

April 3, 2000

EA-00-004

Mr. S. E. Scace, Director  
Nuclear Oversight and Regulatory Affairs  
c/o Mr. D. A. Smith, Manager - Regulatory Affairs  
Northeast Nuclear Energy Company  
PO Box 128  
Waterford, CT 06385

SUBJECT: NOTICE OF VIOLATION  
(NRC Investigation Report No. 1-97-036)

Dear Mr. Scace:

This letter refers to an investigation conducted at the Millstone Nuclear Power Station by the NRC Office of Investigations (OI) to determine whether certain Northeast Nuclear Energy Company (NNECo) employees were involved in the creation of false documents used to mislead the NRC during an inspection. The documents were presented to the inspector during an inspection of an incident involving the contamination of several workers at Unit 1 in January 1997.

Based on the results of the OI investigation, the NRC has concluded that a senior health physics (SHP) technician deliberately caused NNECo to be in violation of NRC requirements when he created an inaccurate document associated with the ALARA controls in place for the transfer of radioactive waste material from drums to a liner on January 24, 1997. Specifically, the NRC concludes, based on a preponderance of evidence obtained during the investigation, that the SHP technician deliberately altered, after the transfer occurred, an ALARA Checklist Discussion Sheet which documented the preparations taken for the transfer. The SHP technician's alteration of the ALARA Checklist Discussion Sheet caused it to not be accurate in that it did not reflect the Discussion Sheet that existed at the time of the briefing. A summary of the results of the OI investigation was forwarded to you on January 10, 2000. You provided a written response, dated February 28, 2000.

In your response, you indicated that the evidence gathered during your investigation of this matter indicates that the document was changed after the fact, although there was no evidence as to what was changed. You further stated that your investigation resulted in an indeterminate finding, and you do not believe that a violation of 10 CFR 50.9 has been substantiated. Notwithstanding your contention, the NRC concludes that a preponderance of evidence shows that the ALARA Checklist Discussion Sheet was altered by the SHP technician in question after several workers were contaminated during the transfer of the radioactive material, and this alteration included the addition of the warning statement (which was in bold print, upper case, and underlined) "THE POTENTIAL EXITS (sic) AND IS LIKELY FOR PERSONNEL SKIN CONTAMINATIONS AND SHOE CONTAMINATIONS DURING THE UNDRESS EVOLUTION." Several factors, when considered collectively, were persuasive in the NRC reaching this

conclusion.

First, computer date stamping documentation of the ALARA Checklist Discussion Sheet indicates that after the contamination event occurred on Friday, January 24, 1997, the document was accessed by the SHP technician on Saturday, January 25, 1997, and Sunday, January 26, 1997. While the computer date stamping for the electronic copy of that document would suggest that there were no changes to the document after 0812 on January 25, 1997 (when the SHP apparently transferred the electronic file of the ALARA Checklist Discussion Sheet from a disk to his personal drive on your internal file server), the SHP technician arrived at the plant at 0516 on Saturday, January 25, 1997, providing himself ample time to add the referenced warning to the ALARA Checklist Discussion Sheet. Furthermore, the SHP technician was unable to provide any computer generated evidence to show the nature of the document at the time of the pre-job briefing.

Second, the SHP technician, during an enforcement conference with the NRC on February 15, 2000, stated that although he had accessed the ALARA documents on the weekend of January 25-26, 1997, after the job was complete, he made no changes to any of the documents. However, this statement appears to conflict with the statement he made to your investigators on January 24, 2000, when he indicated that he may have made an editorial change to the documents that he could not recall.

Finally, a number of individuals who attended the pre-work briefing indicated to OI that either the issue of likely contamination was not covered during that briefing or they did not recall it being covered. It is unlikely that the briefing attendees would not recall the statement regarding likely contamination given its unusual nature. As such, if the referenced three line warning was in the two page ALARA Checklist Discussion Sheet at the time of the briefing, it would likely have been emphasized at the briefing given that it was the only part of the Discussion Sheet that was written in bold and upper case, and also underlined.

Based on the above, the NRC concludes that the ALARA Checklist Document Sheet was altered by the SHP technician after the transfer of the material, and the alteration included the addition of the warning statement. As such, the document was inaccurate. The document was also material in that it had the capability to influence an NRC reviewer. In fact, the ALARA Checklist Discussion Sheet was provided to an NRC inspector during an inspection of the contamination incident in February 1997, and led the inspector to believe that a caution concerning the likelihood of workers becoming contaminated was in the documentation prepared prior to the job and discussed at the pre-work briefing. Therefore, the SHP technician's actions caused you to be in violation of 10 CFR 50.9 which requires, in part, that information required to be maintained by the Commission, or information submitted to the NRC, shall be complete and accurate in all material respects. The violation is described in the enclosed Notice of Violation.

The potential safety consequences of this violation were minimal given that none of the contaminations resulted in a significant radiological exposure, and the remainder of the ALARA Checklist Discussion Sheet provides for the possibility that contamination could occur. Therefore, absent any willfulness, the violation would normally be considered a minor violation. However, given the willful nature of this violation, it is classified at Severity Level IV in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600. Notwithstanding the Severity Level IV

classification, you should emphasize to your employees the importance of all required records, and all information submitted to the NRC, being complete and accurate in all material respects. Since the violation was identified by the NRC, this willful Severity Level IV violation is being cited in the enclosed Notice of Violation in accordance with the Enforcement Policy.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. As provided for in the enclosed Notice, you are required to include a description of the reasons for the violation, if admitted, and your corrective action. Your response may reference or include previous docketed correspondence if the correspondence adequately addresses the required response. In addition, if you dispute the enclosed violation or its severity level, you should describe the basis for the dispute in your response. In your response, you may reference, as appropriate, your prior response to the NRC. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

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

Sincerely,

*/RA/*

Hubert J. Miller  
Regional Administrator

Docket No. 50-245  
License No. DPR-21

Enclosure: Notice of Violation

cc w/encl:

B. D. Kenyon, President and Chief Executive Officer - NNECO  
R. P. Necci, Vice President - Nuclear Technical Services  
L. J. Olivier, Senior Vice President and Chief Nuclear Officer - Millstone  
M. H. Brothers, Vice President - Nuclear Operations  
F. C. Rothen, Vice President - Nuclear Work Services  
J. T. Carlin, Vice President - Human Services  
G. D. Hicks, Director - Nuclear Training Services  
C. J. Schwarz, Station Director  
D. A. Landeche, Director - Unit 1 Operations  
B. S. Ford, Director - Nuclear Safety and Regulatory Affairs  
R. G. Fraser, Director - Unit 1 Decommissioning  
T. P. White, Manager - Unit 1 Nuclear Oversight  
L. M. Cuoco, Senior Nuclear Counsel  
J. R. Egan, Esquire  
N. Burton, Esquire  
V. Juliano, Waterford Library  
J. Buckingham, Department of Public Utility Control  
State of Connecticut SLO Designee  
First Selectmen, Town of Waterford  
D. Katz, Citizens Awareness Network (CAN)  
T. Concannon, Co-Chair, NEAC  
R. Bassilakis, CAN  
J. M. Block, Attorney, CAN  
G. Winslow, Citizens Regulatory Commission (CRC)  
E. Woollacott, Co-Chair, NEAC

Northeast Nuclear Energy Company

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Nuclear Safety Information Center (NSIC)

NRC Resident Inspector - Millstone

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T. Walker, RI

J. Linville, RI

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DATE	03/30/00	03/24/00			

## ENCLOSURE

### NOTICE OF VIOLATION

Northeast Nuclear Energy Co.  
Millstone, Unit 1

Docket No. 50-245  
License No. DPR-21  
EA-00-004

Based on an investigation conducted by the NRC Office of Investigations, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the particular violation is set forth below:

10 CFR 50.9 requires that information provided to the Commission by a licensee, or information required by the Commission's regulations to be maintained by the licensee, shall be complete and accurate in all material respects.

Technical Specification 6.11 requires that procedures for personnel radiation protection be prepared consistent with the requirements of 10 CFR Part 20 and shall be adhered to for all operations involving personnel radiation exposure.

10 CFR 20.1101 requires, in part, that procedures and engineering controls be used to the extent practical to achieve occupational doses that are as low as reasonably achievable (ALARA).

Northeast Nuclear Energy Company (NNECo) procedure RPM 1.4.1, Rev 0, dated 1/1/94, "ALARA Reviews and Reports," required an ALARA review for jobs within a radiological controlled area (RCA) with an estimated exposure of 1 rem Total Effective Dose Equivalent (TEDE) or greater. NNECo procedure RPM 1.4.1 also provided instructions for completing an ALARA Exposure Controls Checklist and an ALARA Exposure Controls Summary. The ALARA Exposure Controls Checklist required a pre-work briefing in order to discuss ALARA controls. The ALARA Exposure Controls Summary documented this meeting and also required reading the attached ALARA Checklist Discussion Sheet.

Contrary to the above, on January 24, 1997, a senior health physics (SHP) technician conducted a pre-job briefing of workers for a job involving the transfer of radioactive waste material from ten drums to a liner (an activity involving an estimated exposure greater than 1 rem TEDE), and subsequent to the completion of the transfer activity, the SHP technician altered the ALARA Checklist Discussion Sheet causing it to not be accurate in that it did not reflect the Discussion Sheet that existed at the time of the briefing. This ALARA Checklist Discussion Sheet was altered by the SHP technician after several workers were contaminated during the transfer of the radioactive material. The alteration included the addition of the statement (which was in bold, upper case, and underlined) "THE POTENTIAL EXITS (sic) AND IS LIKELY FOR PERSONNEL SKIN CONTAMINATIONS AND SHOE CONTAMINATIONS DURING THE UNDRESS EVOLUTION." The altered ALARA Checklist Discussion Sheet was provided to an NRC inspector during an inspection of the contamination incident in February 1997, and led

the inspector to believe that a caution concerning the likelihood of workers becoming contaminated was in the documentation prepared prior to the job and discussed at the pre-work briefing. Therefore, the inaccurate information had the capability to influence an NRC reviewer and is material.

This violation is classified at Severity Level IV (Supplement VII).

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

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

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

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 3rd day of April 2000