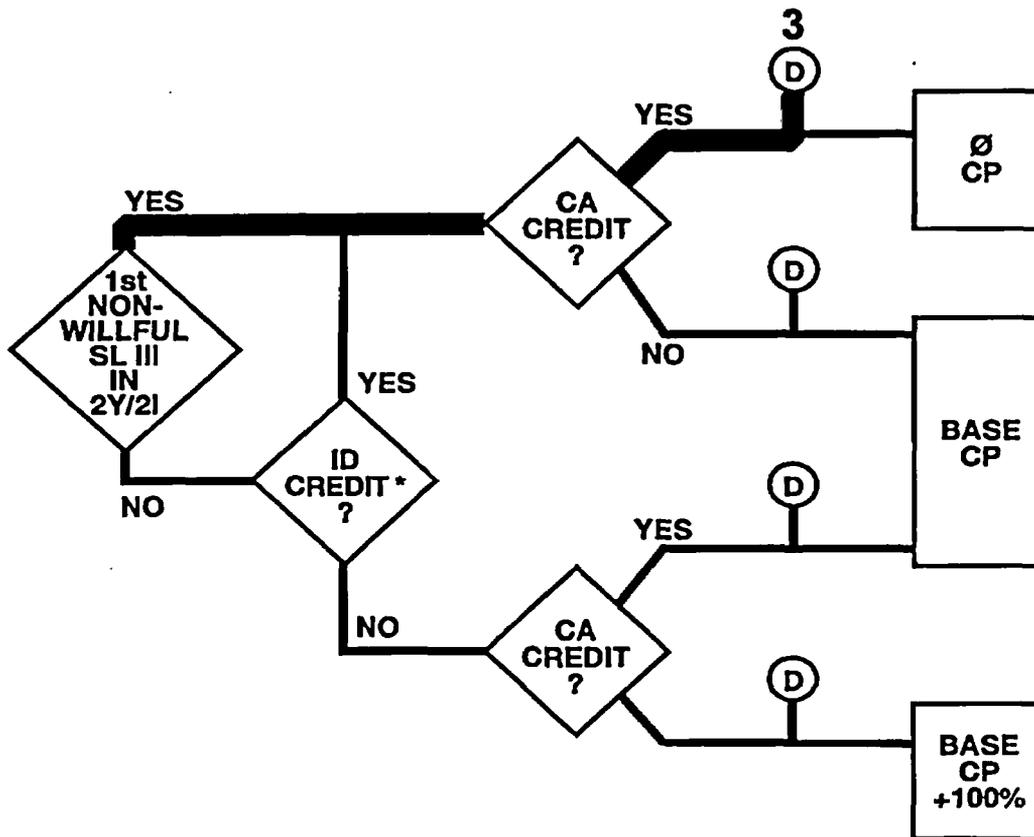
In 60 instances, the item was the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections and the licensee received credit for corrective actions.

6 of the items were for reactor licensees.

54 of the items were for materials licensees.

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**FIGURE 5: CIVIL PENALTY PROCESS  
PATH B**



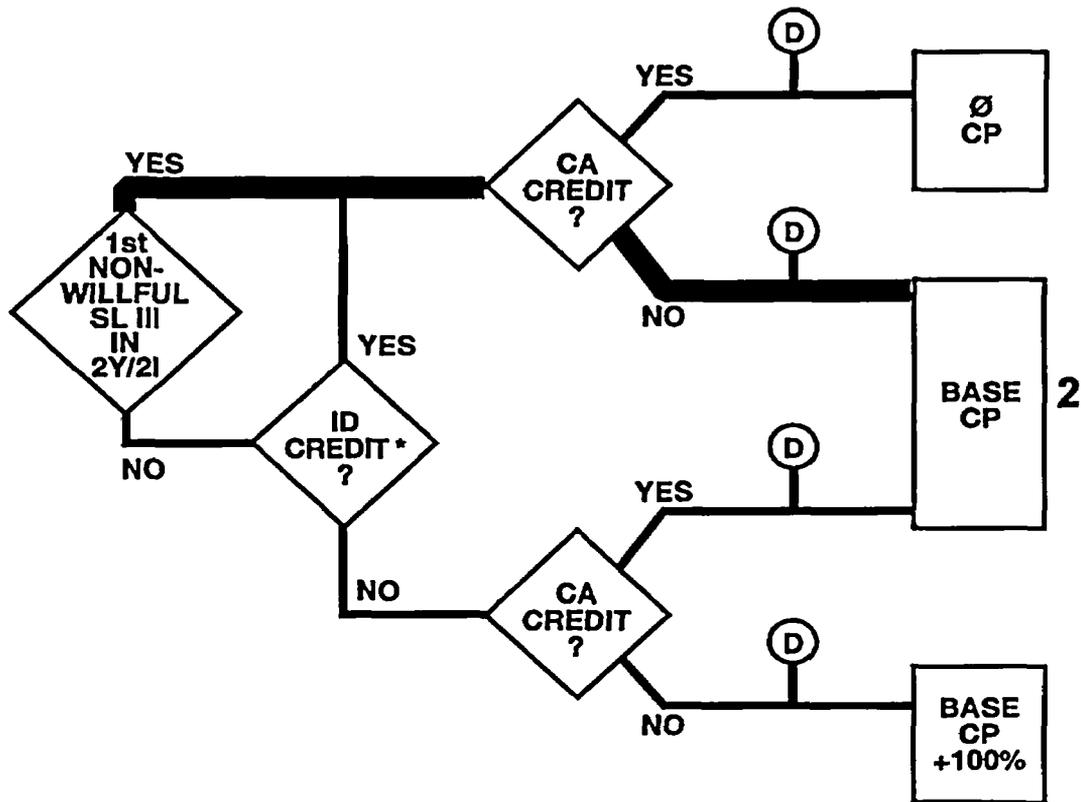
In 3 instances, the item was the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections and notwithstanding the fact that credit was warranted for corrective actions, the NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy and issued a civil penalty.

1 of the items was for a reactor licensee.

2 of these items were for materials licensees.

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**FIGURE 6: CIVIL PENALTY PROCESS  
PATH C**

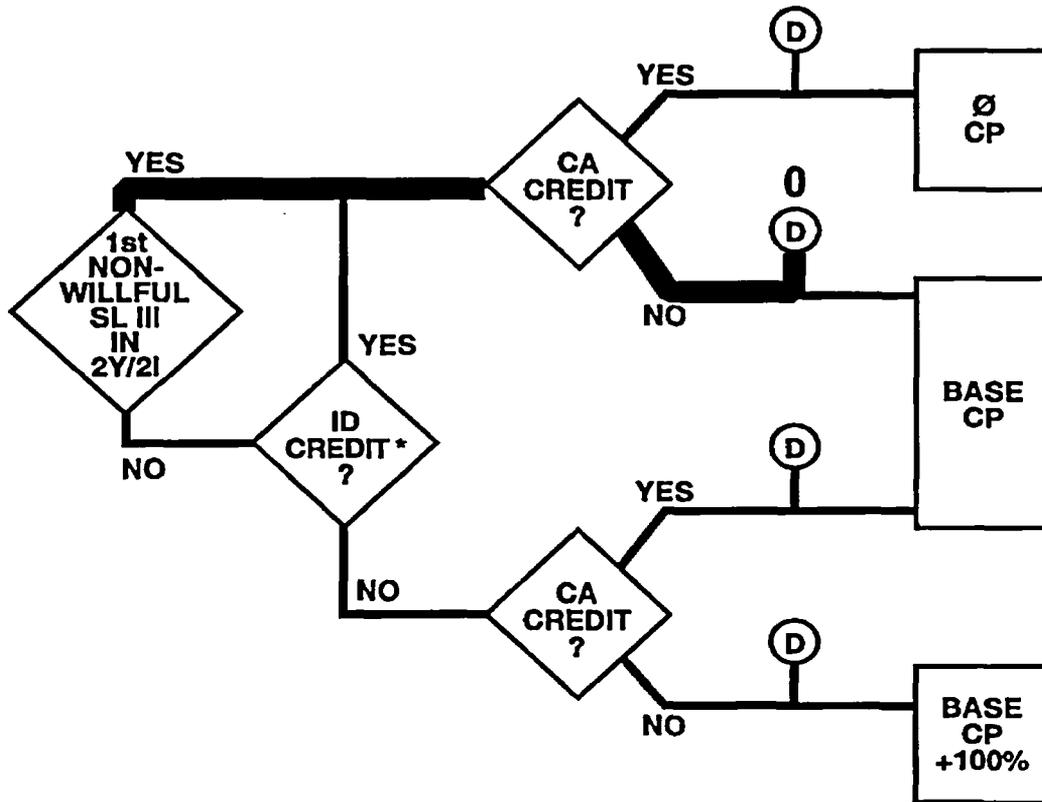


In 2 instances, the item was the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections and the licensee did not receive credit for corrective actions.

Both of the items were for materials licensees.

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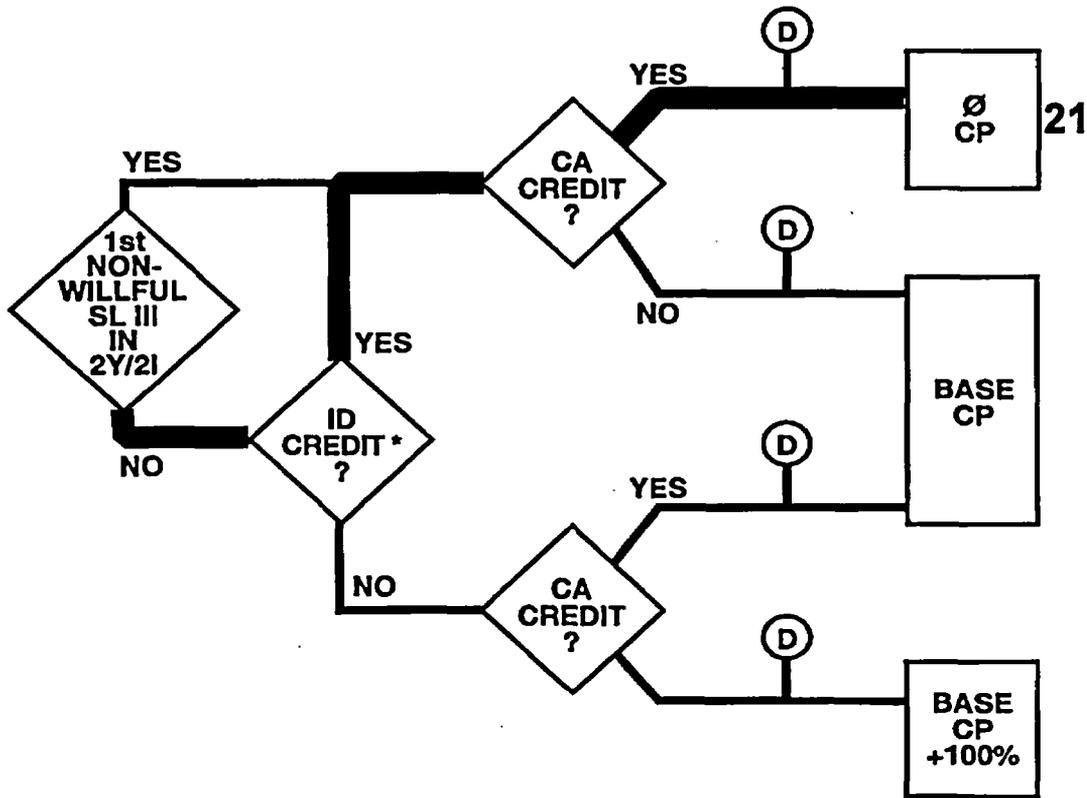
**FIGURE 7: CIVIL PENALTY PROCESS  
PATH D**



There were no items assessed on this path.

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**FIGURE 8: CIVIL PENALTY PROCESS  
PATH E**



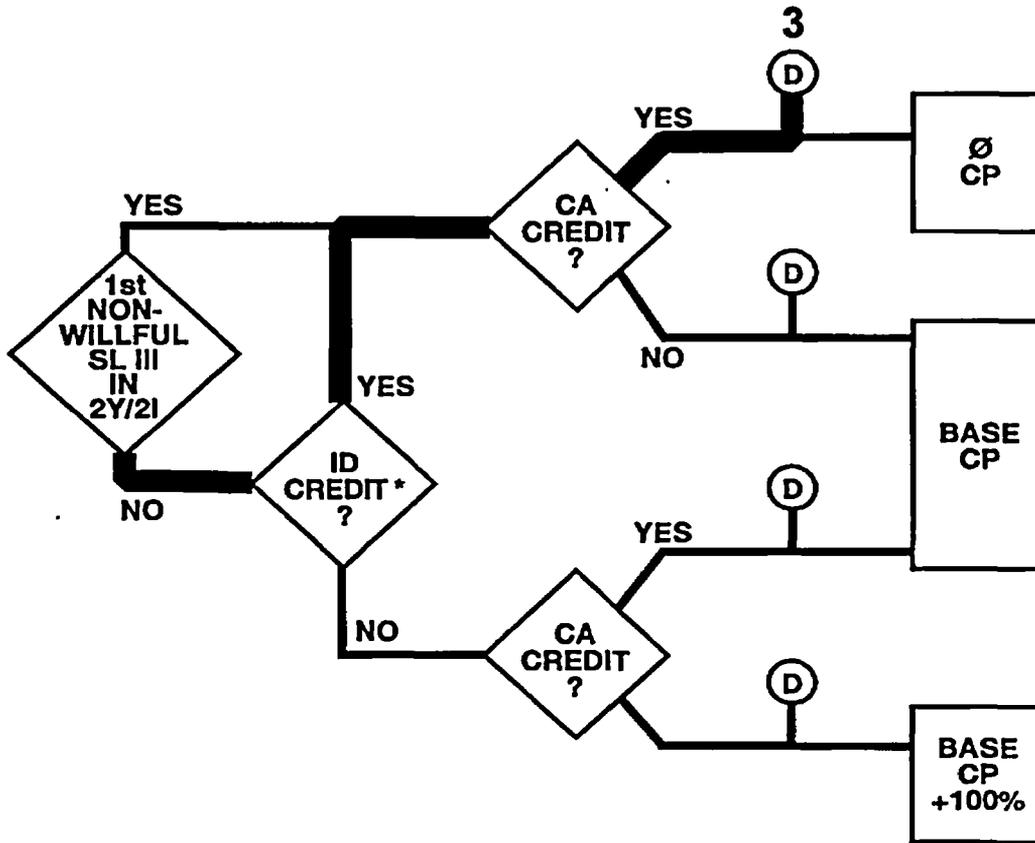
In 21 instances, the item was not the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections, the licensee received credit for actions related to identification, and the licensee received credit for corrective actions.

19 of the items were for reactor licensees.

2 of the items were for materials licensees.

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**FIGURE 9: CIVIL PENALTY PROCESS  
PATH F**



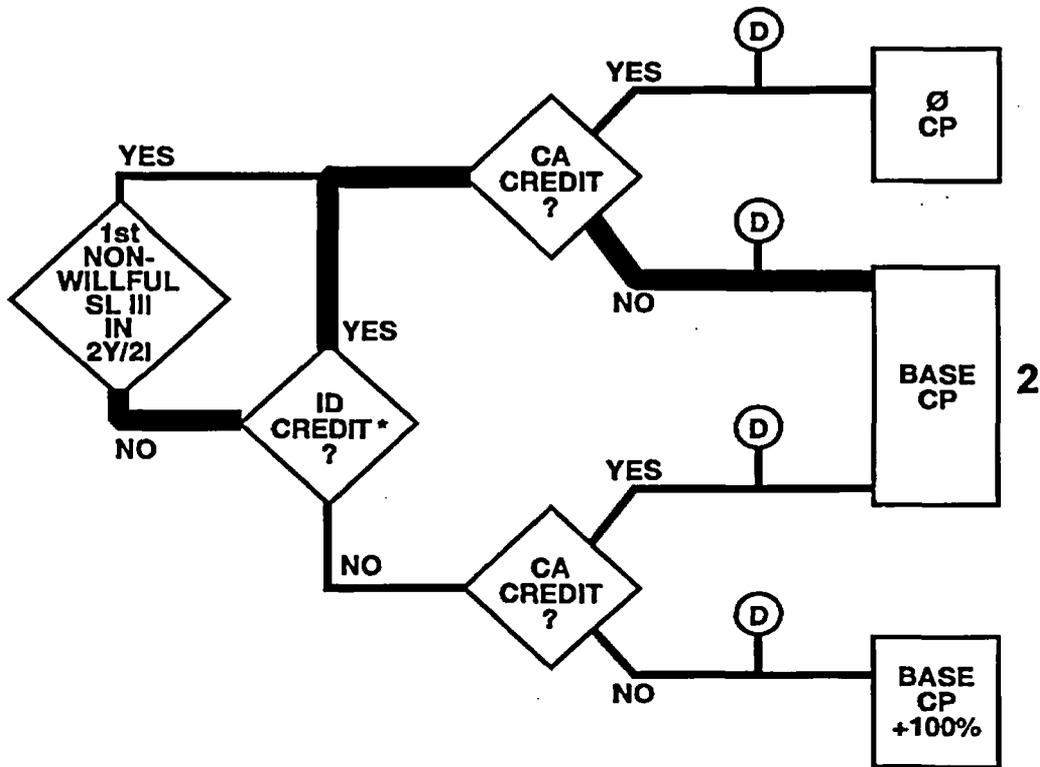
In 3 instances, the item was not the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections, the licensee received credit for actions related to identification, and notwithstanding the fact that credit was warranted for corrective actions, the NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy and issued a civil penalty.

2 of the items were for reactor licensees.

1 of the items was for a materials licensee.

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**FIGURE 10 CIVIL PENALTY PROCESS  
PATH G**



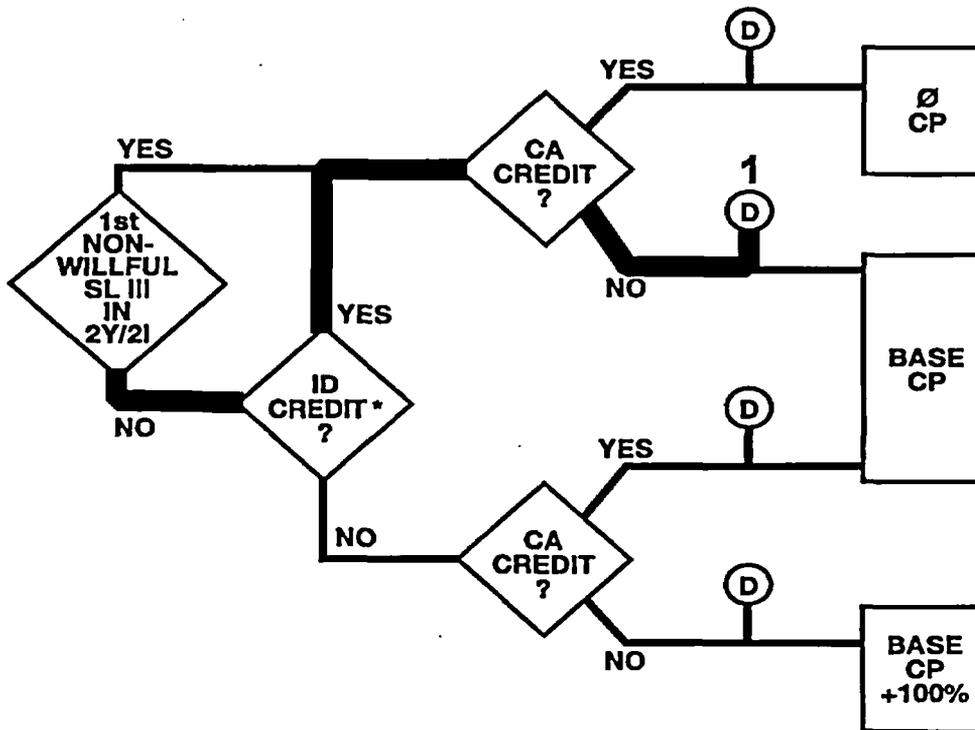
In 2 instances, the item was not the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections, the licensee received credit for actions related to identification, and the licensee did not receive credit for corrective actions.

1 of the items was for a reactor licensee.

1 of the items was for a materials licensee.

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**FIGURE 11: CIVIL PENALTY PROCESS  
PATH H**

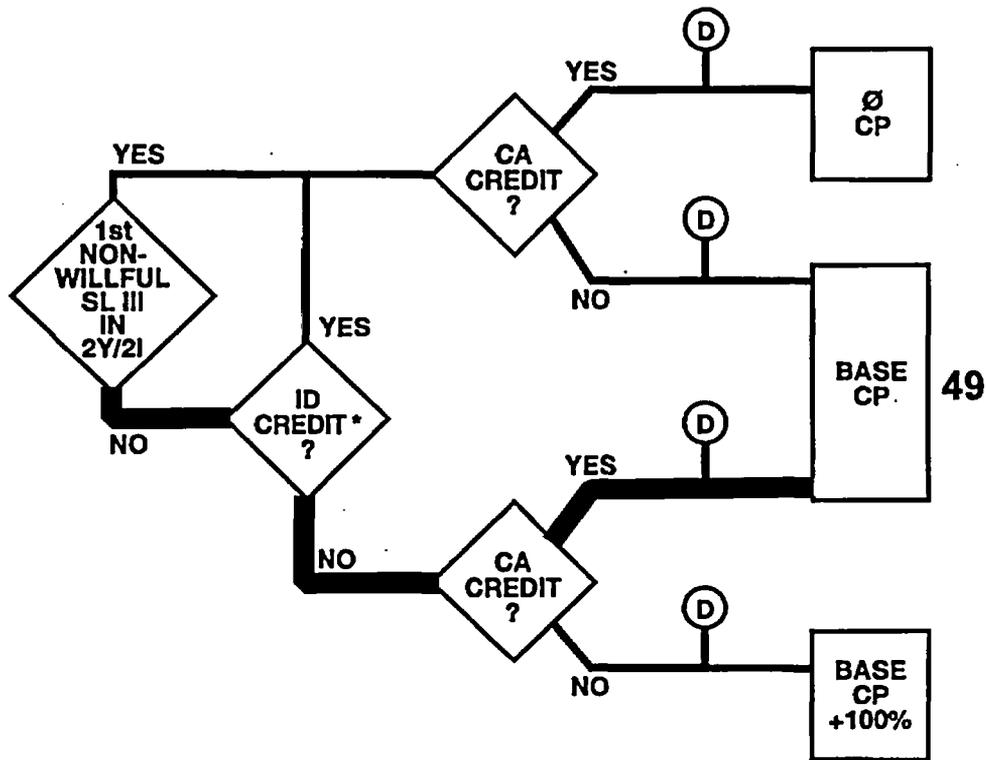


In 1 instance, the item was not the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections, the licensee received credit for actions related to identification, and notwithstanding the fact that a base civil penalty would have been warranted because the licensee did not receive credit for corrective actions, the NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy and issued twice the base civil penalty.

The item was for a materials licensee.

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**FIGURE 12: CIVIL PENALTY PROCESS  
PATH I**



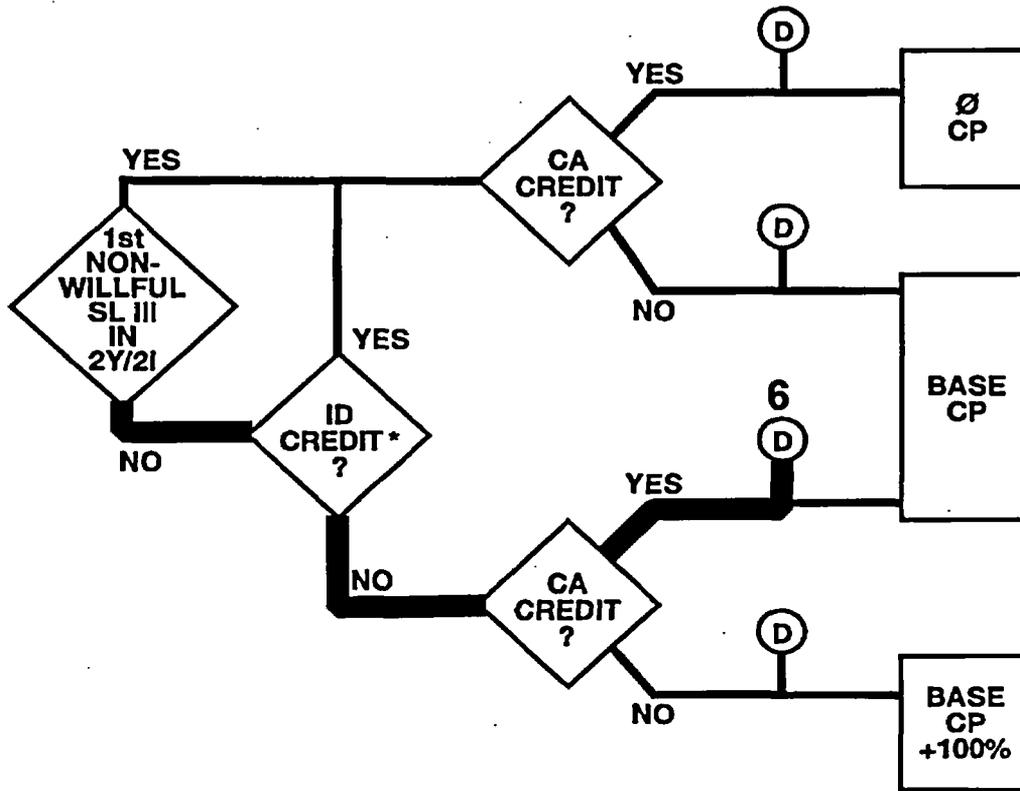
In 49 instances, the item was not the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections, the licensee did not receive credit for actions related to identification, and the licensee received credit for corrective actions.

33 of the items were for reactor licensees.

16 of the items were for materials licensees.

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**FIGURE 13: CIVIL PENALTY PROCESS  
PATH J**



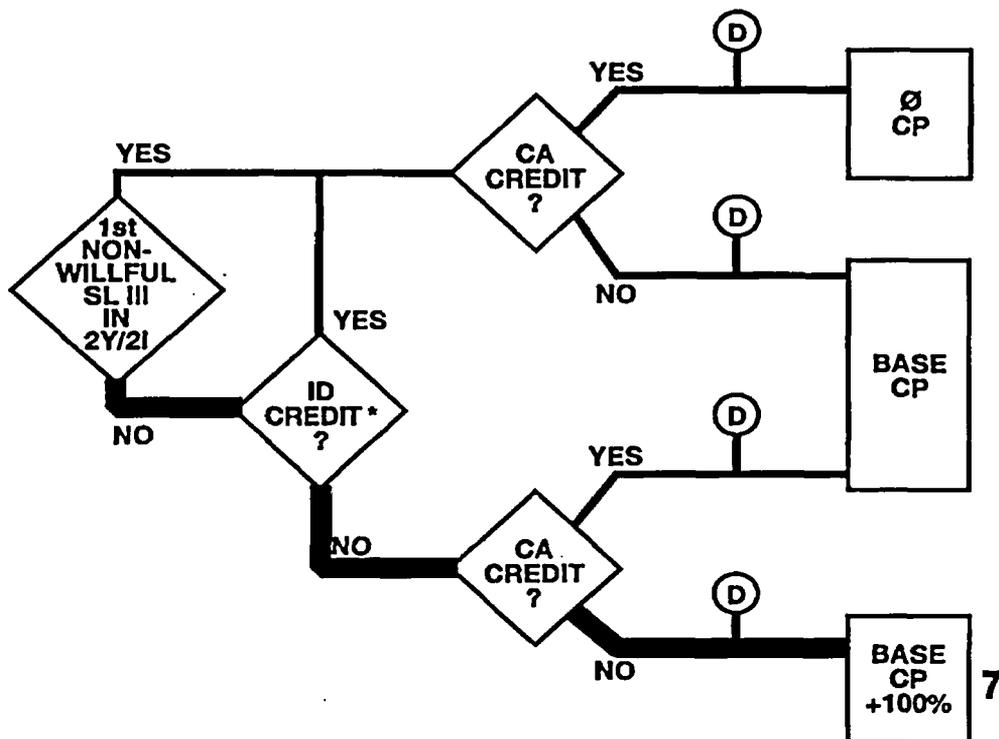
In 6 instances, the item was not the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections, the licensee did not receive credit for actions related to identification, and notwithstanding the fact that credit was warranted for corrective actions, in 3 instances the NRC exercised discretion in accordance with Section VII.A.1 and issued more than the base civil penalty and in 3 instances the NRC exercised discretion in accordance with Section VII.B.6 and refrained from issuing a civil penalty.

2 of the items were for reactor licensees. (1 item under VII.A.1 and 1 item under VII.B.6.)

4 of the items were for materials licensees. (2 items under VII.A.1 and 2 items under VII.B.6.)

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**FIGURE 14: CIVIL PENALTY PROCESS  
PATH K**



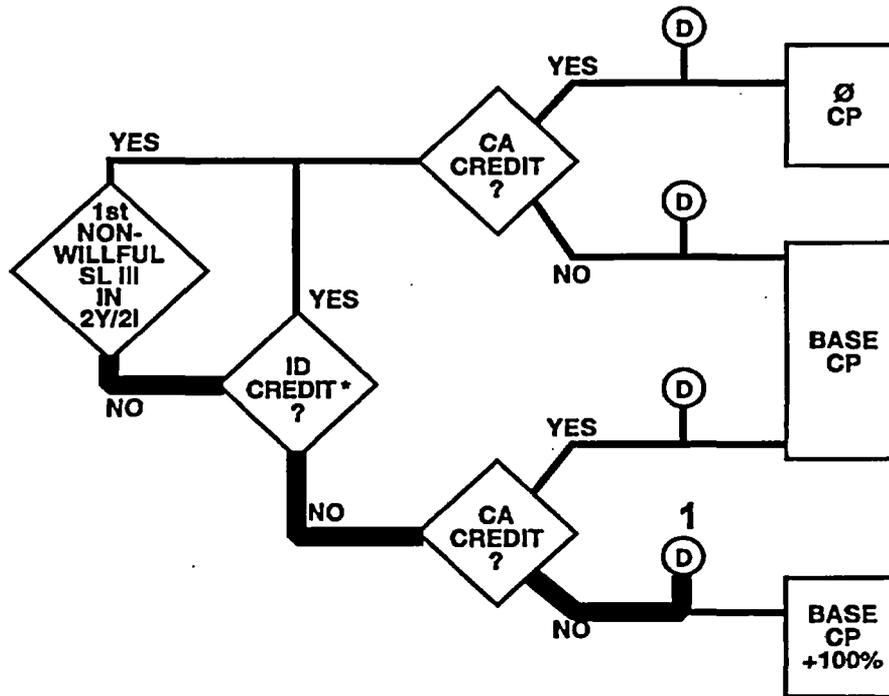
In 7 instances, the item was not the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections, the licensee did not receive credit for actions related to identification, and the licensee did not receive credit for corrective actions.

3 of the items were for reactor licensees.

4 of the items were for materials licensees.

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**FIGURE 15: CIVIL PENALTY PROCESS  
PATH L**



In 1 instance, the item was not the first non-willful Severity Level III enforcement issue that the licensee had during the past 2 years or past 2 inspections, the licensee did not receive credit for actions related to identification, and notwithstanding the fact that credit was not warranted for corrective actions, the NRC exercised enforcement discretion in accordance with Section VII.A.1 and doubled the amount of the civil penalty.

This item was for a reactor licensee.

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**APPENDIX A: SUMMARY OF ESCALATED NOTICES OF VIOLATION (WITHOUT CIVIL PENALTIES)**

*Allied-Signal Incorporated, Metropolis, IL  
Supplement VI*

*EA 98-171*

A Notice of Violation for a Severity Level III problem based on nine violations was issued on May 5, 1998. This action was based on the licensee's failure to: (1) evacuate a line on the No. 2 low boiler condenser and close the appropriate valves; (2) shut down the Distillations Hastings Heater as required; (3) maintain a standby generator; (4) report the loss of the standby generator; (5) prohibit the release of items contaminated with natural uranium in levels exceeding license requirements; (6) calibrate radiation survey instruments at the required intervals; (7) comply with the requirements for performing a chemical hazard assessment; (8) execute the response measures for a uranium hexafluoride release; and (9) have a mechanical integrity program in place before beginning operation of the Deconversion of Uranium Hexafluoride Pilot plant. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

*American Electric Power Company, D.C. Cook, Units 1&2  
Supplement V*

*EA 97-113*

A Notice of Violation and for a Severity Level III problem was issued on April 21, 1998. This action was based on the failure to provide shipping papers and emergency response instructions for a shipment of contaminated objects. Specifically: (1) the licensee offered radioactive material consisting of two packages labeled as surface contaminated objects to a carrier for transport and did not include with the shipment a shipping paper describing the material, and (2) the licensee offered radioactive material for transport without the required emergency response information. Although this was not the first escalated action in two years the civil penalty was fully mitigated because: (1) credit was warranted for identification, and (2) credit was warranted for corrective action.

**Baltimore Gas and Electric Company, Calvert Cliffs, Units 1 & 2  
Supplement IV**

**EA 98-106**

A Notice of Violation for a Severity Level III problem was issued on March 20, 1998. The action was based two violations related to the licensee's failure to establish radiological controls for work in the reactor cavity during cleaning of the reactor flange. Specifically, (1) the licensee did not make necessary and reasonable surveys to comply with the requirements and (2) the licensee did not post an airborne radioactivity area when required. Although a base civil penalty in the amount of \$55,000 is considered for Severity Level III issues, the staff exercised discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from proposing a civil penalty in this case. The decision to exercise discretion was made because the violations related to the cavity event occurred approximately one month after the diving event in April 1997, and appeared to be the result of the same fundamental performance deficiencies. (See Appendix E.)

**Bittner Engineering, Inc., Escanaba, Michigan  
Supplement VI**

**EA 97-512**

A Notice of Violation for a Severity Level III violation was issued on November 24, 1997. The action was based on the failure to control licensed material in an unrestricted area. As a result of this failure, a gauge containing 8 millicuries of cesium-137 and 40 millicuries of americium-241 was run over by construction machinery and damaged. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

**Bowser-Morner, Inc., Dayton, Ohio  
Supplement IV**

**EA 97-391**

A Notice of Violation for a Severity Level III violation was issued on October 8, 1997. The action was based on the failure of the licensee to control and maintain constant surveillance of licensed material and secure from unauthorized removal or limit access to a Troxler moisture/density gauge containing licensed material. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

**BP Chemicals America, Inc., Lima, Ohio  
Supplement VI**

**EA 97-507**

A Notice of Violation for a Severity Level III problem was issued on December 16, 1997. The action was based on eight violations which indicated a failure to fully implement the QA/QC plan as required by license conditions and requirements. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

**Brucker Engineering, St. Louis, MO  
Supplement VI**

**EA 98-326**

A Notice of Violation for a Severity Level III violation was issued on July 20, 1998. The action was based on the licensee's failure to control licensed material in an unrestricted area. Specifically, a moisture/density gauge containing 11 millicuries of cesium-137 and 44 millicuries of americium-241 was unaccounted for between May 29 and June 3, 1998, because the operator could not find his vehicle. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Cardinal Surveys Co.,  
Supplement VI******EA 98-347***

A Notice of Violation for a Severity Level III violation was issued on July 20, 1998, for a failure to file an NRC Form 241 for proposed activities in non-Agreement states in accordance with 10 CFR 150.20. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Carolina Power and Light Company, Robinson  
Supplement I******EA 98-050***

A Notice of Violation for a Severity Level III violation was issued on March 4, 1998. The action was based on the licensee's failure to verify the adequacy of a design change to the safety injection (SI) system. The design change disabled the automatic start feature for one of the three SI pumps resulting in the SI system design failing to meet the operability requirements of Technical Specification. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification and (2) credit was warranted for the factor of corrective action.

***Cleveland Electric Illuminating Company, Perry  
Supplement I******EA 96-542***

A Notice of Violation for a Severity Level III violation was issued on November 18, 1997. The action was based on a Severity Level III violation for a miswired circuit breaker causing control room emergency ventilation components to be inoperable on several occasions. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification and (2) credit was warranted for corrective action.

***Colon-Vaquar, Jose, M.D., Manati, PR  
Supplement VI******EA 98-184***

A Notice of Violation was issued on May 22, 1998, for a Severity Level III violation that involved the use of licensed material when the license was expired, and a Severity Level III problem that involved seven violations that collectively demonstrated the licensee's inability or unwillingness to develop and maintain the required oversight of the use of licensed material. The civil penalties for the Severity Level III violation and problem were fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action. A civil penalty action was also issued at the same time based on a Severity Level II problem that involved two misadministrations. (See EA 98-184 in Appendix B.)

***Commonwealth Edison Company, Braidwood, Units 1&2  
Supplement I******EA 97-110***

A Notice of Violation for a Severity Level III violation was issued on October 2, 1997. The action was based on a violation involving five examples of the failure to provide adequate fire protection for safe shutdown equipment. These examples existed since initial plant operations, and were resolved in 1996 while performing additional fire protection modifications. Although this was not the first escalated action in 2 years the civil penalty was fully mitigated because: (1) credit was warranted for identification and (2) credit was warranted for corrective action.

*Commonwealth Edison Company, Byron, Units 1&2  
Supplement I*

EA 97-446

A Notice of Violation for a Severity Level III violation was issued on November 25, 1997. This action was based on one violation that involved seven examples of the failure to provide adequate fire protection for safe shutdown equipment. These examples existed since initial plant operations, and were resolved in 1996 while performing additional fire protection modifications. This violation was caused by an inadequate post-fire analysis for protection of safe shutdown capability. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification and (2) credit was warranted for corrective action.

*Commonwealth Edison Company, Dresden  
Supplement I*

EA 96-493

A Notice of Violation for a Severity Level III violation was issued on September 18, 1998. This action was based on the willful activities of two individuals that caused the licensee to be in violation of 10 CFR 55.49, which prohibits license applicants and facility licensees from engaging in any activity that compromises the integrity of an NRC operator licensing examination. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification and (2) credit was warranted for corrective action.

*Conam Inspection, Inc., Kapolei, Hawaii  
Supplement IV, VI*

EA 98-404

A Notice of Violation for a Severity Level III violation was issued on September 14, 1998. This action was based on the failure to secure from unauthorized removal, access, or tampering and maintain constant surveillance of licensed material (a radiography camera containing a nominal 55 curie iridium-192 sealed source) in accordance with 10 CFR 20.1801, 10 CFR 20.1802 and 10 CFR 34.35. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

*Connecticut Yankee Atomic Power Company, Haddam Neck  
Supplement I*

EA 97-366

A Notice of Violation for a Severity Level III problem was issued on October 9, 1997. The action was based on two violations associated with corrective actions for an old plant design discrepancy in the service water system which created the potential for waterhammer in the supply to the spent fuel pool cooling system and a maintenance error that led to minor emergency diesel generator damage. The NRC exercised discretion in accordance with section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty. In addition, a third violation was identified related to the licensee's failure to perform an adequate 10 CFR 50.59 safety evaluation for a change in which an operator was used to compensate for feedwater regulating valves that could not perform their intended design function under certain circumstances. This violation resulted in an unreviewed safety question which would be considered for escalated enforcement and be subject to a civil penalty. The NRC exercised discretion in accordance with Section VII.B.2 of the Enforcement Policy and did not issue a Notice of Violation or propose a civil penalty for this violation. (See Appendix E)

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**Consolidated Edison Company, Indian Point, Unit 2  
Supplement I****EA 98-192**

A Notice of Violation was issued on July 6, 1998, for a Severity Level III violation. The action was based on the failure to ensure that all testing required to demonstrate that systems and components will perform satisfactorily in service as specified in the TSs was incorporated into surveillance test procedures. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification and (2) credit was warranted for corrective action. Two base civil penalties were also issued based on the failure to perform certain surveillance testing activities, the creation of inaccurate documents to indicate that these activities had been performed, and the failure to determine the cause and take adequate corrective actions to preclude repetition of a significant condition adverse to quality involving 480 volt (V) safety-related circuit breakers. (See EAs 97-576 and 98-056 in Appendix B.)

**Construction Products Research, Inc., Fairfield, CT  
Five Star Products, Inc  
Supplement VII****EA 97-471**

A Notice of Violation for a Severity Level I violation was issued to this vendor on January 16, 1998. The action was based on a violation of 10 CFR 50.7, which prohibits discrimination against employees for engaging in protected activities. Specifically the discrimination of the employee included: (1) placing him on an involuntary leave status; (2) instructing other employees not to discuss the ongoing NRC investigation of CPR and Five Star with him; (3) denying him access to his office and other facilities in the companies; and (4) terminating him from employment.

**Defense Logistics Agency, New Cumberland, PA  
Supplement IV****EA 97-465**

A Notice of Violation for a Severity Level III violation was issued on October 31, 1998. This action was based on a violation involving the failure to maintain security of tritium sources located in an outside area, not enclosed by a fence, which was easily accessible by personnel inside the facility. As a result of this failure to maintain security, an individual employee, who was not involved in NRC licensed activities, gained access to seven tritium sources and took them to his residence. In the process, the individual broke one of the glass encapsulated sources resulting in contamination of his residence. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

**De Leon, M.D., Dr. Jose N., Asla Verde, PR  
Supplement VI****EA 97-627**

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$5,000 was issued on April 28, 1998, for a Severity Level III violation involving the failure to establish and maintain a written quality management program to provide high confidence that the strontium-90 eye applicator would be administered as directed by an authorized user, that resulted in 9 misadministrations. The NRC exercised enforcement discretion in accordance with Section VII.A of the Enforcement Policy and proposed twice the base civil penalty. Discretion was warranted because the NRC considered the violation to be particularly egregious because Dr. León was directly responsible for 9 misadministrations at his facility. In addition, Dr. León failed to identify a significant change in treatment time calculated by a Health Physics Consultant or to take further action to verify the accuracy of the calculations prior to treatment of patients.

The NRC subsequently withdrew the civil penalty based on an agreement by the licensee to transfer the strontium-90 eye applicator in accordance with regulations.

*Department of Transportation, State of Hawaii  
Supplement IV*

*EA 98-237*

A Notice of Violation for a Severity Level III violation was issued on July 21, 1998. The action was based on two instances of failures to adequately secure gauges containing licensed material from unauthorized removal or access. The civil penalty was fully mitigated because: (1) this was the first escalated issue in two inspections, and (2) credit was warranted for corrective action.

*Department of Veterans Affairs, Medical Center, San Francisco  
Supplement IV*

*EA 97-529*

A Notice of Violation for a Severity Level III problem was issued on January 15, 1998. This action was based on two violations involving: (1) a failure to verify that the contents of a package containing three P-32 vials agreed with the packing list and to survey the package for contamination before it was disposed to normal trash, and (2) the unauthorized disposal of a single P-32 vial to normal, non-radioactive trash. The civil penalty was fully mitigated because: (1) this was the first escalated issue in two inspections, and (2) credit was warranted for corrective action.

*Duke Power Company, Catawba  
Supplement I*

*EA 98-208*

A Notice of Violation for a Severity level III problem was issued on June 11, 1998. The action was based on five violations involving: (1) failure to implement the seven-day restoration actions of TS 3.7.7 following a failure to satisfy Technical Specification (TS) surveillance requirement 4.7.7.b.3 for the Unit 2 "A" train VA system; (2) failure to take prompt corrective action in accordance with 10 CFR 50, Appendix B, Criterion XVI, associated with a low flow condition on the Unit 2 "A" train VA system; (3) failure to follow procedures for system operability determinations following surveillance testing of the Unit 2 A-train VA system; (4) failure to verify, as required by procedure, that all activities described by Minor Modification CNCE-7901 had been implemented in the field before closing the modification; and (5) failure to ensure that adequate prerequisites for surveillance testing of the VA system were established as required by 10 CFR 50, Appendix B, Criterion XI. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

*Duke Power Company, Oconee  
Supplement I*

*EA 98-268*

A Notice of Violation for a Severity Level II violation was issued on August 5, 1998. The action was based on: (1) the failure to implement the requirements of 10 CFR 50, Appendix B, Criterion III, to incorporate design basis requirements into drawings and procedures; and, (2) the failure to maintain Technical Specification (TS) equipment in an operable condition. The NRC exercised discretion in accordance with Section VII.B.3 and refrained from issuing a civil penalty because: (1) the violation involved a past problem in design that the licensee identified as a result of a voluntary effort, (2) corrective actions were comprehensive, and (3) routine licensee efforts were not likely to have identified the deficiencies.

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***Engineering Surveys and Services, Columbia, MD  
Supplement IV***

EA 98-386

A Notice of Violation was issued on July 24, 1998, for a Severity Level III violation involving the failure to secure or maintain constant surveillance of licensed material at a temporary jobsite. This failure contributed to a gauge, containing 8 millicuries of cesium-137 and 40 millicuries of americium-241, being run over and severely damaged by a construction vehicle. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***Entergy Operations Incorporated, Arkansas Nuclear One  
Supplement I***

EA 97-382

A Notice of Violation for a Severity Level III problem was issued on November 18, 1997. This action was based on violations involving: (1) inservice inspections of Unit 1 steam generators that were not appropriately controlled and accomplished to identify tube defects that exceeded the technical specification plugging limit, and (2) Unit 2 steam generator tubes, with defects greater than the technical specification plugging limit, that were improperly considered operable. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification and (2) credit was warranted for corrective action.

***Entergy Operations Incorporated, Waterford  
Supplement I***

EA 97-589

A Notice of Violation for a Severity Level III problem was issued on February 5, 1998. This action was based on six violations related to a failure to return a valve controller to automatic operation following use which went unrecognized for 15 hours, rendering Train A of the auxiliary component cooling water system inoperable. Operators compounded this error by removing Train B of the auxiliary component cooling water system from service for routine maintenance without first physically verifying the operability of Train A. Both trains of this system remained inoperable for approximately 7.5 hours. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification and (2) credit was warranted for corrective action.

***Florida Power and Light Company, St. Lucie, Units 2 & 3  
Supplement I***

EA 97-501

A Notice of Violation for a Severity Level III problem was issued on December 11, 1997. This action was based on three violations which included: (1) the failure to maintain two trains of containment cooling operable as required by technical specifications; (2) the failure to follow the procedure for a post maintenance test (PMT) of a containment cooler fan, and, (3) the failure to assure that appropriate testing was identified and performed to demonstrate that the Unit 2 containment cooler fans would perform satisfactorily while operating in the emergency configuration. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification and (2) credit was warranted for corrective action.

**Florida Power and Light Company, St. Lucie, Units 2 & 3  
Supplement I**

**EA 98-064**

A Notice of Violation for a Severity Level III violation was issued on April 3, 1998. This action was based on a violation that involved two examples of the failure to comply with the Physical Security Plan. Specifically, a plant security officer failed to inactivate the keycards and hand geometry for two terminated employees after being notified that the two individuals had been terminated, and access authorization was to be withdrawn. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification and (2) credit was warranted for corrective action.

**Frontier Production Logging  
Supplement VI**

**EA 97-327**

A Notice of Violation was issued on November 7, 1997, for a Severity Level III problem consisting of multiple violations concerning the failure to: (a) conduct operations so that the dose in any unrestricted area from external sources does not exceed 2 millirem in any 1 hour, (b) make adequate surveys of radiation levels in unrestricted areas, utilize authorized shipping containers while transporting radioactive material, (d) monitor, upon receipt, the external surfaces of Department of Transportation (DOT) labeled packages for radioactive contamination, and (e) properly post areas in which licensed materials are stored. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action. A civil penalty in the amount of \$2,750 and a Confirmatory Order were also issued in conjunction with the action. (See Appendix B and EA 97-457 in Appendix C.)

**Geotechnical Consultants, Westerville, OH  
Supplement IV**

**EA 98-385**

A Notice of Violation was issued on August 27, 1998, for a Severity Level III violation involving the failure to control licensed material in an unrestricted area. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 inspections, and (2) credit was warranted for corrective action.

**Globe X-Ray Services, Inc., Tulsa, OK  
Supplement VI**

**EA 98-224**

A Notice of Violation was issued on June 29, 1998, for a Severity Level III violation involving the failure to wear radiation monitoring equipment during radiography operations. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification and (2) credit was warranted for corrective action.

**GPU Nuclear Incorporated, Oyster Creek Nuclear Generating Station  
Supplement I**

**EA 97-421**

A Notice of Violation was issued on November 17, 1997, for three Severity Level III violations involving failures in the design and modification processes. Specifically, these failures consisted of: (1) not adequately considering the compatibility of materials in the design specifications for the emergency service water (ESW) pumps when certain component material specifications were changed in 1993; (2) revising a procedure to allow periodic opening of a reactor water cleanup (RWCU) system primary containment isolation valve at reactor pressure without considering the maximum differential pressure against which the valve would have

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to close; and (3) not ensuring that degraded voltage relay setpoints for the vital station electrical busses provided acceptable voltage conditions to the safety buses on a sudden loss of output power. The civil penalty for each of the three Severity Level III violations was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

***GPU Nuclear Incorporated, Oyster Creek Nuclear Generating Station  
Supplement I***

***EA 97-617***

A Notice of Violation for a Severity Level III problem was issued on February 8, 1998. This action was based on three violations involving failures to perform safety evaluations prior to downgrading the quality classifications of plant components and systems that were described in the Final Safety Analysis Report (FSAR). These violations were identified at Oyster Creek after programmatic weaknesses in the equipment downgrading process, which was common to both Oyster Creek and Three Mile Island, were identified at Three Mile Island. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification and (2) credit was warranted for corrective action.

***GPU Nuclear Corporation, Three Mile Island, Unit 1  
Supplement I***

***EA 97-070,97-117,97-127  
& 97-256***

A Notice of Violation was on October 8, 1997, for a Severity Level III violation involving the failure to take timely and appropriate corrective actions for conditions adverse to quality that existed at the facility, including conditions related to the Decay Heat Removal system, to the quality assurance findings regarding inappropriate equipment classification downgrades, and to the environmental qualification (EQ) deficiency. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification and (2) credit was warranted for corrective action. A Proposed Imposition in the amount of \$210,000 was also issued for four Severity Level III problems involving: (1) inadequate engineering design controls, and inadequate safety evaluations prior to making design changes; (2) poor implementation of the process for classifying components, resulting in a number of nuclear safety-related components being downgraded to a lower classification without an appropriate safety evaluation; (3) failure to ensure the emergency cooling fans were environmentally qualified; and (4) inadequate implementation of the emergency preparedness program (see Appendix B).

***GPU Nuclear Incorporated, Three Mile Island  
Supplement I***

***EA 97-533***

A Notice of Violation for a Severity Level III violation was issued on January 27, 1998. This action was based on the pressurizer power operated relief valve (PORV) being returned to service without performing an in-service test to verify proper valve operation after the PORV was replaced. As a result, a wiring error, that prevented the PORV from opening in response to an automatic or manual signal, was not detected. Consequently, the PORV was inoperable for the operating cycle from October, 1995, until September, 1997. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification and (2) credit was warranted for corrective action.

*Haines & Kibblehouse, Inc., Skippack, PA  
Supplements IV & VI*

EA 97-556

A Notice of Violation for two Severity Level III problems was issued on December 22, 1997. The first problem was based on security violations involving: (1) failure to lock, or place in a locked outer container, a nuclear gauge, and (2) failure to maintain direct control of the gauge while not in storage. The second problem involved ten violations that indicated a significant lack of control and attention to licensed activities. Of particular concern was the storage of gauges at permanent locations not listed on the license, without first obtaining NRC approval, and without any evaluation of the radiation exposure a member of the public would receive from licensed material being stored at those additional locations. The civil penalty for each Severity Level III problem was fully mitigated because: (1) this was the first escalated issue in the last 2 inspections, and (2) credit was warranted for corrective action.

*Harper Hospital, Detroit, MI  
Supplement VI*

EA 98-196

A Notice of Violation for a Severity Level III violation was issued on April 4, 1998. This action was based on a written quality management program (QMP) that failed to clearly address the verification procedures to be used to ensure that each administration was in accordance with a written directive. As a result, a misadministration to a patient occurred. The civil penalty was fully mitigated because: (1) this was the first escalated issue in the last 2 inspections, and (2) credit was warranted for corrective action.

*Hospital Metropolitano, San Juan, PR  
Supplement VI*

EA 97-513

A Notice of Violation for a Severity Level III problem was issued on January 16, 1998. This action was based two violations related to the licensee's control of radioactive sources. Specifically, (1) the licensee did not control and maintain constant surveillance of a 7.6 millicurie source of cesium-137 left in a patient's room, which was an unrestricted area, and (2) after removing the cesium-137 brachytherapy sources from a patient, the licensee did not promptly return the sources to the storage area and count the number returned, until approximately 55 hours later. In addition, on four other occasions, after removing cesium-137 sources from patients and returning them to the storage area, the licensee did not promptly count the number of sources returned. The civil penalty was fully mitigated because: (1) this was the first escalated issue in the last 2 inspections or two years, and (2) credit was warranted for corrective action.

*Hospital San Pablo, Bayaman, PR  
Supplements IV & VI*

EA 97-498

A Notice of Violation for a Severity Level III problem was issued on December 23, 1998. The action was based on three violations associated with work performed which involved the demolition and relocation of the room used to store radioactive waste held for decay-in-storage. Specifically: (1) the failure to secure licensed materials from unauthorized removal; (2) unauthorized disposal of the licensed materials; and (3) the failure to monitor, with a radiation survey meter, radioactive waste held for decay-in-storage prior to disposing of it. The civil penalty was fully mitigated because: (1) this was the first escalated issue in the last two inspections or 2 years, and (2) credit was warranted for corrective action.

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***Indiana & Michigan Electric, Cook  
Supplement V***

EA 98-113

A Notice of Violation for a Severity Level III problem was issued on April 21, 1998. The action was based on violations involving failure to provide shipping papers and emergency response instructions for a shipment of contaminated objects. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification and (2) credit was warranted for corrective action.

***Intergrated Industrial Systems, Inc, Yaleville, CT  
Supplement V***

EA 97-393

A Notice of Violation for a Severity Level III problem was issued on November 7, 1997. This action was based on five violations that involved: (1) manufacturing and distribution of certain nuclear gauges in a manner that was not in accordance with the registration certificate; (2) making modifications to the devices, without the required approval by the Technical Director; (3) failure to maintain records of test results of the devices; (4) approval of a nonconforming part as acceptable for use, without the Production Manager, Technical Director, and the assigned Engineer indicating their approval, as required; and (5) the failure to perform required annual audits. The civil penalty was fully mitigated because: (1) this was the first escalated issue in the last two inspections or 2 years, and (2) credit was warranted for corrective action.

***Knob Testing, Inc., Knob Noster, MO  
Supplements IV & VI***

EA 98-377

A Notice of Violation for a Severity Level III problem was issued on July 20, 1998. This action was based on violations that involved: (1) failure to maintain control of licensed material; (2) licensed material used by an unauthorized person; (3) failure to wear a film badge; and (4) failure to follow emergency procedures as required. The civil penalty was fully mitigated because: (1) this was the first escalated issue in the last two inspections or 2 years, and (2) credit was warranted for corrective action.

***Law Engineering, Inc, Tulsa, OK  
Supplement VI***

EA 97-433

A Notice of Violation for a Severity Level III violation was issued on November 17, 1997. This action was based on a violation involving a failure to maintain surveillance and control of a portable moisture/density gauge containing NRC-licensed material. Specifically, the violation occurred when a gauge user inadvertently left a portable gauge at a construction site with the source rod still in the extended position. The gauge was out of the licensee's control for approximately 5 hours. The civil penalty was fully mitigated because: (1) this was the first escalated issue in the last two inspections or 2 years, and (2) credit was warranted for corrective action.

***Mallinckrodt Veterinary Incorporated, St Louis, MO  
Supplement VI***

EA 97-582

A Notice of Violation for a Severity Level III Problem was issued on February 6, 1998. This action was based on three violations which involved failure to: (1) provide timely notification to the NRC that no principal activities were conducted for a period of 24 months in areas unsuitable for release in accordance with NRC requirements, (2) certify disposition of all licensed material for Buildings 3 and 84 which were

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Appendix A

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demolished, (3) assign a new Radiation Safety Officer (RSO) and amend the license when the authorized RSO left, and (4) receive prior written consent from the NRC regarding a change of ownership. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

*MedCentral Health System, Mansfield, OH  
Supplement VI*

*EA 98-023*

A Notice of Violation for a Severity Level III problem was issued on March 6, 1998. This action was based on five instances involving failure to follow specific items in the licensee's quality management program (QMP). The violations included the failure to perform reviews of modified written directives to ensure that all of the information was correct and on the record prior to administering the third patient treatment. As a result of these failures to fully implement the QMP, a misadministration occurred. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

*Met-Chem Testing Laboratories of Utah, Salt Lake City, UT  
Supplement VI*

*EA 98-362*

A Notice of Violation was issued on July 31, 1998, for a Severity Level III violation involving a failure to control and maintain constant surveillance of licensed material that was in a controlled or unrestricted area and that was not in storage. The civil penalty was fully mitigated because: (1) this was the first escalated issue in two inspections, and (2) credit was warranted for corrective action.

*Michigan Department of Transportation  
Supplements IV&VI*

*EA 97-508*

A Notice of Violation for a Severity Level III violation was issued on December 5, 1998. This action was based on the failure to control and maintain constant surveillance of gauges containing licensed material. In one case, the gauge operator placed a gauge in front of his vehicle, forgot it and ran it over causing damage. In another case, a gauge was damaged when it was run over by construction equipment while the operator was otherwise occupied and did not maintain constant surveillance over licensed material. The civil penalty was fully mitigated because: (1) this was the first escalated issue in the last 2 years or inspections, and (2) credit was warranted for corrective action.

*Mobile Dynamic Imaging, Inc., Englewood, NJ  
Supplement VI*

*EA 97-500*

A Notice of Violation for a Severity Level III problem was issued on December 31, 1997. This action was based on five violations that involved: (1) failure to establish and implement written policies and procedures to ensure that radiation safety activities were performed in accordance with approved procedures and regulatory requirements; (2) failure to notify the NRC prior to commencement of licensed activities after issuance of the license; and (3) three violations involving the failures to perform dose calibrator accuracy tests, geometry dependence tests, and linearity tests, at installation and prior to dose administration. The civil penalty was fully mitigated because: (1) this was the first escalated issue in the last 2 years, and (2) credit was warranted for corrective action.

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***Norcon Incorporated, Anchorage, Alaska  
Supplement VI******EA 97-538***

A Notice of Violation for a Severity Level III problem was issued on January 23, 1998. This action was based on violations involving failures to: (1) secure the consent of NRC before transferring control of the license, (2) inform the NRC of new locations where material would be possessed, (3) conduct physical inventories every 6 months to account for all sources and/or devices received and possessed under the license, and (4) inform the NRC that the individual described as responsible for the radiation safety program, the radiation safety officer (RSO), was not employed for about 17 months. The civil penalty was fully mitigated because: (1) this was the first escalated issue in two inspections, and (2) credit was warranted for corrective action.

***Nordion International, Kanata, CN  
Supplement VI******EA 97-541***

A Notice of Violation was issued for a Severity Level III problem on January 23, 1998. This action was based four violations involving modifications to devices without obtaining NRC approval prior to the modifications. Specifically, after having submitted requests to the NRC for evaluation of radiation safety information about its product and for its registration, the licensee manufactured and distributed certain sealed sources and devices containing licensed material in a manner that was not in accordance with the provisions of the registration certificate. The civil penalty was fully mitigated because: (1) this was the first escalated issue in the last 2 years, and (2) credit was warranted for corrective action.

***North Atlantic Energy Service Corporation, Seabrook Station  
Supplement I******EA 98-073***

A Notice of Violation for a Severity Level III problem was issued on April 1, 1998. This action was based on three violations involving the failure to promptly identify and/or correct conditions adverse to quality at the facility. Specifically: (1) the licensee identified potential leakage from stainless steel piping in the vicinity of the "B" Residual Heat Removal pump suction relief valve but did not promptly correct the condition, (2) the control building air conditioning (CBA) compressors were degraded resulting in multiple compressor failures since 1993, with no action not taken until December 1997, and (3) a caution tag on the control switch for the Positive Displacement Charging Pump indicated that the pump could trip after starting due to an oil leak from the pump's sensing line, however, a modification was canceled without resolving the condition. The civil penalty was fully mitigated because: (1) this was the first escalated issue in the last 2 years, and (2) credit was warranted for corrective action.

***Northeast Nuclear Energy, Millstone  
Supplement I******EA 98-179***

A Notice of Violation for a Severity Level III violation was issued on May 6, 1998. This action was based on the failure to maintain an adequate PASS program that ensured the capability to obtain and analyze samples under post accident conditions. Although a civil penalty could have been proposed for the licensee's failure to take corrective action to prevent recurring failure of the PASS and the failure to fully identify and correct the weaknesses in the PASS program during the licensee's internal audit, the NRC decided to exercise enforcement discretion pursuant to Section VII.B.2 of the Enforcement Policy and not propose a civil penalty in this case. The decision to exercise discretion was made because the facility had been in an extended shutdown, the NRC had taken significant enforcement action for the performance issues that led to the

shutdown and considering that the violation was: (1) based on licensee practices prior to the shutdown; (2) not classified higher than Severity Level II; and (3) not willful.

*NTH Consultants, Ltd, Exton, PA  
Supplement IV*

*EA 98-060*

A Notice of Violation for a Severity Level III violation was issued on March 16, 1998. This action was based on the licensee not securing against unauthorized removal or limiting access to a moisture/density gauge containing sealed sources located at a temporary jobsite in an unrestricted area. The licensee did not control and maintain constant surveillance of this licensed material in that the gauge was left unattended at the jobsite for approximately one minute during which the gauge was destroyed when it was run over by a bulldozer. The civil penalty was fully mitigated because: (1) this was the first escalated issue in the last 2 years, and (2) credit was warranted for corrective action.

*Overhoff Technology Corporation  
Supplement VI*

*EA 96-242*

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,500 was issued on April 16, 1998. This action was based on a Severity Level III problem that involved shipment of devices containing tritium in excess of the exempt quantity, in violation of the Licensee's distribution license. A base civil penalty was proposed because: (1) this violation involved careless disregard, (2) credit was not warranted for identification and, (3) credit was warranted for corrective action. However, on August 19, 1998, after reconsideration of the types and quantities of material involved in the violations, together with the fact that Overhoff constitutes a small entity for purposes of the Small Business Regulatory Enforcement Fairness Act (SBREFA), the NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and withdrew the civil penalty. The Notice of Violation for the Severity Level III problem remained valid.

*Professional Services Industries, Incorporated, Lombard, IL  
Supplements IV&VI*

*EA 97-373*

A Notice of Violation for a Severity Level III problem and a Severity Level III violation was issued on November 5, 1997. This action was based on violations involving: (1) failure to directly supervise an assistant radiographer performing radiographic operations within a fixed facility on the licensee's premises; (2) unauthorized use of radioactive material on one occasion by a trainee; (3) failure to provide a film badge to the trainee during that use. The civil penalty for both Severity Level III issues was fully mitigated because: (1) this was the first escalated issue in the last 2 years, and (2) credit was warranted for corrective action.

*Public Service Electric and Gas Company, Hope Creek  
Supplement I*

*EA 97-160*

A Notice of Violation for a Severity Level III Violation was issued on October 20, 1997. This action was based on a violation that involved inadequate safety evaluations for a modification of cross-tie piping between the A and C RHR loops downstream of the RHR pumps. The safety evaluations were inadequate because: (1) the change involved an unreviewed safety question (USQ) since the change introduced the possibility of a loss of independence of the low pressure coolant injection (LPCI) loops due to an erroneous valve lineup; and (2) the cross-tie isolation valves needed to be included in the monthly emergency core cooling system (ECCS) flow path verification required by Technical Specifications (TS). Although this was

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not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification and (2) credit was warranted for corrective action.

***Public Service Electric and Gas Company, Hope Creek  
Supplement I***

***EAs 97-144 & 97-563***

A Notice of Violation was issued on March 20, 1998, for a Severity Level III problem that involved two violations: (1) the failure to include certain systems, components and functions within the scope of the maintenance rule; and (2) the failure to adequately demonstrate that the performance or condition of a number of systems, components and functions is being effectively controlled through the performance of appropriate preventive. A civil penalty was not proposed because: (1) credit was warranted for identification and, (2) credit was warranted for corrective actions. A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 for a Severity Level III violation was also issued with this action. (See Appendix B.)

***Public Service Electric and Gas Company, Salem Units 1&2  
Supplement I***

***EA 97-182***

A Notice of Violation and Exercise of Enforcement Discretion for a Severity Level III problem was issued on October 8, 1997. This action was based on two violations involving: (1) changes made to a procedure and to the UFSAR to reflect changes in refueling water storage tank drain down time and operator response time that resulted, in certain cases, the interruption of emergency core cooling flow to the reactor, resulting in an unreviewed safety question, without prior Commission approval, and (2) failure to notify the NRC within one hour or submit a Licensee Event Report within 30 days, of a condition in which the time available to complete switchover of reactor coolant system cold leg recirculation cooling from the refueling water storage tank to the containment sump was not sufficient to ensure that emergency core cooling system flow to the reactor core would not be interrupted, which was outside the design basis of the plant. The NRC refrained from issuing a civil penalty in accordance with Section VII.B.6 of the Enforcement Policy. (See Appendix E.) The NRC also exercised discretion and refrained from issuing actions for violations involving RHR pump runout and crediting for containment over pressure and for violations involving the failure to meet alternative shutdown. (See EA 97-182 and EA 97-257 in Appendix E.)

***Public Service Electric and Gas Company, Salem Units 1&2, Hope Creek  
Supplement VII***

***EA 97-422***

A Notice of Violation for a Severity Level III violation was issued on April 24, 1998. This action was based on a violation that involved inaccurate security records created by two Wackenhut security personnel indicating that compensatory measures were in place within the required time (10 minutes) following the failure of the security computer. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification and (2) credit was warranted for corrective action.

***QSL Inspection, Inc., Trainier, PA  
Supplement IV***

***EA 97-611***

A Notice of Violation for a Severity Level III violation was issued on January 23, 1998. This action was based on a violation involving the failure by two radiographers to appropriately secure a radiography device, containing 74 curies of iridium-192. Specifically, inspectors observed that after the two radiographers arrived

**Appendix A**

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at the temporary jobsite, they exited the unlocked vehicle which contained the radiography device and entered a building leaving keys in the ignition that would open the vehicle's darkroom as well as the overpack that was securing the radiography device. The civil penalty was fully mitigated because: (1) this was the first escalated issue in the last 2 years, and (2) credit was warranted for corrective action.

***The Rosel Company, Liberal, KS  
Supplement VI***

***EA 98-017***

A Notice of Violation for a Severity Level III violation was issued on March 2, 1998. This action was based on a licensee of the State of Kansas utilizing well logging devices containing americium-241 and cesium-137 in the state of Oklahoma, a non-Agreement State, without a specific license issued by the NRC and without filing Form 241 with the NRC. The civil penalty was fully mitigated because: (1) this was the first escalated issue in the last 2 years or inspections, and (2) credit was warranted for corrective action.

***Servicing Imaging Systems International, Montclair, NJ  
Supplement VI***

***EA 97-540***

A Notice of Violation for a Severity Level III problem was issued on December 31, 1998. This action was based on eight violations involving: (1) failure to perform daily surveys in areas where radiopharmaceuticals were routinely prepared for use or administered; (2) failure to perform a linearity check of the dose calibrator for the 3rd quarter of 1997; (3) failure to conspicuously note on the survey instrument the apparent exposure rate from a dedicated check source at the time of calibration; (4) failure to check the survey instrument for proper operation with the dedicated check source each day of use; (5) failure to provide a personnel finger monitor to an individual who handles radioactive material on a regular basis; (6) failure to perform leak tests of sealed sources; (7) failure to perform inventories of sealed sources; and (8) failure to perform an annual review of the radiation protection program. The civil penalty was fully mitigated because: (1) this was the first escalated issue in the last 2 years, and (2) credit was warranted for corrective action.

***Southern California Edison Company, San Onofre, Units 2 & 3  
Supplement III***

***EA 97-585***

A Notice of Violation for a Severity Level III violation was issued on February 18, 1998. This action was based on a violation involving the discovery that a copy of the composite safeguards contingency plan was lost and not under the control of an authorized individual or locked in a locked security storage container. The plan was missing from the safeguards storage container in the security operations office, located outside the protected area. The civil penalty was fully mitigated because: (1) this was the first escalated issue in the last 2 years, and (2) credit was warranted for corrective action.

***St. Luke's Episcopal Hospital/Caribbean Nuclear  
Pharmaceuticals, Inc., Ponce, PR  
Supplement VI***

***EA-97-620***

A Notice of Violation for a Severity Level III problem was issued on January 30, 1998. This action was based on seven violations that included: (1) the failure to conduct surveys to demonstrate compliance with radiation dose limits for individual members of the public as a result of emissions of iodine-131 through a fume hood exhaust; (2) three separate examples of the failure to perform adequate surveys to demonstrate compliance with occupational radiation dose limits; (3) the failure to perform sealed source leak tests; (4) the failure to possess a required thyroid uptake probe; (5) the failure to calibrate radiation survey instruments;

(6) the failure to perform a quarterly dose calibrator linearity test, a repeat finding from an inspection conducted on January 27, 1997; and (7) the failure to perform an adequate dose calibrator linearity test which indicated a programmatic breakdown in the control of licensed activities. The civil penalty was fully mitigated because: (1) this was the first escalated issue since original licensing of the facility, and (2) credit was warranted for corrective action.

*Temple University, Philadelphia, PA  
Supplement VI&VII*

*EA 97-426*

A Notice of Violation was issued for two Severity Level III problems on February 20, 1998. The first problem included the failure to conduct a weekly wipe survey of the Nuclear Medicine Lab in September 1996, and the deliberate creation of an inaccurate NRC-required record by entering survey data on the survey sheet even though the survey was not done. The second problem included: (1) the release of patients treated with temporary implants of cesium-137 and iridium-192, as well as patients treated with the High Dose Rate Afterloader, without performing a radiation survey of the patients to confirm that all sources had been removed, (2) the failure to return cesium-137 brachytherapy sources to the storage area and count the number returned, after such sources were used; and (3) the failure to determine the accuracy of source positioning for the HDR source on a monthly basis in 1996. Although this was not the first escalated action in 2 years the civil penalty for each Severity Level III problem was fully mitigated because: (1) credit was warranted for identification and (2) credit was warranted for corrective action.

*Tennessee Valley Authority, Sequoyah, Units 1&2  
Supplement I*

*EA 97-409*

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on December 8, 1997. The action was based on one Severity Level III problem consisting of three violations related to a failure to maintain a direct current vital battery channel energized and operable. A base civil penalty was proposed in this case because: (1) this was not the first escalated enforcement action within 2 years, (2) credit was not warranted for identification because prior opportunities to identify the violations existed, and (3) credit was determined to be warranted for corrective action. The NRC subsequently withdrew the civil penalty on February 5, 1998, based on a conclusion that credit for identification was warranted. The Notice of Violation for the Severity Level III problem remained valid.

*Tennessee Valley Authority, Watts Bar  
Supplement III*

*EA 98-201*

A Notice of Violation was issued on June 18, 1998, for a Severity Level III problem involving the physical security program including: (1) the failure of two metal detectors to detect a test weapon during a test on nine occasions, (2) the failure of closed circuit television (CCTV) cameras in nine zones to provide adequate visual surveillance of the perimeter barrier, the perimeter intrusion detection system, and those portions of the isolation zones necessary to enable assessment of alarm stimuli, and (3) the failure of microwave equipment to detect an individual jumping over the transmitter/receiver microwave field six times in five locations. The civil penalty was fully mitigated because: (1) this was the first escalated issue in the last 2 years, and (2) credit was warranted for corrective action.

*Theilsch Engineering, Inc., Bridgeport, CT  
Supplement VI*

*EA 98-161& 98-162*

A Notice of Violation for two Severity Level III violations was issued on April 23, 1998. The first Severity Level III violation involved the failure to file with the NRC, Form-241, "Report of Proposed Activities in Non-Agreement States," prior to engaging in activities in Connecticut, a Non-Agreement State. The second Severity Level III violation involved the failure to keep an unauthorized individual out of a restricted area when radiography was being performed. The civil penalty was fully mitigated for each Severity Level III violation because: (1) this was the first escalated action in 2 years, and (2) credit was warranted for corrective action.

*Tri-State Area Nuclear Pharmacy, Huntington, WV  
Supplement VI*

*EA 97-595*

A Notice of Violation for a Severity Level III problem was issued on January 8, 1998. The action was based on: (1) two examples of the failure to secure licensed materials against unauthorized removal or access as required by 10 CFR 20.1801, and (2) the transfer of licensed material to a person who was not authorized to receive such material. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action.

*Unified Testing Services, Woostock, IL  
Supplement IV*

*EA 98-222*

A Notice of Violation was issued on June 16, 1998, for a Severity Level III violation involving the failure to secure from unauthorized removal or access and maintain constant surveillance of licensed material in an unrestricted area, in accordance with 10 CFR 20.1801 and 10 CFR 20.1802. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action. In addition, due to the special circumstances of the case, the NRC exercised discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a Notice of Violation for a failure to train radioographers in accordance with required procedures.

*Union Camp Corporation, Franklin, VA  
Supplements IV&VI*

*EA 97-575*

A Notice of Violation for a Severity Level III problem was issued on February 5, 1998. This action was based two violation involving: (1) the failure to ensure that relocation of a fixed gauge containing a sealed source was performed by persons specifically licensed to perform such services as required, and (2) the failure to conduct radiological surveys or ensure that surveys were performed by licensed personnel during relocation of fixed gauges containing sealed sources. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years or two inspections, and (2) credit was warranted for corrective action.

*Union Electric Company, St. Louis, MO  
Supplements IV&VI*

*EA 97-480*

A Notice of Violation for a Severity Level III problem was issued on October 28, 1997. This action was based on two violations involving: (1) removal of licensed material by unauthorized individuals, and (2) failure to secure licensed material from unauthorized removal. The civil penalty was fully mitigated

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because: (1) this was the first escalated issue since original licensing of the facility, and (2) credit was warranted for corrective action.

*University of Michigan, Ann Arbor, MI  
Supplement I*

*EA 98-155*

A Notice of Violation for a Severity Level III violation was issued on May 13, 1998. This action was based on a failure to adequately perform a required 10 CFR 50.59 evaluation for a modification involving installation of a new primary cooling pump and motor and removal of a pump discharge valve internals. The civil penalty was fully mitigated because: (1) this was the first escalated issue in the last 2 years, and (2) credit was warranted for corrective action.

*University of Minnesota, Minneapolis, MN  
Supplements IV&VI*

*EA 98-149*

A Notice of Violation for a Severity Level III problem was issued on April 10, 1998. This action was based on three violations involving the failure to ensure that all sources taken from the storage area were returned; failure to secure and control licensed material; and failure to ensure that dose in unrestricted areas from external sources did not exceed two millirem in any one hour. The civil penalty was fully mitigated because: (1) this was the first escalated issue in the last 2 inspections, and (2) credit was warranted for corrective action.

*University of South Dakota, School of Medicine  
Supplement VI*

*EA 97-509*

A Notice of Violation for a Severity Level III problem was issued on December 22, 1998. This action was based on violations involving failures to: (1) secure radioactive materials against unauthorized removal; (2) conduct quarterly radiation safety program reviews with the university president; (3) assure, through the appointed radiation safety officer (RSO), that activities were being conducted in accordance with all requirements; (4) hold radioactive waste for 10 half-lives prior to disposal; (5) use only radiation survey instruments calibrated at six-month intervals; (6) conduct physical inventories of radioactive sources at six-month intervals; (7) assure that all purchases of radioactive materials were approved in advance by the RSO; (8) provide annual radiation exposure reports to workers; and (9) provide radiation safety training to housekeeping and security personnel. The civil penalty was fully mitigated because: (1) this was the first escalated issue in the last two inspections, and (2) credit was warranted for corrective action.

*University of Wisconsin-Oshkosh, Oshkosh, WI  
Supplement VI*

*EA 98-100*

A Notice of Violation for a Severity Level III problem was issued on March 27, 1998. This action was based on seven violations that demonstrated a programmatic breakdown of control over licensed activities. The root cause of this breakdown stemmed from the lack of program oversight by the Radiation Safety Office and university management. In addition, the radiation safety program personnel changes which occurred in September 1997, directly affected the continuity of program activities. The civil penalty was fully mitigated because: (1) this was the first escalated issue in two inspections, and (2) credit was warranted for corrective action.

*Virginia Commonwealth University  
Supplements IV&VI*

EA 97-417

A Notice of Violation for a Severity Level III violation was issued on October 28, 1998. This action was based on a violation involving two examples of the failure to secure licensed materials against unauthorized removal or access. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years or two inspections, and (2) credit was warranted for corrective action.

*Virginia Electric and Power Company, Surry, Units 1&2  
Supplement I*

EA 97-474

A Notice of Violation for a Severity Level III problem was issued on December 24, 1997. This action was based on two violations involving: (1) the failure to meet the requirements of 10 CFR 50, Appendix R, Section III.G, for vital bus isolation, and (2) the failure to take adequate corrective action for the issue in a timely manner. Although this was not the first escalated action in 2 years, the civil penalty was fully mitigated because: (1) credit was warranted for identification and (2) credit was warranted for corrective action.

*Virginia Power Company, Chester, VA  
Supplement VI*

EA 97-419

A Notice of Violation for a Severity Level III violation was issued on October 29, 1997. This action was based on a violation involving the unauthorized removal of a generally licensed fixed gauge containing about 72 millicuries (mCi) of cesium 137 (Cs-137) from its permanent mounting to a fly ash hopper by a contract worker who was neither trained nor licensed to perform such activities. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years or two inspections, and (2) credit was warranted for corrective action.

*ViroMed Laboratories, Inc., Minneapolis, MN  
Supplement VI*

EA 98-276

A Notice of Violation for a Severity Level III problem was issued on May 27, 1998. The problem was based on multiple violations involving failures to: (1) perform required radiation surveys when handling iodine-125; (2) obtain the appropriate approvals prior to ordering licensed material; (3) make the appropriate notifications upon receipt of radioactive material; (4) follow package receipt and survey procedures; (5) monitor empty package material prior to discard; (6) perform monthly laboratory surveys; and (7) monitor the radioactive storage room on a monthly basis. The civil penalty was fully mitigated because: (1) this was the first escalated issue in two inspections, and (2) credit was warranted for corrective action.

*Washington Public Power Supply System, WNP-2  
Supplement I*

EA 97-138

A Notice of Violation for a Severity Level III problem was issued on February 20, 1998. This action was based on four violations involving the failure to test the response time of various plant instrumentation systems in accordance with existing requirements, and the failure to obtain approval from the NRC, as required by 10 CFR 50.59, before ceasing response-time testing required by technical specifications. The NRC refrained from issuing a civil penalty in accordance with Section VII.B.6 of the Enforcement Policy (see Appendix E).

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**Washington Public Power Supply System, WNP-2  
Supplement I**

EA 97-573

A Notice of Violation for a Severity Level III problem was issued on June 1, 1998. This action was based on multiple violations including failures to: (1) perform a safety evaluation in accordance with 10 CFR 50.59 prior to downgrading the RCIC system from a safety-related system to a non-safety-related system, a change which constituted an unreviewed safety question, and (2) maintain the acceptance criteria for the opening stroke-time testing of six RCIC System valves and the failure to maintain inservice testing of Valve RCIC-V-45 as required by 10 CFR 50.55a(f). Given prior escalated enforcement action, and the NRC's identification of these violations, a civil penalty would have resulted following the normal civil penalty assessment process described in VI.B.2 of the Enforcement Policy. However, in accordance with Section VII.B.6 of the Enforcement Policy, the NRC exercised discretion and refrained from issuing a civil penalty in this case. (See Appendix E.)

**Windham Community Memorial Hospital, Inc./  
Hatch Hospital Corp, Willimantic, CT  
Supplement VII**

EA 97-392

A Notice of Violation for a Severity Level III problem was issued on February 6, 1998. This action was based on two violations involving the creation of false records. One violation involved the creation of approximately two months of inaccurate records of the daily dose calibrator constancy test by a former Nuclear Medicine Technologist (NMT); and the other violation involved the creation of inaccurate records associated with the disposal of aerosol kits by the NMT Supervisor. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years or two inspections, and (2) credit was warranted for corrective action.

**Windsor Services, Inc., Reading, PA  
Supplement VI**

EA 97-596

A Notice of Violation for a Severity Level III problem was issued on December 22, 1997. This action was based on four violations involving: (1) failure to notify the NRC, and secure NRC consent in writing, prior to a change in ownership which transferred control of the license, (2) failure to obtain a license amendment prior to using a new RSO, (3) failure to perform a review of the radiation safety program content and implementation, and (4) failure to provide annual refresher training to gauge users. The civil penalty was fully mitigated because: (1) this was the first escalated issue in two inspections, and (2) credit was warranted for corrective action.

**Wyatt-Jaykim Engineers, Spokane, WA  
Supplement VI**

EA 98-157

A Notice of Violation was issued on June 19, 1998, for a Severity Level III violation. This violation was based on the fact that on numerous occasions in 1994, 1995, 1996, and 1997, Wyatt Engineering, aka Wyatt-Jaykim Engineers, a licensee of the state of Washington, used cesium-137 and americium-241 sealed sources in portable gauges in the state of Idaho, a non-Agreement State, without filing Form-241 with the NRC. The civil penalty was fully mitigated because: (1) this was the first escalated issue in two inspections, and (2) credit was warranted for corrective action.

A Notice of Violation for a Severity Level III problem and a Severity Level III violation was issued on March 4, 1998. The Severity Level III problem was based on three violations involving the transport of radioactive material (technetium-99m) between two facilities on numerous occasions between 1988 and 1995 without shipping papers accompanying the shipment; without examination or testing of the shipment to ensure radiation and contamination levels were within limits; and without properly securing the material to prevent shifting during transport. The Severity Level III violation was based on a former employee providing inaccurate information to an NRC inspector during the inspection. Although the violations associated with the Severity Level III problem were determined to be willful, the civil penalty was fully mitigated because: (1) credit was warranted for identification and (2) credit was warranted for corrective action. A civil penalty would have been warranted for the Severity Level III violation under the normal assessment process, in that (1) it was willful, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action. However, the NRC refrained from issuing a civil penalty in accordance with Section VII.B.6 of the Enforcement Policy. (See Appendix E.)

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## APPENDIX B: SUMMARY OF PROPOSED CIVIL PENALTIES

*Alaron Corp., Walpum, PA  
Supplement VI*

*EA 98-144*

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$5,5000 was issued on June 3, 1998. The action was based on a Severity Level III violation involving a willful failure to dispose of waste at the licensee's your facility that had been in storage for more than 2 years. A base civil penalty was proposed for this violation because: (1) this was a willful violation, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

*Altoona Hospital, Altoona, PA  
Supplement VI*

*EA 98-194*

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,750 was issued on May 14, 1998. The action was based on a Severity Level III violation of the quality management program involving failure to have written directive for administering Iodine-131. A base civil penalty was proposed for this violation because: (1) this was the first escalated action in 2 years, (2) credit was not warranted for corrective action.

*Arizona Public Service, Palo Verde  
Supplement I*

*EA 98-131*

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$50,000 was issued on July 10, 1998. The action was based on a Severity Level III problem that included three violations for failures to: (1) perform a required surveillance within the required time frame, (2) maintain required records complete and accurate in all material respects, and (3) report the missed surveillance to the NRC as required by 10 CFR 50.73. A base civil penalty was proposed for this violation because: (1) this was a willful violation, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

*Baltimore Gas & Electric Co., Calvert Cliffs  
Supplement I*

*EA 98-280*

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on September 2, 1998. This action was based on a Severity Level III problem consisting of three violations that involved multiple failures to adhere to radiological control procedures during replacement of nuclear instrumentation (NI) detectors in the reactor annulus. These violations included: (1) the failure of workers to wear alarming dosimetry when entering the reactor annulus; (2) the failure of radiation protection personnel to stop work when unexpected alarms and radiological conditions were encountered; and (3) the failure to properly determine worker stay times for work in a high radiation area. Although the civil penalty would have been fully mitigated under the normal assessment process (based on the fact that the problem was not the first escalated action within 2 years, that credit was warranted for identification and corrective actions), discretion was exercised in accordance with Section VII.A.1 of the Enforcement Policy because: (1) of particularly poor previous performance, and (2) failure to preclude recurrence of the violations.

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***Boston Edison Company, Pilgrim  
Supplement I******EAs 97-482, 97-525  
98-255, 98-052***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$165,000 was issued on April 27, 1998. This action is based on two Severity Level III violations and one Severity Level III problem involving seven violations of failure to identify and/or take prompt and comprehensive corrective action for conditions adverse to quality associated with the design of safety-related cooling water systems, the emergency core cooling systems (ECCS), the emergency diesel generators (EDGs), and other electrical equipment important to safety. The violations involved deficiencies in BECo's design control and safety evaluation. Base civil penalties were proposed in each case because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action. Additionally, during a follow-up review of EDG loading, a deficiency was identified with thermal overload relay trip settings that could have resulted in an inadvertent trip of the pumps and a loss of all SSW cooling. The NRC exercised enforcement discretion and did not issue a Notice of Violation and did not propose a civil penalty for this issue. (See Appendix E.)

***Boston Edison Company, Pilgrim  
Supplement I******EA 98-191***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on May 19, 1998. This action is based on a Severity Level III violation involving multiple examples of equipment failures associated with the protected area assessment system used by security personnel to continuously monitor and assess the security status at the facility. A base civil penalty was proposed for this violation because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***Breitling USA Watch Company,  
Supplement VI******EA 98-163***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$26,400 was issued on July 10, 1998. The action is based on two Severity Level II violations involving the possession and use, as well as distribution, of NRC licensed material without possessing NRC licenses authorizing these activities. In addition, since the licensee received the timepieces (watches) from its parent company in Switzerland and distributed them to jewelry shops in the United States, the licensee did not qualify for the exemption set forth in 10 CFR 30.15(a) regarding such activities. After considering the regulatory significance of the violations, which included the inability of the NRC to conduct inspections of the licensee's activities, the duration of the violations, the costs of maintaining NRC licenses which the licensee avoided during the period of noncompliance, and the licensee's failure to promptly contact the NRC once it had indications that the need for a license was likely, the NRC determined, in accordance with Section VII.A.1.(a) of the Enforcement Policy, that it was appropriate to exercise enforcement discretion in this case and issue separate civil penalties in the amount of \$13,200 for each of the two violations, resulting in a cumulative civil penalty of \$26,400. The NRC arrived at the \$13,200 amount for each civil penalty by tripling the base civil penalty amount of \$4,400 for a Severity Level II violation listed in Tables 1A and 1B, Base Civil Penalties, of the Enforcement Policy.

*Carolina Power and Light Company, Robinson  
Supplement I*

EA 97-490

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on December 12, 1997. The action is based on one Severity Level III problem consisting of two violations including: (1) the failure to identify promptly and correct a mispositioned EDG output breaker control switch; and, (2) the failure to take adequate corrective action to preclude repetition of position control errors affecting the EDG local control panels. The potential safety and regulatory significance of the event were high because, under certain accident scenarios, the "B" EDG had been incapable of automatically energizing the emergency bus for a significant period of time and because a similar escalated enforcement action was issued in 1994 which should have alerted CP&L to the need to place comprehensive configuration controls on components that are not alarmed when they are out of the safeguards position. A base civil penalty was proposed in this case because: (1) this was not the first escalated action in 2 years, (2) credit was warranted for identification, and (3) credit was not warranted corrective action.

*Carolina Power and Light Company, Shearon Harris  
Supplement III*

EA 98-020

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on March 26, 1998. The action involved a Severity Level III violation for two examples in which individuals were inappropriately granted unescorted access to the protected and vital areas of the plant. Although the civil penalty would have been fully mitigated under the normal assessment process (based on the fact that the violation was not the first escalated action within 2 years, and that credit was warranted for identification and corrective actions), discretion was exercised in accordance with Section VII.A.1 of the Enforcement Policy because of the failure to preclude recurrence of the violations.

*Cleveland Electric Illuminating Company, Perry  
Supplement I*

EAs 97-047, 97-430

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$100,000 was issued on November 18, 1997. The action was based on two Severity Level III violations involving (1) an inadvertent reactivity addition that was not prevented by corrective actions for a similar prior event associated with flow control valves for the reactor recirculating water system (EA -047), and (2) a violation of 10 CFR 50.59 for changes to procedures involving the Emergency Closed Cooling System (component cooling) that resulted in an Unreviewed Safety Question (EA 97-430). Base civil penalties were proposed because: (1) this was not the first escalated action in last 2 years, (2) credit for identification was not warranted, and (3) credit for corrective action was warranted. A Notice of Violation for third Severity Level III (EA 97-542) violation was also issued with this action (see EA 97-542 in Appendix A) and discretion was exercised for a fourth potential Severity Level III violation (see EA 96-482 in Appendix E).

*Colon-Vaquar, Jose, M.D., Manati, PR  
Supplement VI*

EA 98-184

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$4,400 was issued on May 22, 1998. The civil penalty action was based on a Severity Level II problem that involved two misadministrations. A base civil penalty was proposed for the Severity Level II problem because: (1) it was a Severity Level II issue, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action. A Notice of Violation was also issued for a Severity Level III violation that involved the

use of licensed material when the license was expired, and a Severity Level III problem that involved seven violations that collectively demonstrated the licensee's inability or unwillingness to develop and maintain the required oversight of the use of licensed material. (See EA 98-184 in Appendix A.)

***Commonwealth Edison Company, Braidwood, Units 1&2  
Supplement I***

***EA 97-265***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on October 3, 1997. This action is based on a Severity Level III violation involving the failure to comply with technical specifications. Specifically, the centrifugal charging system pump casings and discharge piping high points were not vented at least once every 31 days as required by technical specifications. A base civil penalty was proposed because: (1) this was not the first escalated enforcement action within the past 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***Commonwealth Edison Company, Byron, Units 1&2  
Supplement I***

***EA 97-264***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on October 3, 1997. This action is based on a Severity Level III problem involving two violations of failing to comply with technical specifications. The first violation consists of two examples of failing to vent emergency core cooling system pump casings and discharge piping high points at least once every 31 days. The second violation consists of two examples of failing to perform a continuity check on Containment Isolation Phase "A" Isolation Valves on a quarterly basis. A base civil penalty was proposed because: (1) this was not the first escalated enforcement action within the past 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***Commonwealth Edison Co., Quad Cities  
Supplement I***

***EA 98-231***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$88,000 was issued on September 11, 1998. The action was based on a Severity Level II problem that involved 16 violations that represented inadequacies in the licensee's capability to shutdown the facility following a postulated design basis fire. A base civil penalty was proposed because: (1) this was not the first escalated issue in 2 years, (2) credit was warranted for identification, and (3) credit was not warranted for corrective action.

***Commonwealth Edison Company, Quad Cities, Units 1&2  
Supplement I***

***EA 97-466***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on March 3, 1998. This action is based on a Severity Level III problem consisting of multiple violations involving the failure to adequately implement 10 CFR 50.65, "Requirements for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants" (the Maintenance Rule). While the actual safety consequence of each violation was low, they have high regulatory significance in that they represent a lack of effective oversight and a programmatic breakdown in the implementation of the Maintenance Rule. A base civil penalty was proposed because: (1) this was not the first escalated enforcement action within the past 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

*Commonwealth Edison Company, Quad Cities, Units 1&2  
Supplement I*

EA 97-591

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$330,000 was issued on March 12, 1998. This action is based on two Severity Level III problems consisting of two violations involving performing reactor coolant pressure boundary leakage testing at 12% power, in violation of 10 CFR Part 50, Appendix G, "Fracture Toughness Requirements" and six violations involving the failure to perform adequate ASME Code visual testing of the pressure boundary. In accordance with the normal assessment process, a base civil penalty was warranted for the first problem because: (1) this was not the first escalated enforcement action within 2 years, (2) credit was not warranted for identification and (2) credit was not warranted for corrective action. Twice the base civil penalty was warranted for the second problem because: (1) this was not the first escalated enforcement action within 2 years, (2) credit was not warranted for identification and (3) credit was not warranted for corrective action. However, the NRC determined that discretion was warranted in accordance with Section VII.A.1 of the Enforcement Policy for both problems to double each civil penalty due to the particularly poor performance as manifested in the poor management oversight of these plant activities.

*Commonwealth Edison Company, Zion, Unit 1&2  
Supplement VII*

EA 97-249

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$110,000 was issued on January 15, 1998. The action is based on a Severity Level III problem involving the implementation of the Fitness-for-Duty (FFD) program at the Zion Station. In particular, two supervisors noticed alcohol on the breath of employees and the supervisors failed to send the employees for FFD testing. Also, the FFD procedures for recalling employees to the station were not implemented on two occasions. Twice the base civil penalty was proposed because: (1) this was not the first escalated enforcement action within the last 2 years, (2) credit for identification was not warranted because the individual issues were identified through allegations and the NRC identified the programmatic problems with the FFD program, and (3) credit for corrective action was not warranted because the licensee's corrective actions failed to address the programmatic aspects of the problem.

*Consolidated Edison Company, Indian Point, Unit 2  
Supplement I*

EA 97-367

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$110,000 was issued on October 7, 1997. This action is based on a Severity Level III violation and a Severity Level III problem. The Severity Level III problem, which was identified through NRC questioning during observation of control room activities, involved two violations related to the Overpressure Protection System (OPS) being inoperable. The Severity Level III violation, identified as a result of a test failure, involved the poor response by management to a significant reduction in the observed differential head of one of the recirculation pumps in 1989, and to an engineer's identification in 1995 of this reduction in performance. Base civil penalties were proposed for each case because: (1) this was not the first escalated enforcement action within 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

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**Consolidated Edison Company, Indian Point, Unit 2  
Supplement I****EA 97-576 & 98-056**

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$110,000 was issued on July 6, 1998. The action was based on a Severity Level III problem and a Severity Level III violation. The Severity Level III problem included two violations associated with the failure by the licensee's staff to perform certain surveillance testing activities, and the creation of inaccurate documents to indicate that these activities had been performed. The Severity Level III violation involved the failure to determine the cause and take adequate corrective actions to preclude repetition of a significant condition adverse to quality involving 480 volt (V) safety-related circuit breakers. Base civil penalties were proposed for each case because: (1) this was not the first escalated enforcement action within 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action. A Notice of Violation was also issued for a Severity Level III violation for failure to ensure that all testing required to demonstrate that systems and components will perform satisfactorily in service as specified in the TSs, was incorporated into surveillance test procedures. (See EA 98-192 in Appendix A.)

**Consumers Power Company, Palisades  
Supplement I****EA 97-569**

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on April 2, 1998. The action was based on six violations that represent a Severity Level III problem. The violations refer to both conduct of operations errors made by a shift operating crew and failures to follow maintenance-related procedures by maintenance personnel when power was removed from all of the control rod drives during power operation to facilitate the repair of a single control rod drive. A base civil penalty was proposed in this case because: (1) this was not the first escalated enforcement action within 2 years, (2) credit was not warranted for identification and (3) credit was given for corrective action.

**CTI., Incorporated, Anchorage, AL  
Supplement VI****EA 97-539**

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$5,500 was issued on January 20, 1998. This action was based on a Severity Level III problem for approaching a radiography exposure device containing a 192-curie source before the source was moved to its shielded position and failing to use an operable survey instrument to perform a radiation survey of the same device. A base civil penalty was proposed in this case because: (1) this was not the first escalated enforcement action within 2 years, (2) credit was not warranted for identification and (3) credit was given for corrective action.

**De Leon, M.D., Dr. Jose N., Asla Verde, PR  
Supplement VI****EA 97-627**

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$5,000 was issued on April 28, 1998, for a Severity Level III violation involving the failure to establish and maintain a written quality management program to provide high confidence that the strontium-90 eye applicator would be administered as directed by an authorized user, that resulted in 9 misadministrations. The NRC exercised enforcement discretion in accordance with Section VII.A of the Enforcement Policy and proposed twice the base civil penalty. Discretion was warranted because the NRC considered the violation to be particularly egregious because Dr. León was directly responsible for 9 misadministrations at his facility. In addition, Dr. León failed to identify a significant change in treatment time calculated by a Health Physics

**Appendix B**

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Consultant or to take further action to verify the accuracy of the calculations prior to treatment of patients. The NRC subsequently withdrew the civil penalty based on an agreement by the licensee to transfer the strontium-90 eye applicator in accordance with regulations.

***Department of the Army, Rock Island, IL  
Supplement IV & VI***

***EA 97-350***

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$16,000 was issued on November 12, 1997. The action was based on two Severity Level II problems including failures to: (1) properly store licensed material, conduct annual inspections and inventories, provide training, conduct tests by persons authorized to do so, conduct surveys, and perform maintenance in accordance with procedures; and (2) provide notifications to the NRC. Many of the violations were repeat violations. Base civil penalties were proposed for each Severity Level II problem because: (1) this was not the first escalated action in 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***Duquense Light Company, Beaver Valley  
Supplement I***

***EA 97-517***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on January 6, 1998, for a Severity Level III violation. This action was based on the failure to take adequate action to correct a significant condition adverse to quality involving gas binding of the high head safety injection (HHSI) pumps at both units. A base civil penalty was proposed in this case because: (1) this was not the first escalated enforcement action within the past 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***Entergy Operations Incorporated, River Bend Station  
Supplement I***

***EA 97-497***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on December 23, 1997. This action was based on a Severity Level III problem involving the failure to ensure shutdown cooling systems were adequately maintained and the to establish adequate procedures for operation of shutdown cooling. A base civil penalty was proposed in this case because: (1) this was not the first escalated enforcement action within 2 years, (2) credit was not warranted for identification and (3) credit was warranted for corrective actions.

***Entergy Operations Incorporated, Waterford  
Supplement I***

***EA 98-022***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$110,000 was issued on June 16, 1998. This action was based on a Severity Level III problem involving multiple violations associated with HPSI flow issues, including: the failure to adequately consider test instrument uncertainties and valve position variability when performing surveillance testing of HPSI; the failure to identify and correct this concern despite several indications of the problem at various points in time; and the failure to make timely reports to the NRC and develop a corrective action plan within the required time frame. Twice the base civil penalty was proposed in this case because: (1) this was not the first escalated enforcement action within 2 years, (2) credit was not warranted for identification and (3) credit was not warranted for corrective actions. The NRC also exercised discretion in accordance with Section VII.B.6 for a potential Severity

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Level III violation of 10 CFR 50.59 associated with reduced flow rates for EFW. Discretion was warranted based on the specific circumstances of the case and consideration of the information that was presented at the conference.

***Florida Power and Light Company, St. Lucie, Units 1&2  
Supplement I***

***EA 98-009***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$88,000 was issued on March 25, 1998. The action was based on a Severity level II problem involving two violations associated with the licensee's failure to properly calibrate the Refueling Water Tank (RWT) level bistables. This condition resulted in a Recirculation Actuation Signal (RAS) bistable setpoint below the required Technical Specifications (TSs) requirements. This incorrect setpoint would cause ECCS pump air entrainment resulting in the licensee not having reasonable assurance that the ECCS systems would remain operable under all postulated accident scenarios. Although the civil penalty would have been fully mitigated under the normal assessment process (because (1) this was not the first escalated enforcement action within 2 years, (2) credit was warranted for identification and (3) credit was warranted for corrective actions), the NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy and issued a base civil penalty. (See Appendix E.)

***Frontier Production Logging  
Supplement VI***

***EA 97-327***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,750 was issued on November 7, 1997. The action was based on a Severity Level III violation involving a willful failure to file the necessary documentation to receive NRC approval prior to vacating an authorized radioactive material storage location. A base civil penalty was proposed because: the violation was willful, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action. A Notice of Violation for a Severity Level III problem and a Confirmatory Order were also issued with the action (see Appendix A and EA 97-457 in Appendix C).

***GPU Nuclear Corporation, Oyster Creek  
Supplement I***

***EA 98-220***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on June 15, 1998, for a Severity Level III problem involving the inoperability of automatic depressurization valves as well as design errors and apparent qualification concerns that contributed to the inoperability. A base civil penalty was warranted because: (1) this was not the first escalated enforcement action within the past 2 years, (2) credit was not warranted for identification and, (3) credit was warranted for corrective action.

***GPU Nuclear Corporation, Three Mile Island, Unit 1  
Supplement I***

***EA 97-070, 97-117, 97-127  
& 97-256***

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$210,000 was issued on October 8, 1997, for four Severity Level III problems involving: (1) inadequate engineering design controls, and inadequate safety evaluations prior to making design changes; (2) poor implementation of the process for classifying components, resulting in a number of nuclear safety-related components being downgraded to a lower classification without an appropriate safety evaluation; (3) failure to ensure the emergency cooling fans were environmentally qualified; and (4) inadequate implementation of the emergency

## Appendix B

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preparedness program. Base civil penalties for each of the Severity Level III problems because: (1) this was not the first escalated enforcement action within the past 2 years, (2) credit was not warranted for identification and, (3) credit was warranted for corrective action. A Notice of Violation was also issued for a Severity Level III violation involving the failure to take timely and appropriate corrective actions for conditions adverse to quality that existed at the facility, including conditions related to the Decay Heat Removal system, to the quality assurance findings regarding inappropriate equipment classification downgrades, and to the environmental qualification (EQ) deficiency. (See Appendix A.)

### *Ground Engineering and Testing Service Incorporated Supplement VI*

*EA 98-021*

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$5,500 was issued on March 25, 1998. The action was based on a Severity Level III violation involving the willful failure of this Agreement State licensee to file for reciprocity before conducting work in NRC jurisdiction. A double base civil penalty was proposed because: (1) this violation was associated with careless disregard, (2) credit was not warranted for identification and, (3) credit was not warranted for corrective action.

### *Koch Engineering Company Incorporated Supplement V*

*EA 98-061*

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$4,400 was issued on March 13, 1998. The action was based on a Severity Level II violation involving failure to ensure, by examination or test, that each closure device of a package containing radioactive material was properly installed, secured, and free of defects before transportation. A base civil penalty was proposed because: (1) the violation was classified as a Severity Level II, (2) credit for identification was not warranted, and (3) credit for corrective action was warranted.

### *Mallinckrodt Medical Incorporated Supplement IV*

*EA 97-342 & 97-355*

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$55,000 was issued on December 17, 1997. The action was based on: (1) a Severity Level I problem involving failure to limit the annual shallow-dose equivalent of an occupational worker to 50 rems and failure to make or cause to be made surveys to assure compliance with 10 CFR Part 20; and (2) a Severity Level III violation for delivering to a carrier for transport licensed material in two packages that arrived at their destinations with contact radiation levels that exceeded 200 millirem. Although the civil penalty would have been fully mitigated for the Severity Level I problem because: (1) this was not the first escalated enforcement within the last 2 years, (2) credit was warranted for identification and (3) credit was warranted for corrective action, the NRC exercised discretion in accordance with Section VII.A.1 of the Enforcement Policy by proposing a base civil penalty. As for the Severity Level III violation, a base civil penalty would have been proposed because: (1) credit for identification was not warranted, and (2) credit for corrective action was warranted. However, the NRC also exercised discretion pursuant to Section VII.A.1 of the Enforcement Policy to issue a civil penalty at twice the base amount. (See Appendix E.)

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**Mattingly Testing Service  
Supplement VII**

EA 97-180

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$10,000 was issued on October 31, 1997. The action was based on a violation of 10 CFR 30.7(a), which prohibits discrimination by a Commission licensee against an employee for engaging in certain protected activity. Specifically, the employee was terminated from his position because he identified violations of NRC requirements to the NRC. A double base civil penalty was proposed because: (1) this violation was not the first escalated enforcement within the last 2 years, (2) credit was not warranted for identification and, (3) credit was not warranted for corrective action. This action was subsequently withdrawn on September 15, 1998, based on the underlying facts of the case, the licensee's response to the proposed action, and the differing OI reports and DOL decisions.

**Moisture Protection Systems  
Supplement VI**

EA 97-605

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$5,500 was issued May 20, 1998 for a Severity Level III violation based on the company's failure to pay annual fees and failure to afford the NRC the opportunity to inspect. The NRC had attempted three inspections at various licensee locations, but never located the licensed material and had been unable to reach the licensee president and authorized user. A double base civil penalty was proposed because: (1) this violation involved careless disregard, (2) credit was not warranted for identification and, (3) credit was not warranted for corrective action. An Order Modifying Order Suspending License and Order Revoking License was also issued in conjunction with this action. (See EA 98-213 in Appendix C.)

**Nebraska Public Power District, Cooper Station  
Supplement I**

EA 97-424

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$110,000 was issued on December 1, 1997. This action was based on a Severity Level III problem involving numerous violations of failure to either identify or correct conditions adverse to quality. The most significant examples were failure to identify and correct water retention in the offgas system holdup line, potentially rendering both standby gas treatment trains inoperable, and failure to identify and correct significant fouling of a residual heat removal system heat exchanger. A double base civil penalty was proposed in this case because: (1) this was not the first escalated enforcement action within 2 years, (2) credit was not warranted for identification, and (3) credit for corrective action was not warranted.

**New York Power Authority, Indian Point 3  
Supplement I**

EA 98-336

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on August 19, 1998. This action was based on a Severity Level III violation involving the failure, following a design modification in October 1997, to have adequate design measures to ensure that the emergency diesel generator (EDG) auxiliaries would perform within the design basis. A base civil penalty was proposed in this case because: (1) this was not the first escalated enforcement action within 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***Niagra Mohawk Power Corporation, Nine Mile Point  
Supplement I***

***EA 97-007***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$50,000 was issued on November 5, 1997. The action was based on a Severity Level III problem involving two violations with multiple failures to meet the requirements of the Maintenance Rule, 10 CFR 50.65. These violations, collectively, represented a programmatic breakdown in the development and implementation of the program to ensure compliance with the regulatory requirements of the Maintenance Rule. A base civil penalty was proposed because: (1) this was not the first escalated enforcement action with 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***Niagra Mohawk Power Corporation, Nine Mile Point  
Supplement V***

***EA 97-530***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on January 22, 1998. This action was based on a Severity Level III problem involving four violations of transportation requirements during four different shipments of radioactive material. While the actual safety consequence of the violations was low in each case, the violations indicate a lack of adequate oversight of the radioactive materials handling and transportation program. In addition, the violations demonstrate a clear potential for greater safety consequences, as evidenced by the fact that three of those shipments occurred during a 2-month period in 1997. A base civil penalty was proposed in this case because: (1) this was not the first escalated enforcement action within the past 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***Northeast Nuclear Energy, Millstone, Units 1,2 &3  
Supplement I***

***EA 96-034, 96-067, 96-086, & 96-106***

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$2,100,000 was issued on December 10, 1997. The action was based on three Severity Level II and one Severity Level III problems consisting of : (1) 31 violations involving substantial and longstanding failures to meet design control requirements and to maintain the licensing bases, (2) 18 violations involving longstanding unsatisfactory performance in identification and correction of significant conditions adverse to quality, (3) eight violations of technical specifications involving inoperable equipment and degraded conditions, and (4) 11 failures in implementing various aspects of the quality assurance program. In assessing the penalty in this case, consideration was given to the varying degrees of significance and duration of the violations as well as the number of examples of the violations. The penalty was comprised of \$500,000 for the violations related to inadequate engineering; \$1,000,000 for the violations related to inadequate corrective actions; \$500,000 for the violations related to violations of technical specifications; and \$100,000 for the violations of quality assurance. In arriving at the cumulative amount of the civil penalties, the staff to exercised enforcement discretion in accordance with section VII.A of the Enforcement Policy.

***Northeast Nuclear Energy, Millstone, Units 1,2& 3  
Supplement I***

***EA 97-562***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on March 9, 1998. The action was based on one Severity Level III violation regarding failure to take adequate corrective actions with respect to the potential for air in certain portions of the recirculation spray system to be swept into the suction of the charging and safety injection pumps during the recirculation phase of a loss-

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of-coolant accident. A base civil penalty was proposed in this case because: (1) this was not the first escalated enforcement action within 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action. The NRC also exercised enforcement discretion in accordance with Section VII.B.2 of the Enforcement Policy and not issue a civil penalty or a violation for a potential Severity Level III violation regarding the potential for valve leakage from systems containing highly radioactive water to leak outside containment to the refueling water storage tank following a postulated accident for which. (See Appendix E.)

*Northern States Power Company, Prairie Island Station  
Supplement I*

EA 97-290

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$50,000 was issued on October 14, 1997. This action was based on a Severity Level III problem involving four violations pertaining to the Prairie Island staff's failure to establish an Inservice Test (IST) procedure acceptance criteria that would not compromise the auxiliary feedwater (AFW) system design basis requirements, to implement corrective actions when incorrect acceptance criteria for a safety injection pump IST procedure were identified, to analyze a discrepancy between the Updated Safety Analysis Report (USAR) and the anticipated AFW flow, and to maintain the fidelity of the USAR. A base civil penalty was proposed in this case because: (1) this was not the first escalated enforcement action within 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

*Ohio State University  
Supplement VI, V & VI*

EA 97-258

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$13,000 was issued on October 23, 1997. This action was based on: (1) a Severity Level II problem involving willful violations of inventory and waste storage requirements that occurred due to lack of adequate resources (\$8,000); and (2) two Severity Level III problems involving violations of reporting requirements and failure to secure licensed material (\$2,500 each). A base civil penalty was considered for the Severity Level II violation because: (1) escalated enforcement action had been taken within the past two inspections, (2) credit was warranted for identification, and (3) credit was not warranted for corrective action. However, discretion in accordance with Section VII.A.1 was warranted to double the base civil penalty because the violations were, in part, repetitive and reflected particularly poor licensee performance. A base civil penalty was proposed for each of the two Severity Level III problems because: (1) credit for identification was not warranted and (2) credit for corrective action was warranted. Additionally, a Demand for Information was issued with the action to obtain further assurance that the licensee's corrective measures will be long-lasting.

*Omaha Public Power District, Fort Calhoun Station  
Supplement I*

EA 97-432

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$110,000 was issued on October 24, 1997. This action was based on a Severity Level III problem involving the disabling of the containment spray system. Under the normal assessment process, a base civil penalty was appropriate for this case because: (1) this was not the first escalated enforcement action within 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective actions, which were prompt and comprehensive. However, discretion was exercised due to the similarity to past events to assess a penalty at twice the base value. (See Appendix E.)

*Overhoff Technology Corporation  
Supplement VI*

EA 96-242

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,500 was issued on April 16, 1998. This action was based on a Severity Level III problem that involved shipment of devices containing tritium in excess of the exempt quantity, in violation of the Licensee's distribution license. A base civil penalty was proposed because: (1) this violation involved careless disregard, (2) credit was not warranted for identification and, (3) credit was warranted for corrective action. However, on August 19, 1998, after reconsideration of the types and quantities of material involved in the violations, together with the fact that Overhoff constitutes a small entity for purposes of the Small Business Regulatory Enforcement Fairness Act (SBREFA), the NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and withdrew the civil penalty.

*Pennsylvania Power and Light Company, Susquehanna, Units 1&2  
Supplement I*

EA 97-472

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on January 9, 1998. This action was based on a Severity Level III violation involving the failure to establish adequate controls for activities affecting the quality and operability of the emergency diesel generators (EDGs). Specifically, PP&L failed to adequately control the position of the EDG Woodward governor controls and, as a result, one of the required EDGs was inoperable for an indeterminate period of time. A base civil penalty was proposed for this case because: (1) this was not the first escalated enforcement action within the past 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

*Philadelphia Electric Co., Limerick  
Supplement I*

EA 98-141

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on July 7, 1998. This action was based on a Severity Level III problem involving two violations where the licensee failed to identify and correct conditions adverse to quality resulting in the inoperability of the high pressure coolant injection turbine exhaust valve and the residual heat removal minimum flow valve. A base civil penalty was proposed for this case because: (1) this was not the first escalated enforcement action within the past 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

*Philadelphia Electric Co., Peach Bottom  
Supplement I*

EA 98-221

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on June 11, 1998. This action was based on a Severity Level III problem involving the failure to establish adequate instructions and procedures to prevent foreign material from entering the core spray subsystem and the failure to maintain the core spray subsystem operable. A base civil penalty was proposed for this case because: (1) this was not the first escalated enforcement action within the past 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

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***Public Service Electric and Gas Company, Hope Creek  
Supplement I***

***EAs 97-144 & 97-563***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 for a Severity Level III violation was issued on March 20, 1998. The violation involved the failure by an operating crew to follow procedures and act conservatively during a test, while the reactor was shutdown, to demonstrate core shutdown margin. A base civil penalty was proposed in the case because: (1) this was not the first escalated enforcement action within the past 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action. A Notice of Violation for a Severity Level III problem was also issued in conjunction with this action (see Appendix A). The Severity Level III problem involved two violations: (1) the failure to include certain systems, components and functions within the scope of the maintenance rule; and (2) the failure to adequately demonstrate that the performance or condition of a number of systems, components and functions is being effectively controlled through the performance of appropriate preventive. The civil penalty was not proposed because: (1) credit was warranted for identification and, (2) credit was warranted for corrective actions.

***Stroh Brewery Company  
Supplement IV***

***EA 97-486***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$4,400 for a Severity Level II violation was issued on December 19, 1997. The violation involved the unauthorized disposal of a Gamma Model 101 fill-level gauge (containing 100 millicuries of americium-241) by transferring the gauge to a scrap recycler. A base civil penalty was proposed in this case because: (1) this was a Severity Level II violation, (2) credit was not warranted identification because the loss was discovered as a result of an event, and (3) credit was warranted for corrective action.

***Tennessee Valley Authority, Sequoyah, Units 1&2  
Supplement I***

***EA 97-409***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on December 8, 1997. The action was based on one Severity Level III problem consisting of three violations related to a failure to maintain a direct current vital battery channel energized and operable. A base civil penalty was proposed in this case because: (1) this was not the first escalated enforcement action within 2 years, (2) credit was not warranted for identification because prior opportunities to identify the violations existed, and (3) credit was determined to be warranted for corrective action. The NRC subsequently withdrew the civil penalty on February 6, 1998, based on a conclusion that credit for identification was warranted.

***Terracon Companies Incorporated  
Supplement V & VI***

***EA 97-425***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$5,000 was issued on November 17, 1997. The action was based on a Severity Level III violation involving a deliberate failure to assure that gauge operators received a manufacturer's safety/training course, as committed to in the company's license application. A double base civil penalty was proposed because: (1) the violation was willful, (2) credit was not warranted for identification and, (3) credit was not warranted for corrective action.

***Terracon Companies Incorporated  
Supplement IV***

***EA 98-124***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,750 was issued on May 15, 1998. The action was based on a Severity Level III violation involving the failure to maintain adequate control of a portable moisture/density gauge, resulting in its theft. A base civil penalty was proposed because: (1) this was not the first escalated enforcement action within the past 2 years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective action.

***United States Enrichment Corporation, Paducah  
Supplement III***

***EA 97-431***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on December 8, 1997. The action was based on a Severity Level III violation involving 5 examples of failure to maintain control of classified matter (documents, drawings, videotapes, etc.) at the Paducah facility. A base civil penalty was proposed in this case because: (1) the Paducah facility had been the subject of escalated enforcement actions within the last two inspections, (2) credit for identification was warranted, and (3) credit for corrective action was not warranted.

***United States Enrichment Corporation, Portsmouth  
Supplement VI***

***EA 98-012***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on March 19, 1998. The action was based on a Severity Level III problem for 16 violations involving major deficiencies in the nuclear criticality safety and self-assessment programs at USEC's Portsmouth facility. A base civil penalty was proposed in this case because: (1) the Portsmouth facility had not been the subject of escalated enforcement actions within the last two inspections, and (2) credit for USEC's corrective action was not warranted because significant NRC effort was necessary to focus USEC's corrective action processes in order to obtain comprehensive corrective actions.

***United States Enrichment Corporation, Portsmouth  
Supplement VI***

***EA 98-249***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on July 14, 1998. The action was based on a Severity Level III problem involving a programmatic deficiency in the maintenance and surveillance program for air-operated, safety-related air-to-close autoclave containment valves at the Portsmouth plant. A base civil penalty was proposed in this case because: (1) the Portsmouth facility had been the subject of escalated enforcement actions within the last two inspections, (2) credit for identification was not warranted, and (2) credit for corrective action was warranted.

***Vermont Yankee Nuclear Power Corporation, Vermont Yankee  
Supplement I***

***EA 97-531***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 for a Severity Level III problem was issued on April 14, 1998. This action was based on violations involving the Technical Specification (TS) limit for maximum torus operating temperature being inconsistent with the plant design basis. The licensee failed to ensure that the design basis was correctly translated into specifications when the TS amendment request was submitted in 1982, failed to promptly evaluate and correct the discrepancy

between the Final Safety Analysis Report (FSAR) and the TS when it was identified in 1994, and failed to report operation of the plant in a condition outside of the design basis. A base civil penalty was proposed in this case because: (1) this was not the first escalated enforcement action within the past two years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective actions.

*Washington Hospital Center  
Supplement VI*

*EA 97-145*

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,750 was issued on April 28, 1998. This action was based on a Severity Level III problem involving six violations related to the control of radioactive waste at the facility. A base civil penalty was proposed in this case because: (1) this was not the first escalated enforcement action within the past two years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective actions.

*Westinghouse Electric Company  
Supplement VI*

*EA 97-442*

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$13,750 was issued on January 6, 1998. This action was based on eight violations involving criticality safety controls considered in the aggregate to represent a Severity Level III problem. A base civil penalty was proposed in this case because: (1) this was not the first escalated enforcement action within the past two years, (2) credit was not warranted for identification, and (3) credit was warranted for corrective actions.

*Wood River Medical Center  
Supplement VI*

*EA 97-613*

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,750 was issued on April 27, 1998. This action was based on a Severity Level III problem involving 21 violations indicative of a breakdown in control of licensed activities. The more significant programmatic violations included failures to: (1) ensure that an individual under the supervision of an authorized user was adequately instructed, and to periodically review the supervised individual's use of licensed material and the records kept to reflect this use, (2) maintain management oversight and control of the radiation safety program, (3) ensure that the RSC met quarterly, (4) conduct quarterly reviews of occupational radiation doses of certain personnel, (5) perform annual reviews of the radiation safety program, (6) provide radiation safety refresher training, (7) notify the NRC of the discontinuation of an authorized user's duties, (8) seek amendment to the license prior to relocating an area of use, and (9) the failure to maintain records that were complete and accurate. Three of the cited violations are repetitive from the previous NRC inspection conducted on November 2, 1993. Mitigation of the civil penalty was warranted because: (1) the licensee has not been subject to escalated enforcement action within the last two inspections, and (2) credit for corrective action was warranted. However, discretion was applied to assess a base civil penalty of \$2,750 because of the particularly poor licensee performance reflected by the numerous violations. (See Appendix E.)

## APPENDIX C: SUMMARY OF ORDERS

### IMPOSITION OF CIVIL PENALTY ORDERS

*Centerior Service Company, Perry, Unit 1  
Supplement I*

*EA 97-430*

An Order Imposing Civil Penalty in the amount of \$50,000 was issued on April 9, 1998. On November 13, 1997, a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$100,000 had been issued to Centerior Service Company. This action was based on two Severity Level III violations. The first violation involved an inadvertent reactivity addition that was not prevented by corrective actions for a similar prior event. The second violation, cited against 10 CFR 50.59, involved changes to procedures involving the Emergency Closed Cooling System (component cooling) that resulted in an Unreviewed Safety Question. Civil Penalties in the amount of \$50,000 were proposed for each of the Severity Level III violations. The licensee paid the civil penalty for the violation involving the inadvertent reactivity addition. The licensee denied the violation associated with 10 CFR 50.59 and requested remission of the associated \$50,000 civil penalty. After careful consideration of the licensee's response, the staff concluded that the licensee did not provide an adequate basis for either the violation to be rescinded or the civil penalty to be mitigated.

*Conam Inspection Incorporated  
Supplement IV & VI*

*EA 97-207*

An Order Imposing a Civil Penalty in the amount of \$16,000 was issued on November 6, 1997. This action was based on a Severity Level II problem involving failure to: (1) secure the radiographic device in the shielded position; (2) perform an adequate survey after each radiographic exposure; and (3) limit the annual occupational dose to an adult radiographer to 5 rems. The licensee admitted the first violation but denied the others and requested remission or full mitigation of the civil penalty. After careful consideration of the licensee's response, the staff concluded that: (1) the violations occurred as set forth in the Notice, and (2) the licensee did not provide an adequate basis for reduction of the Severity Level or mitigation of the civil penalty.

*Ground Engineering and Testing  
Supplement VI*

*EA 98-021*

An Order Imposing a Civil Penalty in the amount of \$2,750 was issued on June 15, 1998. A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$5,500 was issued on March 25, 1998. The action was based on a Severity Level III violation involving the willful failure of this Agreement State licensee to file for reciprocity before conducting work in NRC jurisdiction. A double base civil penalty was proposed because: (1) this violation was associated with careless disregard, (2) credit was not warranted for identification and, (3) credit was not warranted for corrective action. The licensee admitted the violation occurred as stated but denied that the violation was the result of careless disregard and requested that the civil penalty be mitigated based upon prompt corrective action. After careful consideration of the licensee's response, the staff concluded that: (1) the failure to obtain an NRC license or file for reciprocity represented careless disregard, and (2) credit was warranted for prompt corrective action. Therefore, the NRC imposed a base civil penalty in the amount of \$2,750.

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***Koch Engineering Company Incorporated  
Supplement V******EA 98-061***

An Order Imposing a Civil Penalty in the amount of \$4,400 was issued on June 12, 1998. A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$4,400 was issued on March 13, 1998. The action was based on a Severity Level II violation involving failure to ensure, by examination or test, that each closure device of a package containing radioactive material was properly installed, secured, and free of defects before transportation. A base civil penalty was proposed because: (1) the violation was classified as a Severity Level II, (2) credit for identification was not warranted, and (3) credit for corrective action was warranted. The licensee admitted the violation but disputed the Severity Level II categorization. After careful consideration of the licensee's response, the staff concluded that the licensee did not provide an adequate basis for reducing the Severity Level of the violation or for withdrawal of the civil penalty.

***Power Inspection Incorporated  
Supplement VI & VII******EA 95-025***

An Order Imposing a Civil Penalty in the amount of \$40,000 was issued on February 3, 1998. This action was based on a Severity Level I violation and a Severity Level I problem. The Severity Level I violation, which involved vendor-related issues, was issued for four examples of deliberate failure to provide complete and accurate information to two NRC licensees. The Severity Level I problem, which involved radiography-related issues, was issued for deliberate failures to provide the NRC complete and accurate information and for numerous safety violations. After careful consideration of the licensee's response to the Notice, the staff concluded that: the licensee did not provide an adequate basis for reduction of the Severity Level or mitigation of the civil penalty.

***Western Colorado Testing  
Supplement VI******EA 96-459***

An Order Imposing a Civil Penalty in the amount of \$2,500 was issued on October 28, 1997. This action was based on a Severity Level III violation involving willful failure to file for reciprocity before conducting activities in areas under NRC jurisdiction. After careful consideration of the licensee's response to the Notice, the staff concluded that: (1) the violation did occur as set forth in the Notice, and (2) the licensee did not provide an adequate basis for mitigation of the civil penalty.

**CONFIRMATORY, MODIFICATION, SUSPENSION, AND CEASE & DESIST ORDERS*****Colon-Vaquer, Jose, M.D.  
Supplement VI******EA 98-183***

A Confirmatory Order Modifying License was issued on April 21, 1998, to require that the use of a strontium-90 eye applicator cease and that the device be placed in storage. The device had been used after the license expired and two misadministrations occurred.

***Frontier Production Logging  
Supplement VI******EAs 97-327 & 97-457***

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,750 and a Confirmatory Order Modifying License was issued on November 7, 1997. These actions were based on: (1) a Severity

## Appendix C

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Level III violation involving a willful failure to file the necessary documentation to receive NRC approval prior to vacating an authorized radioactive material storage location; and (2) a Severity Level III problem concerning failure to: (a) restrict doses in unrestricted areas to 2 millirem in any 1 hour, (b) make adequate surveys of radiation levels in unrestricted areas, utilize authorized shipping containers while transporting radioactive material, (d) monitor, upon receipt, the external surfaces of Department of Transportation (DOT) labeled packages for radioactive contamination, and (e) properly post areas in which licensed materials are stored. The staff issued the Confirmatory Order to confirm the licensee's commitments to obtain radiation safety training and independent audits of the radiation safety program.

*J&L Testing Company, Inc.*  
*Supplement VI*

*EA 96-110*

An Order Revoking License was issued April 10, 1998. This action was based on an inspection and investigation which found deliberate and widespread wrongdoing, including unauthorized use of byproduct material, submission of inaccurate information to NRC, violations of license conditions and destruction of records.

*Moisture Protection Systems*  
*Supplement VI*

*EA 98-213*

An Order Modifying Order Suspending License and Order Revoking License was issued on April 20, 1998. The order was based on the company's failure to pay annual fees, failure to afford NRC the opportunity to inspect, and the apparent careless disregard of Commission requirements on the part of the licensee's principal officer. A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$5,500 was also issued with the order. (See EA 97-605 in Appendix B.)

*NDT Services, Inc.*  
*Supplement VI*

*EA 98-108*

An Order Suspending License was issued March 27, 1998. This action was based on numerous violations identified during an inspection and investigation which indicated that the licensee was either unwilling or unable to comply with NRC requirements for the safe conduct of industrial radiography.

*STP Nuclear Operating Company, South Texas 1*  
*Supplement VII*

*EA 97-341*

A Confirmatory Order Modifying License was issued on June 9, 1998. The order modified the license to ensure that the licensee's process for addressing employee protection and safety concerns will be enhanced. The NRC also exercised enforcement discretion pursuant to Section VII B.6 of the Enforcement Policy and refrained from issuing a Notice of Violation or a civil penalty for discrimination violations. (See Appendix E.)

*U. S. Energy Enrichment Corporation  
Supplement IV*

*EA 98-156*

A Confirmatory Order Modifying Certificate was issued for the Paducah Gaseous Diffusion Plant on April 22, 1998. The Order was issued to confirm commitments on the part of the Certificate holder to install seismic modifications required to bring the facility back into compliance with the Safety Analysis Report.

## APPENDIX D: SUMMARY OF DEMANDS FOR INFORMATION

*Ohio State University*

*EA 97-258*

A Notice of Violation and Proposed Imposition of Civil Penalties and a Demand for information were issued on October 23, 1998. These actions were based on failure to correct known or suspected problems in a timely manner, which were considered to represent careless disregard for NRC requirements by those responsible for program activities at OSU. The DFI required further assurance concerning the ability of OSU to effectively conduct activities as a broadscope licensee.

*Siemens Power Corporation - Nuclear Division*

*EA 97-495*

A Demand for Information and a Notice of Nonconformance were issued October 27, 1997, based on an inspection that identified safety-significant issues with regard to the design and manufacture of nuclear fuel, including failure to comply with established methodologies to verify the adequacy of critical power correlation and its application to a fuel assembly design. The DFI was issued to determine whether the NRC should have confidence in the company's engineering capabilities and whether the company will, in the future, conduct its activities in accordance with NRC-approved generic design criteria, without requiring NRC approval of new fuel designs.

*Sierra Nuclear Corporation*

*EA 97-441*

A Demand for Information was issued October 6, 1997, based on an inspection which found significant failures of the company's quality assurance (QA) and corrective action (CA) programs to identify and correct design and fabrication deficiencies for spent fuel storage casks. The DFI sought information as to why the NRC should not suspend the company's fabrication of ventilated dry storage casks until the problems that were identified were resolved.

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## APPENDIX E: SUMMARY OF CASES INVOLVING EXERCISE OF DISCRETION

### *Section VII.A - Escalation of Enforcement Sanctions*

*Baltimore Gas & Electric Co., Calvert Cliffs  
Supplement I*

*EA 98-280*

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on September 2, 1998. This action was based on a Severity Level III problem consisting of three violations that involved multiple failures to adhere to radiological control procedures during replacement of nuclear instrumentation (NI) detectors in the reactor annulus. These violations included: (1) the failure of workers to wear alarming dosimetry when entering the reactor annulus; (2) the failure of radiation protection personnel to stop work when unexpected alarms and radiological conditions were encountered; and (3) the failure to properly determine worker stay times for work in a high radiation area. Although the civil penalty would have been fully mitigated under the normal assessment process (based on the fact that the problem was not the first escalated action within 2 years, that credit was warranted for identification and corrective actions), discretion was exercised in accordance with Section VII.A.1 of the Enforcement Policy because: (1) of particularly poor previous performance, and (2) failure to preclude recurrence of the violations.

*Breitling USA Watch Co.,  
Supplement VI*

*EA 98-163*

A Notice of Violation and Proposed Imposition of Civil Penalties was issued on July 10, 1998, for two Severity Level II problems. The violations involved the possession and use, as well as distribution, of NRC licensed material (tritium in watches) without possessing NRC licenses authorizing these activities. After considering the regulatory significance of the violations, which included the inability of the NRC to conduct inspections of your activities, the duration of the violations, the costs of maintaining NRC licenses which you avoided during the period of noncompliance, and your failure to promptly contact the NRC once you had indications that the need for a license was likely, the NRC has determined, in accordance with Section VII.A.1.(a) of the Enforcement Policy, that it is appropriate to exercise enforcement discretion in this case and issue separate civil penalties in the amount of \$13,200 for each of the two violations, resulting in a cumulative civil penalty of \$26,400. The NRC arrived at the \$13,200 amount for each civil penalty by tripling the base civil penalty amount of \$4,400 for a Severity Level II violation listed in Tables 1A and 1B, Base Civil Penalties, of the Enforcement Policy.

*Carolina Power and Light Company, Shearon Harris  
Supplement III*

*EA 98-020*

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 was issued on March 26, 1998. The action involved a Severity Level III violation for two examples in which individuals were inappropriately granted unescorted access to the protected and vital areas of the plant. Although the civil penalty would have been fully mitigated under the normal assessment process (based on the fact that the violation was not the first escalated action within 2 years, and that credit was warranted for identification and corrective actions), discretion was exercised in accordance with Section VII.A.1 of the Enforcement Policy because of the failure to preclude recurrence of the violations.

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*Commonwealth Edison Company, Quad Cities, Units 1&2  
Supplement I*

EA 97-591

The NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy and issued a Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$330,000 on March 12, 1998. This action was based on two Severity Level III problems consisting of two violations involving performing reactor coolant pressure boundary leakage testing at 12% power and six violations involving the failure to perform adequate ASME Code visual testing of the pressure boundary. Although a base civil penalty and double base civil penalty would have been assessed under the normal process, the NRC determined that discretion was warranted to double each civil penalty due to the particularly poor performance as manifested in the poor management oversight of these plant activities.

*De Leon, M.D., Dr. Jose N  
Supplement VI*

EA 97-627

The NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy and issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$5,000 on April 28, 1998. This action was based on a Severity Level III violation involving failure to establish and maintain a written quality management program to provide high confidence that Sr-90 will be administered as directed by an authorized user, which resulted in 9 misadministrations of radiation dose to 9 patients. Discretion was warranted because: (1) Dr. León was directly responsible for 9 misadministrations at his facility, and (2) Dr. León failed to identify a significant change in treatment time calculated by a health physics consultant or to take further action to verify the accuracy of the calculations prior to treatment of patients.

*Florida Power and Light Company, St. Lucie, Units 1&2  
Supplement I*

EA 98-009

The NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy and issued a Notice of Violation and Proposed Imposition of Civil Penalty for a Severity Level II in the amount of \$88,000 on March 25, 1998. The action involved two violations associated with the licensee's failure to properly calibrate the Refueling Water Tank (RWT) level bistables. Although the civil penalty would have been fully mitigated under the normal assessment process (because: (1) this was not the first escalated enforcement action within 2 years, (2) credit was warranted for identification and (3) credit was warranted for corrective actions), the NRC exercised enforcement discretion. Discretion was warranted because: (1) the violations resulted in a significant increase in risk over the more than 4 year period, (2) the violations were not associated with old design issues, and (3) better quality assurance of engineering activities at the time of the setpoint change could have prevented the violation.

*Mallinckrodt Medical Incorporated  
Supplement IV*

EA 97-342 &amp; 97-355

The NRC exercised enforcement discretion in accordance with Sections VII.A.1. of the Enforcement Policy and issued a Severity Level I problem in the amount of \$55,500 on December 17, 1997. The action was based on: (1) a Severity Level I problem involving failure to limit the annual shallow-dose equivalent of an occupational worker to 50 rems and failure to make or cause to be made surveys to assure compliance with 10 CFR Part 20; and (2) a Severity Level III violation for delivering to a carrier for transport licensed material in two packages that arrived at their destinations with contact radiation levels that exceeded 200 millirem.

Notwithstanding credit for the licensee's identification and corrective action, enforcement discretion was warranted for the Severity Level I problem because of the excessive dose received by the individual, which was clearly preventable. As for the Severity Level III violation, discretion was exercised to issue a double base civil penalty to ensure that the civil penalty reflected the repetitive nature of the violation, the significance of the circumstances, and the need for the licensee to take actions on information indicating that transportation problems continued to exist.

*Northeast Nuclear Energy, Millstone, Units 1,2 &3  
Supplement I*

*EA 96-034, 96-067, 96-086, & 96-106*

The NRC exercised enforcement discretion in accordance with Section VII.A.1 of the NRC Enforcement Policy and issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,100,000 on December 10, 1997. The action was based on three Severity Level II and one Severity Level III problems consisting of multiple individual violations. Discretion was warranted because of: (1) the degree of noncompliance with NRC requirements, (2) the high regulatory significance that the NRC attaches to the significant conditions adverse to quality that existed at Millstone, and the importance of effective management and oversight to ensure compliance with NRC requirements and achievement of a safety conscious environment that encourages employees to bring forth and resolve concerns, (3) the need to ensure that similar management oversight was maintained at Seabrook, and (4) the importance of sending a similar message to the nuclear industry regarding the importance of such oversight.

*Ohio State University  
Supplement VI, V & VI*

*EA 97-258*

The NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy and issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$13,000 on October 23, 1997. This action is based on: (1) a Severity Level II problem involving willful violations of inventory and waste storage requirements that occurred due to lack of adequate resources, and (2) two Severity Level III problems involving violations of reporting requirements and failure to secure licensed material. Additionally, a Demand for Information was issued with the action to obtain further assurance that the licensee's corrective measures will be long-lasting. For the Severity Level II problem, discretion was exercised to double the base civil penalty because the violations were, in part repetitive and reflected particularly poor performance, and the licensee allowed the violations, to continue after initial identification, demonstrating careless disregard for NRC requirements

*Omaha Public Power District, Fort Calhoun Station  
Supplement I*

*EA 97-432*

The NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy to assess a penalty at twice the base value for a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$110,000 that was issued on October 24, 1997. This action was based on a Severity Level III problem involving the disabling of the containment spray system. Discretion was warranted because of the similarity of this incident to a March 1996 incident and the significance of two such events occurring within 18 months. In addition, the NRC considered the fact that corrective actions for the previous incident should have prevented this error or caught this error soon after it occurred.

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**Wood River Medical Center  
Supplement VI****EA 97-613**

The NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy to assess a base civil penalty for a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$2,750 that was issued on April 27, 1998. This action was based on a Severity Level III problem involving 21 violations indicative of a breakdown in control of licensed activities. Although full mitigation of the civil penalty was warranted under the normal assessment process (because: (1) the licensee has not been subject to escalated enforcement action within the last two inspections, and (2) credit for corrective action was warranted), discretion was applied to assess a base civil penalty of \$2,750 because of the particularly poor licensee performance reflected by the numerous violations.

**Section VII.B.2 - Violations Identified During Extended Shutdowns  
or Work Stoppages****Commonwealth Edison Company, LaSalle County Station  
Supplement I****EA 98-217**

In a letter to the licensee dated May 9, 1998, the NRC exercised discretion in accordance with Section VII.B.2 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for six violations that would be classified at Severity Level III involving licensee identified engineering design deficiencies identified during an extended shutdown. Discretion was warranted because: (1) the violations were licensee-identified as a result of a comprehensive program for problem identification and correction that was developed in response to the shutdown; (2) the violations were based upon activities which took place prior to the events leading to the shutdown of the facility; (3) the violations were not wilful; (4) the facility was shutdown for performance reasons including engineering and design issues such as these, and in enforcement actions issued September 29, 1997 which involved a Severity Level III problem for the failure to adequately control design changes to the residual heat removal service water system and the control room radiation monitoring system; (5) the licensee's decision to restart the facility requires NRC concurrence; (6) the licensee had demonstrated that remedial action was being taken to ensure adequacy of design margins prior to restart of the facility; and, (7) the NRC issued a \$650,000 civil penalty on January 24, 1997, which included sanctions for engineering violations related to the failure to understand the design functions and performance characteristics of safety-related systems.

**Connecticut Yankee Atomic Power Company, Haddam Neck  
Supplement I****EA 97-079**

In a letter to the licensee dated January 15, 1998, the NRC exercised enforcement discretion in accordance with Section VII.B.2 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for a Severity Level III violation involving the calibration of effluent radiation monitoring system components. Discretion was warranted because the violation was based on events prior to the plant shutdown, and the NRC had already taken a significant enforcement action on May 12, 1997, for the technical and safety review program inadequacies that led to this and other violations.

*Connecticut Yankee Atomic Power Company, Haddam Neck  
Supplement I*

EA 97-366

The NRC exercised enforcement discretion in accordance with Section VII.B.2 of the Enforcement Policy and did not issue a Notice of Violation or propose a civil penalty for a violation related to the licensee's failure to perform an adequate 10 CFR 50.59 safety evaluation for a change in which an operator was used to compensate for feedwater regulating valves that could not perform their intended design function under certain circumstances. This violation resulting in an unreviewed safety question. Discretion was exercised because the violation was based on events prior to the plant shutdown, and significant enforcement action had been taken for the technical and safety review program inadequacies that led to this and other violations.

*Florida Power Corporation, Crystal River  
Supplement I*

EA 97-565

In a letter to the licensee dated December 29, 1997, the NRC exercised discretion in accordance with Section VII.B.2 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for numerous violations described in 44 Licensee Event Reports including some at Severity Level III involving noncompliances in design control, 10 CFR 50.59 evaluations, procedural adequacy/adherence, reportability, and corrective actions. Discretion was warranted because: (1) most of the issues were identified by the licensee and enforcement action is not considered necessary to achieve remedial action for those issues identified by the NRC; (2) the violations, for the most part, were based upon activities which took place before the events leading to the shutdown of Crystal River Unit 3; (3) the violations were not considered to be willful and would not be categorized at a Severity Level higher than Severity Level II; (4) the Crystal River facility is shut down for performance reasons including similar violations for which significant enforcement action was previously taken and will remain shut down until completion of a comprehensive program of improvements in the engineering area; (5) the licensee has demonstrated that remedial action is being taken to ensure reestablishment of design margins for plant systems prior to plant restart; (6) the licensee's decision to restart Crystal River Unit 3 requires NRC concurrence; and, (9) the licensee has made substantial progress in resolving the issues and they will be appropriately considered in the restart decision.

*Florida Power Corporation, Crystal River  
Supplement I*

EA 98-040

In a letter to the licensee dated January 29, 1998, the NRC exercised discretion in accordance with Section VII.B.2 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for six violations described in Licensee Event Reports including some at Severity Level III. Discretion was warranted because: (1) most of the issues were identified by the licensee and enforcement action is not considered necessary to achieve remedial action for those issues identified by the NRC; (2) the violations, for the most part, were based upon activities which took place before the events leading to the shutdown of Crystal River Unit 3; (3) the violations were not considered to be willful and would not be categorized at a Severity Level higher than Severity Level II; (4) the Crystal River facility is shut down for performance reasons including similar violations for which significant enforcement action was previously taken and will remain shut down until completion of a comprehensive program of improvements in the engineering area; (5) the licensee has demonstrated that remedial action is being taken to ensure reestablishment of design margins for plant systems prior to plant restart; (6) the licensee's decision to restart Crystal River Unit 3

requires NRC concurrence; and, (9) the licensee has made substantial progress in resolving the issues and they will be appropriately considered in the restart decision.

*Illinois Power Company, Clinton  
Supplement I*

*EA- 98-189*

On March 27, 1998, the NRC exercised enforcement discretion in accordance with Section VII.B.2 and refrained from issuing a Notice of Violation or civil penalty for a potential Severity Level III violation of 10 CFR 50, Appendix B. Specifically, the violation involved several issues concerning procedural adequacy and adherence, corrective actions, design control, and safety evaluations for system testing. These violations were not cited because they stemmed from licensed activities prior to the shutdown period and were addressed by broad comprehensive licensee programs underway at Clinton identify and correct such problems.

*Illinois Power Company, Clinton  
Supplement I*

*EA- 98-266*

On May 11, 1998, the NRC exercised enforcement discretion in accordance with Section VII.B.2 and refrained from issuing a Notice of Violation or civil penalty for a potential Severity Level III violation of 10CFR50 Appendix B. Specifically, the violation involved several issues concerning adherence to requirements in the technical specifications associated with ventilation filter testing program and corrective actions. These violations were not cited because they stemmed from licensed activities prior to the shutdown period and were addressed by broad comprehensive licensee programs underway at Clinton identify and correct such problems.

*Illinois Power Company, Clinton Power Station  
Supplement I*

*EA 98-403*

In a letter to the licensee dated August 7, 1998, the NRC exercised discretion in accordance with Section VII.B.2 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for violations that could be classified at Severity Level III concerning the failure to take adequate corrective actions for a long-standing, nonconforming condition involving excessive service water flow to the residual heat removal heat exchanger bypass line, and concerning an inadequate testing program for 480Vac molded case circuit breakers. Discretion was warranted because: (1) significant enforcement action was taken against the licensee for corrective action program problems; (2) additional enforcement action was not considered necessary to achieve remedial action for the violations due to Clinton Power Station's commitments in its Plan for Excellence to take actions to address the corrective action program issues prior to restart; (3) the violations were related to problems which were present prior to the events leading to the shutdown; (4) the violations were not wilful; and (5) under the terms of the restart of the facility, the NRC will thoroughly review the adequacy of the licensee's corrective action program prior to restart.

*Molycorp, York, Pennsylvania  
Supplement VI*

*EA 98-449*

In a letter to the licensee dated September 29, 1998, the NRC exercised enforcement discretion in accordance with Section VII.B.2 of the Enforcement Policy and refrained from issuing a Notice of Violation for a Severity Level III violation involving the failure to conduct decommissioning activities in accordance with an NRC approved decommissioning plan. Discretion was warranted for the violation because: (1) the

licensee had submitted a decommissioning plan to the NRC; (2) the NRC had inspected the licensee four times during its decommissioning activities and concluded that the licensee's decommissioning program was being implemented safely; and (3) the reason why the licensee did not wait for the NRC to approve its decommissioning plan prior to starting decommissioning activities was because the licensee mistakenly thought that it was required to complete all decommissioning activities within 24 months of submitting its plan to the NRC rather than within 24 months of the NRC approving the plan.

*Northeast Nuclear Energy, Millstone  
Supplement I*

*EA 96-183*

In a letter to the licensee dated April 16, 1998, the NRC exercised enforcement discretion in accordance with Section VII.B.2 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for a Severity Level III violation involving inaccurate information given to the NRC concerning the design basis capability of certain motor operated valves in Unit 2. Discretion was warranted because the facility had been in an extended shutdown and the NRC had taken significant enforcement action for the performance issues that led to the shutdown. Further, the violation was: (1) based on licensee practices prior to the shutdown, (2) not classified higher than a Severity Level II, and (3) not willful. Additionally, plant restart required NRC concurrence. Although the violation was NRC identified, discretion was appropriate because the NRC had in place a formal restart plan that provided a broad-based evaluation of Millstone readiness for restart that confirmed that corrective actions for this issue was taken.

*Northeast Nuclear Energy, Millstone  
Supplement I*

*EA 96-352*

In a letter to the licensee dated April 16, 1998, the NRC exercised enforcement discretion in accordance with Section VII.B.2 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for Severity Level III violations involving (1) the failure to provide troubleshooting plan guidelines, (2) the Unit 1 control rod drive system was not brought into design requirements within the required time period, (3) procedure inadequacies that resulted in the failure to lock open the Unit 2 refueling drain valves during an operating cycle as required by the FSAR, and (4) the failure to implement corrective actions stated in certain licensee event reports. Discretion was warranted because the facility had been in an extended shutdown and the NRC had taken significant enforcement action for the performance issues that led to the shutdown. Further, the violations were (1) based on licensee practices prior to the shutdown, (2) not classified higher than a Severity Level II, and (3) not willful. Additionally, plant restart required NRC concurrence. Although some aspects of the violations were NRC identified, discretion was appropriate because the NRC had in place a formal restart plan that provided a broad-based evaluation of Millstone readiness for restart that confirmed that corrective actions for these issues were taken.

*Northeast Nuclear Energy, Millstone Unit 1  
Supplement I*

*EA 97-205*

In a letter to the licensee dated June 1, 1998, the NRC exercised enforcement discretion in accordance with Section VII.B.2 of the Enforcement Policy and refrained from issuing a formal Notice of Violation and proposed civil penalty for violations involving a failure to identify and correct LPCI heat exchanger fouling. Discretion was warranted because the violations: (1) were related to past performance inadequacies which predated the licensee's extended shutdown; (2) would not have been characterized at a severity level higher

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than Severity Level II; and (3) were not willful. In addition, the licensee was prohibited from restarting its plant without NRC concurrence.

*Northeast Nuclear Energy, Millstone Unit 1  
Supplement I*

*EA 97-206*

In a letter to the licensee dated June 1, 1998, the NRC exercised enforcement discretion in accordance with Section VII.B.2 of the Enforcement Policy and refrained from issuing a formal Notice of Violation and proposed civil penalty for violations involving a failure to adequately perform leak rate testing of certain containment isolation valves. Discretion was warranted because the violations: (1) were related to past performance inadequacies which predated the licensee's extended shutdown; (2) would not have been characterized at a severity level higher than Severity Level II; and (3) were not willful. In addition, the licensee was prohibited from restarting its plant without NRC concurrence.

*Northeast Nuclear Energy, Millstone  
Supplement I*

*EA 97-304*

In a letter to the licensee dated April 16, 1998, the NRC exercised enforcement discretion in accordance with Section VII.B.2 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for a Severity Level III violation involving deficiencies in procedures used for technical specification required surveillances in Unit 2. Discretion was warranted because the facility had been in an extended shutdown and the NRC had taken significant enforcement action for the performance issues that led to the shutdown. Further, the violation was (1) based on licensee practices prior to the shutdown, (2) not classified higher than a Severity Level II, and (3) not willful. Additionally, plant restart required NRC concurrence.

*Northeast Nuclear Energy, Millstone  
Supplement I*

*EA 97-377*

In a letter to the licensee dated April 16, 1998, the NRC exercised enforcement discretion in accordance with Section VII.B.2 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for a Severity Level III violation involving potential vortexing and water hammer in the recirculation spray and quench spray systems in Unit 3. Discretion was warranted because the facility had been in an extended shutdown and the NRC had taken significant enforcement action for the performance issues that led to the shutdown. Further, the violation was: (1) based on licensee practices prior to the shutdown, (2) not classified higher than a Severity Level II, and (3) not willful. Additionally, plant restart required NRC concurrence.

*Northeast Nuclear Energy, Millstone  
Supplement I*

*EA 97-561*

In a letter to the licensee dated April 16, 1998, the NRC exercised enforcement discretion in accordance with Section VII.B.2 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for Severity Level III violations involving functional deficiencies in the setting of Unit 3 throttle valve positions and failure to identify and analyze trends in the corrective action program. Discretion was warranted because the facility had been in an extended shutdown and the NRC had taken significant enforcement action for the performance issues that led to the shutdown. Further, the violations were: (1) based on licensee practices prior to the shutdown, (2) not classified higher than a Severity Level II, and (3) not willful. Additionally, plant restart required NRC concurrence. Although some aspects of the violations were NRC identified, discretion was appropriate because the NRC had in place a formal restart

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plan that provided a broad-based evaluation of Millstone readiness for restart that confirmed that corrective actions for these issues were taken.

### *Northeast Nuclear Energy, Millstone, Units 1,2& 3 Supplement I*

*EA 97-562*

The NRC exercised enforcement discretion in accordance with Section VII.B.2 of the Enforcement Policy and refrained from issuing enforcement action for a potential Severity Level III violation involving the inadequacy in the technical specification required program to minimize leakage outside the containment. Specifically, the program did not account for potential valve leakage from systems which could carry highly radioactive water to the refueling water storage tank following a postulated accident. Discretion was warranted because the violation involved an old design issue that preceded the plant shutdown. This discretion was issued in conjunction with a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$55,000 on March 9, 1998. (See Appendix B.)

### *Northeast Nuclear Energy, Millstone Supplement I*

*EA 98-179*

The NRC exercised enforcement discretion in accordance with Section VII.B.2 of the Enforcement Policy and refrained from issuing a civil penalty in conjunction with a Notice of Violation for a Severity Level III violation that was issued on May 6, 1998. This action was based on the failure to maintain an adequate PASS program that ensured the capability to obtain and analyze samples under post accident conditions. Although a civil penalty could have been proposed for the licensee's failure to take corrective action to prevent recurring failure of the PASS and the failure to fully identify and correct the weaknesses in the PASS program during the licensee's internal audit, the NRC decided to exercise enforcement discretion pursuant to Section VII.B.2 of the Enforcement Policy and not propose a civil penalty in this case. The decision to exercise discretion was made because the facility had been in an extended shutdown, the NRC had taken significant enforcement action for the performance issues that led to the shutdown and considering that the violation was: (1) based on licensee practices prior to the shutdown; (2) not classified higher than Severity Level II; and (3) not willful.

### *Public Service and Gas Company, Salem Units 1 & 2 Supplement I*

*EA 97-182*

The NRC exercised enforcement discretion in accordance with Section VII.B.2 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for Severity Level III violations involving the potential RHR pump runout condition and the crediting of containment overpressure in RHR pump NPSH calculations. These violations were not cited because they stemmed from licensed activities prior to the shutdown period and were addressed by broad comprehensive licensee programs underway at Salem to identify and correct such problems. This exercise of discretion was issued in conjunction with a Notice of Violation that was issued on October 8, 1997. (See Appendix A.)

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**Section VII.B.3 - Violations Involving Old Design Issues*****Boston Edison Company, Pilgrim  
Supplement I******EA 98-411***

In a letter to the licensee dated August 7, 1998, the NRC exercised discretion in accordance with Section VII.B.3 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for a violation that could be classified at Severity Level III concerning incorrect plant configuration during torus inerting operations that could have led to the suppression pool being bypassed during a simultaneous design basis accident. Discretion was warranted because: (1) the violation was identified by the licensee's good questioning attitude during a voluntary initiative; (2) corrective actions were comprehensive and timely; (3) the condition was subtle in nature and not likely to be disclosed through routine surveillance or quality assurance activities; and (4) the violation was not reasonably linked to current performance.

***Boston Edison Company, Pilgrim  
Supplement I******EA 98-387***

On August 28, 1998, the NRC exercised enforcement discretion in accordance with Section VII.B.3 and refrained from issuing a Notice of Violation or civil penalty for a potential Severity Level III violation of 10 CFR 50 Appendix B. This violation involved the identification by the licensee of degraded voltage time delay relay setting being set non-conservatively. Discretion was exercised because: (1) the issue was discovered by the licensee during design basis reviews, (2) the conditions were subtle in nature and not likely to be disclosed through routine surveillance or quality assurance, (3) corrective actions following identification were comprehensive and timely, and (4) the violation was not reasonably linked to current licensee performance.

***Carolina Power & Light Company, H. B. Robinson  
Supplement I******EA 97-489***

In a letter to the licensee dated November 7, 1997, the NRC exercised discretion in accordance with Section VII.B.3 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for a Severity Level III violation for unauthorized movement of a spent fuel cask. Discretion was warranted because: (1) the movement of the spent fuel cask in the unauthorized configuration was considered an old design issue; (2) the licensee was unaware of the departure from the safety analysis report until a similar error was identified at another facility at which time the licensee identified an unreviewed safety question; (3) corrective actions were comprehensive and timely; (4) the issue was not likely to be identified by routine surveillance or quality assurance activities; and, (5) the condition was promptly reported to the NRC.

***Carolina Power and Light Company, Brunswick Steam Electric Plant  
Supplement I******EA 97-521***

In a letter to the licensee dated December 10, 1997, the NRC exercised discretion in accordance with Section VII.B.3 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for a Severity Level III violation for unauthorized movement of a spent fuel cask. Discretion was warranted because: (1) the movement of the spent fuel cask in the unauthorized configuration was considered an old design issue; (2) the licensee was unaware of the departure from the safety analysis report until a similar error was identified at another facility at which time the licensee identified an unreviewed safety question;

(3) corrective actions were comprehensive and timely; (4) the issue was not likely to be identified by routine surveillance or quality assurance activities; and, (5) the condition was promptly reported to the NRC.

*Centerior Service Company, Perry  
Supplement I*

EA-482

On November 18, 1997, the NRC exercised enforcement discretion in accordance with Section VII.B.3 and refrained from issuing a Notice of Violation or civil penalty for a potential Severity Level III violation of 10 CFR 50 Appendix R. This violation involved the identification of a two year period when a means had not been established to protect cables and equipment of a least one redundant train of safe shutdown equipment from hot shorts during a postulated control room fire. Discretion was exercised because: (1) the issue was discovered by the licensee, (2) the initial evaluation by plant staff of NRC Information Notice (IN) No. 92-18, "Potential for Loss of Remote Shutdown Capability During a Control Room Fire," dated March 28, 1992, was adequate based on the available information, (3) corrective actions following identification of additional information in 1996 were adequate, (4) modifications were made to all affected equipment, (5) improved processes for multi-disciplined design change reviews were made, and (6) this issue was not linked to current performance.

*Commonwealth Edison Company, Dresden Nuclear Station  
Supplement I*

EA 96-388

In a letter to the licensee dated December 30, 1997, the NRC exercised discretion in accordance with Section VII.B.3 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for a Severity level III violation involving the failure to adequately protect safe shutdown motor operated valves from mechanical damage from fire induced circuit failures. Discretion was warranted because of the widespread confusion within the industry concerning the requirements of this issue and the facts that the vulnerabilities were identified and corrected by the licensee.

*Commonwealth Edison Company, Quad Cities Nuclear Station  
Supplement I*

EA 96-389

In a letter to the licensee dated December 30, 1997, the NRC exercised discretion in accordance with Section VII.B.3 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for a Severity level III violation involving the failure to adequately protect safe shutdown motor operated valves from mechanical damage from fire induced circuit failures. Discretion was warranted because of the widespread confusion within the industry concerning the requirements of this issue and the facts that the vulnerabilities were identified and corrected by the licensee.

*Duke Power Company, Oconee  
Supplement I*

EA 98-268

A Notice of Violation for a Severity Level II violation was issued on August 5, 1998. The action was based on: (1) the failure to implement the requirements of 10 CFR 50, Appendix B, Criterion III, to incorporate design basis requirements into drawings and procedures; and, (2) the failure to maintain Technical Specification (TS) equipment in an operable condition. The NRC exercised discretion in accordance with Section VII.B.3 and refrained from issuing a civil penalty because: (1) the violation involved a past problem in design that the licensee identified as a result of a voluntary effort, (2) corrective actions were comprehensive, and (3) routine licensee efforts were not likely to have identified the deficiencies.

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***Duquesne Light Company, Beaver Valley Power Station  
Supplement I******EA 98-072***

In a letter to the licensee dated March 9, 1998, the NRC exercised discretion in accordance with Section VII.B.3 of the Enforcement Policy and refrained from issuing a civil penalty of a Notice of Violation for a violation that could be classified at Severity Level III involving a design deficiency with certain electrical circuit cards that had the potential, under certain conditions to cause safety-related equipment to malfunction. Discretion was warranted because: (1) the design deficiency was identified by the licensee's staff; (2) corrective actions were comprehensive and timely; (3) the design deficiency was subtle in nature and not likely to be disclosed through routine surveillance or quality assurance activities; and (4) the violation was not reasonably linked to current licensee performance.

***Duquesne Light Company, Beaver Valley, Unit 2  
Supplement I******EA- 98-138***

On March 17, 1998, the NRC exercised enforcement discretion in accordance with Section VII.B.3 and refrained from issuing a Notice of Violation or civil penalty for a potential Severity Level III violation of 10 CFR 50, Appendices A and B. This violation involved the identification by the licensee of the Unit 2 control room emergency ventilation system design being inadequate in that the system function was vulnerable to failure from a single active failure from a single active component failure. Discretion was exercised because: (1) the issue was discovered by the licensee, (2) the conditions were subtle in nature and not likely to be disclosed through routine surveillance or quality assurance, (3) corrective actions following identification were comprehensive and timely, and (4) the violation was not reasonably linked to current licensee performance.

***Florida Power and Light Company, Turkey Point, Units 1 and 2  
Supplement I******EA 98-394***

On August 14, 1998, the NRC exercised enforcement discretion in accordance with Section VII.B.3 and refrained from issuing a Notice of Violation or civil penalty for a potential Severity Level III violation of 10 CFR 50, Appendix B. This violation involved the identification by the licensee of a past failure to adequately separate non-safety and safety-related electrical loads, which resulted in the potential for a loss of power to motor-operated valves in a train of the residual heat removal system. Discretion was exercised because: (1) the issue was discovered by the licensee through a self-initiated audit of instrument busses, (2) the issue was not likely to have been identified by routine surveillance or quality assurance reviews, (3) actions were promptly completed to provide power for the affected relays from properly protected safety-related power supplies, (4) the violation was not reasonably linked to current licensee performance, and (5) the issue was reported to the NRC.

***GPU Nuclear Corporation, Three Mile Island Nuclear Station  
Supplement I******EA 97-473***

In a letter to the licensee dated October 9, 1997 the NRC exercised discretion in accordance with Section VII.B.3 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for a Severity Level III violation involving a licensee identified deficiency in the engineered safeguards actuation system that affected the ability of the building spray and low pressure injection pumps to maintain adequate net positive suction head after a design basis loss of coolant accident with a single failure of a DC bus. Discretion was warranted because: (1) the violation was identified by the licensee staff's good

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questioning attitudes during voluntary initiatives; (2) corrective actions, both taken and planned, were comprehensive and timely; (3) the condition was subtle in nature and not likely to be disclosed through routine surveillance or quality assurance activities; and (4) the violation is not reasonably linked to current performance.

### *Niagra Mohawk Power Corporation, Nine Mile Point Supplement I*

*EA 97-228*

In a letter to the licensee dated March 13, 1998, the NRC exercised discretion in accordance with Section VII.B.3 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for violations that could be considered at Severity Level II or III involving the failure to adequately protect safe shutdown motor operated valves from mechanical damage from fire induced circuit failures. Discretion was warranted because: (1) the violations were identified by the licensee, (2) corrective actions taken were comprehensive and timely, (3) the conditions were subtle in nature and not likely to be disclosed through routine surveillance or quality assurance activities, and (4) the violations were not reasonably linked to current performance.

### *Pennsylvania Power & Light Company, Susquehanna Supplement I*

*EA 98-352*

In a letter to the licensee dated July 31, 1998, the NRC exercised discretion in accordance with Section VII.B.3 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for a violation that could be classified at Severity Level III involving the licensee's identification that multiple 4.16KV safety-related breakers were not seismically qualified while in the racked out position which rendered the switchgear busses inoperable at times. Discretion was warranted because: (1) the violation was identified by the licensee's staff during voluntary initiatives; (2) corrective actions were comprehensive and timely; (3) the conditions were subtle in nature and not likely to be disclosed through routine surveillance or quality assurance activities; and, (4) the violation was not reasonably linked to current performance.

### *Southern Nuclear Operating Company, Farley Supplement I*

*EA 98-351*

In a letter to the licensee dated July 10, 1998, the NRC exercised discretion in accordance with Section VII.B.3 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for a Severity Level III violation involving a licensee identified design deficiency that could have rendered safety-related motor operated valves incapable of being controlled at the hot shutdown panel in the event of a fire induced circuit failure. Discretion was warranted because: (1) the licensee's identification of the deficiency during non-routine inspections; (2) the licensee's prompt extent of condition review and corrective actions; (3) the issue was the result of an old design error which was not likely to be identified through routine licensee efforts; (4) the issue was not reflective of current licensee performance; and (5) the deficiency was appropriately reported to the NRC.

### *Southern Nuclear Operating Company, Hatch Facility Supplement I*

*EA 98-209*

In a letter to the licensee dated April 21, 1998, the NRC exercised discretion in accordance with Section VII.B.3 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for a Severity Level III violation identified by the licensee involving an original installation deficiency that

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degraded the performance of the Main Control Room Environmental Control system and under certain design basis accident conditions could have resulted excessive radiological doses being received by control room personnel. Discretion was warranted because: (1) the licensee identified the subtle deficiency; (2) licensee promptly declared both trains of equipment inoperable and took appropriate actions required by Technical Specifications; (3) immediate corrective actions were comprehensive; (4) the deficiency was considered an old design issue, was not likely to be identified through routine licensee efforts, and was not reflective of current licensee performance; and, (5) the issue was promptly reported to the NRC.

### ***Section VII.B.4 - Violations Identified Due to Previous Escalated Enforcement Action***

***Boston Edison Company, Pilgrim  
Supplement I***

***EA 98-052***

The NRC exercised enforcement discretion in accordance with the Section VII.B.4 of the Enforcement Policy on April 27, 1998, and did not issue a Notice of Violation and did not propose a civil penalty for a Severity Level III violation involving trip settings for the salt service water (SSW) pumps. Specifically, during a follow-up review of EDG loading, conducted as a result of the violations identified during a NRC design inspection, a deficiency was identified associated with the thermal overload relay trip settings for the SSW pumps that could have resulted in an inadvertent trip of the pumps and a loss of all SSW cooling. Discretion was warranted because: (1) the violation was identified by the licensee as part of corrective action for violations that were subject to escalated enforcement action; (2) the violation had a similar root cause as the other design deficiencies for which escalated action was being issued; (3) it did not substantially change the safety significance or the character of the regulatory concern arising from the initial violations; (4) immediate corrective action was taken to reset the trip setpoints; and (5) the licensee planned long term corrective actions to address the root cause of the violation.

***Vermont Yankee Nuclear Power Corporation, Vermont Yankee  
Supplement I***

***EA 97-453***

In a letter to the licensee dated October 16, 1997, the NRC exercised discretion in accordance with Section VII.B.4 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for violations of fire protection requirements that could have been considered at Severity Level II or III. Discretion was warranted because: (1) the violations were identified by the licensee as part of corrective actions for a previous violation; (2) the violations had the same root cause as the previous issue; (3) the violations did not substantially change the safety significance or the character of the regulatory concern arising from the previous finding; and (4) corrective actions were comprehensive.

### ***Section VII.B.5 - Violations Involving Discrimination***

There were no cases that involved an exercise of this type of enforcement discretion during this fiscal year.

## ***Section VII.B.6 - Violations Involving Special Circumstances***

### ***Baltimore Gas and Electric Company, Calvert Cliffs, Units 1 & 2 Supplement IV***

***EA- 98-106***

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty for a Notice of Violation for a Severity Level III problem that was issued on March 20, 1998. The action was based two violations related to the licensee's failure to establish radiological controls for work in the reactor cavity during cleaning of the reactor flange. Specifically, (1) the licensee did not make necessary and reasonable surveys to comply with the requirements and (2) the licensee did not post an airborne radioactivity area when required. The decision to exercise discretion was made because the violations related to the reactor cavity event occurred approximately one month after the diving event in April 1997, and appear to be the result of the same fundamental performance deficiencies.

### ***Commonwealth Edison Company, Zion Power Station Supplement I***

***EA 97-606***

In a letter to the licensee dated August 10, 1998 the NRC exercised discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for a Severity Level III problem involving cross-tying 125 volt direct current (125 Vdc) buses from Unit 1 to Unit 2 without declaring the buses inoperable. Discretion was warranted because: (1) several significant NRC enforcement actions were issued against the Zion power station for which corrective actions would encompass the root causes for these violations; (2) the licensee voluntarily shut down both units to address wide ranging performance problems that encompass the causes for these violations and eventually decided not to restart either unit; (3) the violations were not willful; (4) the violations related to activities before the shutdown; (5) the violations would not be categorized at a severity level higher than Severity Level II; and (6) the issue was identified by a licensee engineer during a voluntary initiative.

### ***Consumers Energy Company, Big Rock Point Supplement I***

***EA 98-319***

In a letter to the licensee dated August 25, 1998, the NRC exercised discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for a violations that would be classified at Severity Level II involving the licensee's discovery, upon dismantlement of the facility, that the liquid poison system had not been functional for a substantial portion of the operating life of the facility. Discretion was warranted because: (1) the unique design of the liquid poison system made the failure difficult to detect; (2) consideration that, while surveillance testing was unable to identify the failure, the NRC concluded that the testing performed was reasonable based, in part, on the design of the system; (3) the licensee's prompt identification and critical assessment of the significance of this condition; (4) the licensee's notable corrective actions which involved evaluating its operating Palisades Nuclear Power Plant for similar vulnerabilities and communicating the safety significance and potential vulnerability to the rest of the nuclear industry; (5) the fact that the liquid poison system was no longer required to be operable in the decommissioning phase of the facility; and lastly, (6) the licensee's immediate notification to the NRC of this potentially generic safety issue.

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*Connecticut Yankee Atomic Power Company, Haddam Neck  
Supplement I*

EA 97-366

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty for a Severity Level III problem was issued on October 9, 1997. The action was based on two violations associated with corrective actions for an old plant design discrepancy in the service water system which created the potential for waterhammer in the supply to the spent fuel pool cooling system and a maintenance error that led to minor emergency diesel generator damage. Discretion was warranted because the NRC had already issued enforcement action for inadequacies in the corrective action program and these violations were additional examples of the same performance problems.

*Entergy Operations Incorporated, Waterford  
Supplement I*

EA 98-022

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for a potential Severity Level III violation of 10 CFR 50.59 associated with reduced flow rates for EFW. Discretion was warranted based on the specific circumstances of the case and consideration of the information that was presented at the conference. The NRC addressed this issue in conjunction with a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$110,000 that was issued on June 16, 1998, for a Severity Level III problem involving multiple violations associated with HPSI flow issues. (See Appendix B.)

*Illinois Power Company, Clinton Power Station  
Supplement I*

EA 97-133

In a letter to the licensee dated January 8, 1998, the NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for a Severity Level III violation involving procedure adherence and adequacy problems. Discretion was warranted because: (1) significant NRC enforcement action was recently taken against the Illinois Power Company for several programmatic breakdowns for which the licensee's corrective actions encompassed the root causes for this violation; (2) the violation was related to activities before the significant enforcement action was issued; (3) the violation would not be classified at a severity level higher than Severity Level III; and (4) the facility was placed under increased NRC oversight prior to restart and the corrective actions will be reviewed prior to restart.

*Illinois Power Company, Clinton Power Station  
Supplement I*

EA 97-467

In a letter to the licensee dated January 8, 1998, the NRC exercised discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for several violations that would be classified as a Severity Level III problem pertaining to inadequate corrective action and maintenance that caused indicating lights to be improperly connected which could have resulted in a loss of control power to safety-related equipment. Discretion was warranted because: (1) significant enforcement action was taken against the licensee for several programmatic breakdowns for which the licensee's corrective actions encompassed the root causes for these violations; and (2) the facility was placed under NRC oversight for restart approval and the corrective actions for such violations will be reviewed and approved by the NRC prior to restart.

*Illinois Power Company, Clinton Power Station  
Supplement I*

EA 98-248

In a letter to the licensee dated June 12, 1998, the NRC exercised discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for a Severity Level III problem involving violations of the Maintenance Rule. Discretion was warranted because: (1) significant NRC enforcement action was previously taken against the licensee for violations with similar root causes; (2) the violations were related to management oversight problems which were present prior to the events leading to the shutdown; (3) the violations were not classified at a severity level higher than Severity Level II; (4) the violations were not willful; (5) the violations were licensee-identified as a result of a comprehensive Quality Assurance audit; and (6) significant NRC reviews are required prior to restart.

*Niagra Mohawk Power Corporation, Nine Mile Point  
Supplement VII*

EA 97-185

In a letter to the licensee dated April 28, 1998, the NRC exercised discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for a Severity Level III violation involving the deliberate alteration by two contract employees of the NRC required Fitness for Duty random access selection program. Discretion was warranted because the licensee identified the scheme to alter the program, thoroughly investigated the issue, and took prompt, broad corrective actions. The individuals involved in the alteration were dismissed by the licensee and received Orders barring them from employment in the nuclear industry from the NRC.

*Northeast Nuclear Energy, Millstone  
Supplement I*

EA 96-146

In a letter to the licensee dated April 16, 1998, the NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for a Severity Level III violation involving the Unit 3 recirculation spray and quench spray systems being outside of the design basis. Although the violation may have been willful, discretion was warranted due to the age of the event which occurred prior to licensing of Unit 3 and the fact that the responsible person is no longer with the company. Further, the corrective actions to resolve these spray systems issues has been adequate.

*Northern States Power, Monticello Nuclear Generating Plant  
Supplement I*

EA 97-032

In a letter to the licensee dated April 20, 1998, the NRC exercised discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for a Severity Level III violation for failure to obtain Commission approval for a change that involved an unreviewed safety question. The change involved the crediting containment overpressure in ensuring adequate net positive suction head to emergency core cooling system pumps. Discretion was warranted because: (1) the net positive suction head requirements were not clear in licensing basis documents; (2) the condition was subtle in nature and not likely to be disclosed through routine surveillance or quality assurance activities; (3) the NRC identified a generic concern regarding use of containment overpressure; and (4) corrective actions were comprehensive and timely.

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***Public Service Electric and Gas Company, Salem Unit 1&2  
Supplement I***

EA 97-182

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty for a Severity Level III problem that was issued on October 8, 1997. This action was based on two violations involving changes to a procedure resulting in an unreviewed safety question without prior Commission approval, and failure to notify the NRC within one hour, or submit a Licensee Event Report within 30 days, of a condition which was outside the design basis of the plant. Discretion was warranted because: (1) a significant enforcement action had already been taken based on similar deficiencies, and (2) corrective actions were prompt and effective.

***Public Service Electric and Gas Company, Salem Unit 1&2  
Supplement I***

EA 97-257

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for a potential Severity Level III violation. The NRC determined that the licensee's reliance on repairs for post-fire alternative shutdown systems; the failure to consider one or more circuit failures (e.g., hot shorts, shorts to ground, open circuits); and the insufficient protection of motor-operated valves (MOVs) constituted a violation of the Unit 2 license condition and 10 CFR Part 50, Appendix R. However, the violation was not cited based on Section VII.B.6 of the NRC Enforcement Policy. Even though the licensee was notified in January 1996, that its alternative shutdown system did not meet regulatory requirements, the NRC concluded that the violation stemmed from activities prior to the shutdown period and was addressed promptly when brought to the attention of licensee management in March 1997. Corrective actions were taken for Unit 2 and were planned for Unit 1. The NRC also considered the potential generic aspects of compliance with the "hot shorts" provisions of Appendix R in making the decision to exercise discretion.

***Ryder Memorial Hospital  
Supplement VI***

EA 97-626

In a letter to the licensee dated April 24, 1998, the NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for a Severity Level III violation for a failure to establish and implement a quality management program for use of strontium-90. Discretion was warranted because the licensee took reasonable steps to cease using licensed material at its facility.

***STP Nuclear Operating Company, South Texas I  
Supplement VII***

EA 97-341

A Confirmatory Order Modifying License was issued on June 9, 1998. The order modified the license to ensure that the licensee's process for addressing employee protection and safety concerns will be enhanced. The NRC also exercised enforcement discretion pursuant to Section VII B.6 of the Enforcement Policy and refrained from issuing a Notice of Violation or a civil penalty for discrimination violations. Discretion was warranted because: (1) the licensee settled the four employee protection complaints prior to an evidentiary hearing before, and prior to a finding that discrimination had occurred by, the United States Department of Labor; (2) the licensee took appropriate corrective actions; and (3) the licensee has planned actions to monitor the safety environment and to promote an atmosphere conducive to the raising of safety concerns by employees without fear of retaliation.

*Unified Testing Services, Woostock, IL  
Supplement IV*

EA 98-222

A Notice of Violation was issued on June 16, 1998, for a Severity Level III violation involving the failure to secure from unauthorized removal or access and maintain constant surveillance of licensed material in an unrestricted area, in accordance with 10 CFR 20.1801 and 10 CFR 20.1802. The civil penalty was fully mitigated because: (1) this was the first escalated issue in 2 years, and (2) credit was warranted for corrective action. In addition, due to the special circumstances of the case, the NRC exercised discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a Notice of Violation for a failure to train radioographers in accordance with required procedures.

*Washington Public Power Supply System, WNP-2  
Supplement I*

EA 97-138

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty for a Notice of Violation for a Severity Level III problem that was issued on February 20, 1998. The action was based on four violations involving the failure to test the response time of various plant instrumentation systems in accordance with existing requirements, and the failure to obtain approval from the NRC, as required by 10 CFR 50.59, before ceasing response-time testing required by technical specifications. Discretion was warranted because (1) the NRC considered the apparent misinterpretation of NEDO-32291 guidance, which was generically approved and which appeared to have resulted in three other boiling water reactor licensees making the same series of mistakes, (2) the fact that all of the instruments in question were tested and would have performed their intended functions, and (3) the fact that the response time verification portion of the calibration methodologies employed by the Supply System were ultimately accepted by the NRC.

*Washington Public Power Supply System, WNP-2  
Supplement I*

EA 97-573

A Notice of Violation for a Severity Level III problem was issued on June 1, 1998. This action was based on multiple violations including failures to: (1) perform a safety evaluation in accordance with 10 CFR 50.59 prior to downgrading the RCIC system from a safety-related system to a non-safety-related system, a change which constituted an unreviewed safety question, and (2) maintain the acceptance criteria for the opening stroke-time testing of six RCIC System valves and the failure to maintain inservice testing of Valve RCIC-V-45 as required by 10 CFR 50.55a(f). Given prior escalated enforcement action, and the NRC's identification of these violations, a civil penalty would have resulted following the normal civil penalty assessment process described in VI.B.2 of the Enforcement Policy. However, in accordance with Section VII.B.6 of the Enforcement Policy, discretion was warranted because: (1) the NRC's determination that the reason for these violations (i.e., the misinterpretation of industry guidance documents) was similar to the reasons for these violations related to response-time testing procedures (EA 97-138) for which the NRC recently issued enforcement action, (2) the corrective actions for EA 97-138 encompass the corrective actions for this issue, and (3) the fact that the Supply System continued to meet the Technical Specification surveillance requirements even after RCIC was downgraded.

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*Wisconsin Electric Power Company, Point Beach Nuclear Plant  
Supplement I*

EA 97-347

In a letter to the licensee dated February 18, 1998 the NRC exercised discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for four violations classified at Severity Level III involving licensee identified deficiencies in their fire protection program. Discretion was warranted because: (1) significant enforcement actions had recently been taken against the licensee for several programmatic breakdowns for which the licensee's corrective actions encompassed the root causes for these violations; (2) the violations were related to activities before the previous enforcement actions were issued; (3) all inoperable safety-related equipment and systems were modified or corrected prior to unit restart; (4) the licensee voluntarily removed both units from service to determine the scope of its problems; (5) the violations were not willful; (6) the NRC had confidence that the licensee would have identified all items without NRC prompting; and, (7) the licensee's corrective action program was much improved.

*Wisconsin Electric Power Company, Point Beach Nuclear Plant  
Supplement I*

EA 97-505

In a letter to the licensee dated February 18, 1998 the NRC exercised discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty or a Notice of Violation for 20 violations classified at Severity Level III predominantly involving licensee identified design deficiencies. Discretion was warranted because: (1) significant enforcement actions had recently been taken against the licensee for several programmatic breakdowns for which the licensee's corrective actions encompassed the root causes for these violations; (2) the violations were related to activities before the previous enforcement actions were issued; (3) all inoperable safety-related equipment and systems were modified or corrected prior to unit restart; (4) the licensee voluntarily removed both units from service to determine the scope of its problems; (5) the violations were not willful; (6) the NRC had confidence that the licensee would have identified all items without NRC prompting; and, (7) the licensee's corrective action program was much improved.

*York Hospital  
Supplement VII*

EA 97-427

The NRC exercised enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy and refrained from issuing a civil penalty for a Notice of Violation for a Severity Level III violation was issued on March 4, 1998. This action was based on a violation involving a former employee providing inaccurate information to an NRC inspector during the inspection. Discretion was warranted because: (1) of the seriousness with which the licensee viewed the inaccurate information, (2) the aggressive investigation of the underlying transportation violations, including documenting them in the records of the Radiation Safety Committee that were available for NRC inspection, and (3) the frank and open communication with the NRC throughout.

## APPENDIX F: SUMMARY OF ACTIONS AGAINST LICENSED INDIVIDUALS

### ORDERS AND DEMANDS FOR INFORMATION (DFIs)

None

### NOTICES OF VIOLATION (NOVs)

*Altman, John T.*

*IA 97-085*

A Notice of Violation for a Severity Level III violation was issued October 29, 1997. The action was based on Mr. Altman's use of an illegal drug, cannabinoid, as evidenced by a confirmed positive drug test.

*Steven D. DeNise*

*IA 97-077*

A Notice of Violation for a Severity Level III violation was issued October 10, 1997. The action was based on Mr. DeNise's use of an illegal drug, marijuana, as evidenced by a confirmed positive drug test.

*Harvey J. Hyde, Jr.*

*IA 98-036*

A Notice of Violation for a Severity Level III violation was issued July 10, 1998. The action was based on Mr. Hyde's use of illegal drugs, amphetamines, as evidenced by a confirmed positive drug test.

*Stephen M. Jozwiak*

*IA 97-086*

A Notice of Violation for a Severity Level III violation was issued November 7, 1997. The action was based on Mr. Jozwiak's use of an illegal drug, marijuana, as evidenced by a confirmed positive drug test.

*Charles R. Ladd, Jr.*

*IA 98-023*

A Notice of Violation for a Severity Level III violation was issued April 23, 1998. The action was based on Mr. Ladd's use of an illegal drug, marijuana, as evidenced by a confirmed positive drug test.

*Stephen W. Ryan*

*IA 98-015*

A Notice of Violation for a Severity Level III violation was issued July 10, 1998. The action was based on an investigation which found that Mr. Ryan, while acting in a supervisory capacity as the shift supervisor, participated with other licensed reactor operators in recording an incorrect time for a surveillance test to make it appear that the surveillance had been performed within the required one hour time frame.

*Leo C. Zell*

*IA 98-016*

A Notice of Violation for a Severity Level III violation was issued July 10, 1998. The action was based on an investigation which found that Mr. Zell, while acting in a supervisory capacity as the assistant shift supervisor, participated with other licensed reactor operators in recording an incorrect time for a surveillance test to make it appear that the surveillance had been performed within the required one hour time frame.

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## APPENDIX G: SUMMARY OF ACTIONS AGAINST NON-LICENSED INDIVIDUALS

### ORDERS

*Finis Scott Bandy*

*IA 97-087*

An Order Prohibiting Involvement in NRC-Licensed Activities was issued November 19, 1997. The action was based on an inspection and investigation which concluded that Mr. Bandy deliberately violated 10 CFR 50.5 ("Deliberate Misconduct") by falsifying information and making false statements about his criminal history in order to gain unescorted plant access. The Order prohibits Mr. Bandy from engaging in NRC-licensed activities for a period of five years, and requires, for a period of five years, that Mr. Bandy notify the NRC of his first involvement in NRC-licensed activities following the prohibition period.

*John Boschuk, Jr.*

*IA 98-019*

An Order Prohibiting Involvement in NRC-Licensed Activities was issued April 10, 1998. The action was based on an inspection and investigation which concluded that Mr. Boschuk engaged in a pattern and practice of willfully violating NRC requirements, including unauthorized transfer of byproduct material, inaccurate statements made to the NRC, and destruction of records. For a period of five years, the Order prohibits Mr. Boschuk from engaging in NRC-licensed activities and requires him to provide a copy of the Order to any prospective employer or business partner who engages in NRC-licensed activities. Additionally, the Order requires that Mr. Boschuk notify the NRC of his first involvement in NRC-licensed activities following the prohibition period.

*Lourdes T. Boschuk*

An Order Prohibiting Involvement in NRC-Licensed Activities was issued April 10, 1998. The action was based on an inspection and investigation which concluded that Ms. Boschuk engaged in a pattern and practice of willfully violating NRC requirements, including inaccurate statements made to the NRC and destruction of records. For a period of five years, the Order prohibits Ms. Boschuk from engaging in NRC-licensed activities and requires her to provide a copy of the Order to any prospective employer or business partner who engages in NRC-licensed activities. Additionally, the Order requires that Ms. Boschuk notify the NRC of her first involvement in NRC-licensed activities following the prohibition period.

*Leland H. Brooks*

*EA 98-024*

An Order Prohibiting Involvement in NRC-Licensed Activities was issued July 24, 1998. The action was based on an investigation which concluded that Mr. Brooks deliberately omitted information about his criminal record and failed to provide copies of required court records, in order to gain unescorted plant access. The Order prohibits Mr. Brooks from engaging in NRC-licensed activities for a period of five years. Additionally, for a period of five years after the prohibition period, Mr. Brooks is required to notify the NRC the first time that he engages in NRC-licensed activities.

*Thomas C. Johnson*

*IA 98-002*

An Order Prohibiting Involvement in NRC-Licensed Activities was issued April 28, 1998. The action was based on an investigation which concluded that Mr. Johnson violated 10 CFR 50.5, ("Deliberate misconduct") by his deliberate involvement in a scheme which altered a computer code intended to assure that individuals are selected for fitness-for-duty testing in a statistically random and unpredictable manner. As a result, several individuals were excluded from the random testing. The Order prohibits Mr. Johnson from engaging in NRC-licensed activities for a period of five years. Additionally, for a period of three years after the five years have expired, Mr. Johnson is required to notify the NRC of his acceptance of each employment offer involving NRC-licensed activities.

*Julian H. McGriff*

*IA 97-067*

An Order Prohibiting Involvement in NRC-Licensed Activities was issued February 23, 1998. The action was based on an investigation which determined that Mr. McGriff deliberately falsified records of inventories of emergency equipment. The Order prohibits Mr. McGriff from engaging in NRC-licensed activities for a period of three years, and requires, for a period of one year, that Mr. McGriff notify the NRC of his first involvement in NRC-licensed activities following the prohibition period.

*David Milas*

*IA 98-047*

An Order Prohibiting Involvement in NRC-Licensed Activities was issued September 18, 1998. The action was based on an investigation which concluded that Mr. Milas deliberately compromised the integrity of an NRC operator licensing examination by obtaining a photocopy of the NRC examination for his personal use prior to the date that the examination was to be administered. The Order prohibits Mr. Milas from engaging in NRC-licensed activities for a period of five years. Additionally, for a period of five years after the prohibition period, Mr. Milas is required to notify the NRC each time that he engages in NRC-licensed activities.

*Albert M. Nardslico*

*IA 98-001*

An Order Prohibiting Involvement in NRC-Licensed Activities was issued April 28, 1998. The action was based on an investigation which concluded that Mr. Nardslico violated 10 CFR 50.5 ("Deliberate misconduct") by his deliberate involvement in a scheme which altered a computer code intended to assure that individuals are selected for fitness-for-duty testing in a statistically random and unpredictable manner. As a result, several individuals were excluded from the random testing, including Mr. Nardslico. The Order prohibits Mr. Nardslico from engaging in NRC-licensed activities for a period of five years. Additionally, for a period of three years after the five years have expired, Mr. Nardslico is required to notify the NRC of his acceptance of each employment offer involving NRC-licensed activities.

*Darrel T. Rich*

*IA 97-074*

An Order Prohibiting Involvement in NRC-Licensed Activities was issued January 5, 1998. The action was based on an investigation which determined that Mr. Rich deliberately falsified records of routine radiological surveys. The Order prohibits Mr. Rich from engaging in NRC-licensed activities for a period of three years. In addition, subsequent to the three year period, the Order requires Mr. Rich to notify the NRC the first time before accepting employment involving NRC-licensed activities.

NOTICES OF VIOLATION (NOVs)

*Lloyd W. Chesser*

*IA 98-030*

A Notice of Violation for a Severity Level III violation was issued May 15, 1998. The action was based on an inspection and investigation which found that Mr. Chesser deliberately failed to document a welding deficiency, created when he burned a hole in service water system pipe, and made a base metal weld repair to the pipe without a completed repair plan.

*Gary L. Cowan*

*IA 98-008*

A Notice of Violation for a Severity Level III violation and a Demand for Information were issued March 11, 1998. The actions were based on an investigation which determined that Mr. Cowan deliberately took seven 3-curie tritium sources to his residence. One of the glass encapsulated sources broke, resulting in minor contamination.

*Kent Dvorak*

*IA 97-079*

A Notice of Violation for a Severity Level III violation was issued November 17, 1997. The action was issued because Mr. Dvorak deliberately allowed individuals to use nuclear gauges without the required formal training.

*Charles H. Hardison, Jr.*

*IA 98-012*

A Notice of Violation for a Severity Level III violation was issued March 13, 1998. The action was based on an investigation which found that Mr. Hardison deliberately altered an air sample survey result to make it appear that it did not exceed an administrative limit.

*Nathan Hougas*

*IA 97-080*

A Notice of Violation for a Severity Level III violation was issued February 4, 1998. The action was based on an investigation which found that Mr. Hougas falsely reported that he found an open padlock to a vital area barrier when, in fact, he was the individual that had opened the padlock.

*Michael Redlin*

*IA 97-088*

A Notice of Violation for a Severity Level III violation was issued December 8, 1997. The action was based on an investigation which found that Mr. Redlin deliberately omitted information about his use of marijuana in order to gain unescorted plant access.

*Jaromir Stipek*

*IA 98-007*

A Notice of Violation for a Severity Level III violation was issued on July 6, 1998. The action was based on Mr. Stipek's deliberate failure to perform an inspection of diesel generator related areas and subsequent falsification of records to indicate that he had.

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*Jack D. Taylor**IA 98-010*

A Notice of Violation for a Severity Level III violation was issued July 2, 1998. The action was based on an investigation which determined that Mr. Taylor had consumed alcohol within three hours prior to reporting for work involving unescorted access at a commercial power reactor.

*Lanny R. Tillman**IA-97-089*

A Notice of Violation for a Severity Level III violation was issued December 1, 1997. The action was based on an investigation which concluded that Mr. Tillman deliberately performed a weld repair on a valve without authorization. The unauthorized repair was intended to cover the fact that work had been performed on the wrong valve initially.

*Les Weibley**IA 98-003*

A Notice of Violation for a Severity Level III violation was issued March 4, 1998. The action was based on an investigation which concluded that Mr. Weibley deliberately disregarded requirements for transporting radioactive material, directed other technologists to transport material without following regulations, and provided inaccurate information to an NRC inspector.

#### DEMANDS FOR INFORMATION (DFIs)

*Willaim H. Clark**IA 98-045*

A Demand for Information was issued August 26, 1998, based on Mr. Clark allegedly providing false information about a prior denial of unescorted access and a prior positive test for illegal drug use to NRC licensees in order to gain unescorted access to their nuclear facilities. The DFI was issued to fully understand Mr. Clark's views on the facts and circumstances surrounding the allegedly false information.

*Gary L. Cowan**IA 98-008*

A Notice of Violation and a Demand for Information (DFI) were issued March 11, 1998, based on an investigation which determined that Mr. Cowan deliberately took seven 3-curie tritium sources to his residence. One of the glass encapsulated sources broke, resulting in minor contamination. The DFI requires that Mr. Cowan provide the NRC with written notice at least two weeks prior to becoming involved in any NRC-licensed activity.

**APPENDIX H: SUMMARY OF ACTIONS  
AGAINST NON-LICENSED PERSONS  
OTHER THAN INDIVIDUALS**

NOTICES OF VIOLATION (NOVs)

None

CIVIL PENALTIES

None

DEMANDS FOR INFORMATION (DFIs)

*Duke Engineering & Services Company, and  
Yankee Atomic Electric Company*

*EA 97-387*

A Demand for Information was issued December 19, 1997, to obtain information to enable NRC to determine whether the companies should continue to provide engineering analyses, particularly Loss of Coolant Accident (LOCA) analyses, to NRC power reactor licensees, and whether inadequate analyses were the result of willfulness. An investigation had concluded that the preparation of inadequate analyses caused an apparent violation of the part of a power reactor licensee.

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## APPENDIX I: SUMMARY OF CASES INVOLVING DISCRIMINATION

*Construction Products Research, Inc., Fairfield, CT*  
*Five Star Products, Inc*  
*Supplement VII*

*EA 97-471*

A Notice of Violation for a Severity Level I violation was issued to this vendor on January 16, 1998. The action was based on a violation of 10 CFR 50.7, which prohibits discrimination against employees for engaging in protected activities. Specifically the discrimination of the employee included: (1) placing him on an involuntary leave status; (2) instructing other employees not to discuss the ongoing NRC investigation of CPR and Five Star with him; (3) denying him access to his office and other facilities in the companies; and (4) terminating him from employment.

*Mattingly Testing Service*  
*Supplement VII*

*EA 97-180*

A Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$10,000 was issued on October 31, 1997. The action was based on a violation of 10 CFR 30.7(a), which prohibits discrimination by a Commission licensee against an employee for engaging in certain protected activity. Specifically, the employee was terminated from his position because he identified violations of NRC requirements to the NRC. A double base civil penalty was proposed because: (1) this violation was not the first escalated enforcement within the last 2 years, (2) credit was not warranted for identification and, (3) credit was not warranted for corrective action. This action was subsequently withdrawn on September 15, 1998, based on the underlying facts of the case, the licensee's response to the proposed action, and the differing OI reports and DOL decisions.

*STP Nuclear Operating Company, South Texas 1*  
*Supplement VII*

*EA 97-341*

A Confirmatory Order Modifying License was issued on June 9, 1998. The order modified the license to ensure that the licensee's process for addressing employee protection and safety concerns will be enhanced. The NRC also exercised enforcement discretion pursuant to Section VII B.6 of the Enforcement Policy and refrained from issuing a Notice of Violation or a civil penalty for discrimination violations. Discretion was warranted because: (1) the licensee settled the four employee protection complaints prior to an evidentiary hearing before, and prior to a finding that discrimination had occurred by, the United States Department of Labor; (2) the licensee took appropriate corrective actions; and (3) the licensee has planned actions to monitor the safety environment and to promote an atmosphere conducive to the raising of safety concerns by employees without fear of retaliation.



## APPENDIX J: SUMMARY OF HEARING ACTIVITY

### *Ben-Haim, Aharon, Ph.D.*

A request for a hearing and a request to stay the immediate effectiveness of an Order were received on August 19, 1997. The Order prohibits the individual from involvement in NRC-licensed activities. On September 18, 1997, the Licensing Board ruled that it would not rescind the immediate effectiveness of the Order. The hearing on the Order was held May 27-29, 1998. The Atomic Safety and Licensing Board has not yet issued a decision.

### *CONAM Inspection, Inc.*

On December 1, 1997, CONAM Inspection, Inc., a radiography licensee, submitted a request for a hearing regarding an Order Imposing Civil Monetary Penalty issued for three violations that involved a whole body exposure to a radiographer in excess of NRC limits. On December 14, 1998, the staff and the licensee filed a joint settlement agreement for approval by the Atomic Safety and Licensing Board. The Licensing Board approved the settlement and dismissed the proceeding on December 17, 1998.

### *Elamir, Magdy, M.D.*

A request for a hearing was received on October 4, 1997, regarding an Order prohibiting the individual from involvement in NRC-licensed activities. A settlement agreement was approved by the Atomic Safety and Licensing Board on October 8, 1998. The decision became final agency action on November 17, 1998.

### *NDT Services, Inc.*

On April 14, 1998, NDT Services, Inc., submitted a request for a hearing and a request to stay the immediate effectiveness of an Order Suspending License. On July 6, 1998, the Licensing Board ruled that it would not rescind the immediate effectiveness of the order and dismissed the proceeding.



**APPENDIX K: SUMMARY OF 10 CFR 2.206 ACTIVITY**

There was no 10 CFR 2.206 activity this fiscal year.

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## APPENDIX L: SUMMARY OF WITHDRAWN ENFORCEMENT ACTIONS

*Guam EPA, Barrigada, Guam*

*EA 97-122*

On November 4, 1997, the NRC withdrew a \$2,750 civil penalty included in a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) issued by NRC in a letter dated September 11, 1997. The case was originally proposed for violations relating to possession of a gas chromatograph. The NRC withdrew the penalty based on the licensee's agreement to return the device to the manufacturer and its request to terminate its license.

*Tennessee Valley Authority, Sequoyah*

*EA 95-283*

On April 16, 1998, the NRC withdrew a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) issued by NRC in a letter dated February 20, 1996. The case was originally proposed for violations relating to discrimination. The withdrawal was based on the decision of the U.S. Court of Appeals and the fact that neither complainant nor the DOL requested a rehearing.