

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

Centerior Service Company
Davis-Besse Nuclear Power Station

Docket No. 50-346
License No. NPF-3
EA 96-304

During an NRC inspection conducted on June 24 through July 11, and August 14-15, 1996, violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the NRC proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violations and associated civil penalty are set forth below:

I. Violation Assessed a Civil Penalty

10 CFR Part 50, Appendix R, Section III.G.2 requires, in part, that where cables or equipment, including associated non-safety circuits that could prevent operation or cause maloperation due to hot shorts, open circuits, or shorts to ground, of redundant trains of systems necessary to achieve and maintain hot shutdown conditions which are located within the same fire area outside of primary containment, one of the following means of ensuring that one of the redundant trains is free of fire damage shall be provided: (a) separation of cables and equipment and associated non-safety circuits of redundant trains by a fire barrier having a three hour rating; (b) separation of cables and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustible or fire hazards; and, fire detectors and an automatic fire suppression system shall be installed in the fire area; or (c) enclosure of cables and equipment and associated non-safety circuits of one redundant train in a fire barrier having a one-hour fire rating; and fire detectors and an automatic fire suppression system shall be installed in the fire area.

10 CFR Part 50, Appendix R, Section III.G.3 requires, in part, that alternative or dedicated shutdown capability be provided where the protection of systems whose function is required for hot shutdown does not satisfy the requirements of Section III.G.2.

Contrary to the above, prior to March 20, 1996, the licensee failed to provide adequate protection to ensure operation of equipment for systems necessary to achieve and maintain hot shutdown conditions or provide alternate or dedicated safe shutdown capability, in that sixteen motor-operated valves, necessary to achieve and maintain hot shutdown conditions, were potentially unable to perform their post-fire safe shutdown function because their control circuits were susceptible to fire induced hot shorts. (01013)

This is a Severity Level III violation (Supplement I).
Civil Penalty - \$50,000.

II. Violation Not Assessed a Civil Penalty

License Condition 2.C.(4) requires that Toledo Edison implement and maintain in effect all provisions of the approved Fire Protection Program as described in the Updated Safety Analysis Report. Updated Safety Analysis Report Section 9.5.1, "Fire Protection Program," states that the "Fire Hazard Analysis Report (FHAR), which is part of the overall program, documents the analysis that ensures compliance with 10 CFR Part 50, Appendix R, Section III.G.

FHAR Section 8.1.4 requires that all fire barriers separating portions of redundant safe shutdown systems required in the event of a fire shall be operable.

FHAR Section 8.1.4.B requires with one or more of the above fire barriers inoperable in the containment or containment annulus, then

- 1) If the fire barrier(s) is located inside containment then within one hour, establish a fire watch to inspect one side of the affected barrier at least once per eight hours or monitor the containment air temperature at least once per hour utilizing the inlet temperature of one of the operating containment air coolers, or
- 2) If the fire barrier(s) is located inside the containment annulus, then within eight hours, establish a fire watch to inspect one side of the affected barrier at least once per eight hours during Modes 3, 4, 5, or 6. No inspection is required during Modes 1 or 2 due to ALARA concerns.

Contrary to the above, from December 15, 1992, until April 16, 1996, fire barriers (radiant energy shields utilizing Thermo-Lag) located in the containment and containment annulus were inoperable and (1) for the containment, action was not taken within one hour to establish a fire watch to inspect one side of the affected barrier at least once per eight hours or monitor the containment air temperature at least once per hour utilizing the inlet temperature of one of the operating containment air coolers, and (2) for the containment annulus, action was not taken within eight hours to establish a fire watch to inspect one side of the affected barrier at least once per eight hours during Modes 3, 4, 5, or 6. (02014)

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

Pursuant to the provisions of 10 CFR 2.201, Centerior Service Company (Licensee) is hereby required to submit a written statement or explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice of Violation and Proposed Imposition of Civil Penalty (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each alleged violation:

- (1) admission or denial of the alleged violation. (2) the reasons for the

violation if admitted, and if denied, the reasons why, (3) the corrective steps that have been taken and the results achieved, (4) the corrective steps that will be taken to avoid further violations, and (5) the date when full compliance will be achieved.

If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as why the license should not be modified, suspended, or revoked or why such other action as may be proper should not be taken. Consideration may be given to extending the response time for good cause shown. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

Within the same time as provided for the response required above under 10 CFR 2.201, the Licensee may pay the civil penalty by letter addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, with a check, draft, money order, or electronic transfer payable to the Treasurer of the United States in the amount of the civil penalty proposed above, or may protest imposition of the civil penalty in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should the Licensee fail to answer within the time specified, an order imposing the civil penalty will be issued. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violation listed in this Notice, in whole or in part, (2) demonstrate extenuating circumstances, (3) show error in this Notice, or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the factors addressed in Section VI.B.2 of the Enforcement Policy should be addressed. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from the statement or explanation in reply pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty due which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The response noted above (Reply to Notice of Violation, letter with payment of civil penalty, and Answer to a Notice of Violation) should be addressed to: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to the Regional Administrator, U.S. Nuclear Regulatory

Commission, Region III, and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice.

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

Dated at Lisle, Illinois
this 22nd day of October 1996