

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF NUCLEAR REACTOR REGULATION
Frank J. Miraglia, Jr., Acting Director

In the Matter of)	Docket No. 50-245
)	
NORTHEAST NUCLEAR ENERGY COMPANY)	License No. DPR-21
)	
(Millstone Nuclear Power Station,)	(10 CFR 2.206)
Unit 1))	
)	

DIRECTOR'S DECISION UNDER 10 CFR 2.206

I. INTRODUCTION

On January 3, 1995, Mr. Anthony J. Ross (Petitioner) filed a Petition with the Executive Director for Operations of the Nuclear Regulatory Commission (NRC) pursuant to Section 2.206 of Title 10 of the Code of Federal Regulations (10 CFR 2.206). In the Petition, the Petitioner raised concerns regarding noncompliance with Procedure WC-8, "Control and Calibration of Measuring and Test Equipment," at Millstone Nuclear Power Station, Unit 1 and requested that escalated enforcement action be taken. Specifically, the Petitioner provided several examples of what he alleged were violations of Procedure WC-8, which he stated required that measuring and test equipment (M&TE) be signed out from, and returned to, a custodian upon completion of work. The Petitioner requested that the NRC institute sanctions against his department manager, his first-line supervisor, and "two coworkers"¹ for

¹ The "two coworkers" are understood to be an individual the Petitioner alleges willfully falsified (back-dated) an entry on the form to indicate that the meter was returned on October 13, 1994, and an individual the Petitioner alleges willfully violated Procedure WC-8 on November 17, 1994, by signing out his own M&TE.

engaging in deliberate misconduct in violation of 10 CFR 50.5 in failing to comply with Procedure WC-8. The Petitioner also asserted that the NRC should conduct an investigation into violations of this procedure and audit the Millstone Unit 1 maintenance department M&TE folders for widespread problems regarding noncompliance with this procedure.

On February 23, 1995, the NRC informed the Petitioner that the Petition had been referred to the Office of Nuclear Reactor Regulation pursuant to 10 CFR 2.206 of the Commission's regulations. The NRC also informed the Petitioner that the staff would take appropriate action within a reasonable time regarding the specific concerns raised in the Petition. On the basis of a review of the issues raised by the Petitioner as discussed below, I have concluded, for the reasons explained below, that the Petition is denied with regard to the request for escalated enforcement action and instituting sanctions against the department manager, first-line supervisor, and two co-workers, but granted with regard to the requests for an "investigation into the above mentioned procedure violations" and for the NRC to "audit the Unit 1 maintenance department M&TE folders."

II. DISCUSSION

In the Petition, the Petitioner raises concerns regarding numerous noncompliances with Procedure WC-8, Revision 0, at Millstone Unit 1. Specifically, the Petitioner states that (1) quality assurance (QA)² test meter 1587 was signed out on October 13, 1994, for weekly battery readings, and as of October 19, 1994, the user had not returned the meter or signed it

² Quality Assurance comprises those quality assurance actions related to the physical characteristics of a material, structure, component, or system which provide a means to control the quality of the material, structure, component, or system to predetermined requirements.

in. The Petitioner states that this practice was in violation of Procedure WC-8, which stated "return M&TE to custodian upon completion of work,"³ (2) although he identified a problem with Procedure WC-8 (specifically, who was responsible for the actual signing in and out of M&TE) to his first-line supervisor on November 7, 1994, as of December 1994, the procedure still had not been changed (in accordance with Procedure DC-4, "Procedural Compliance," which requires that if a procedure conflict or interpretation problem exists, a change or revision should be made); (3) on November 10, 1994, he noticed on a station form that someone signed in the QA meter with the return date of October 13, 1994, and that this was a willful falsification (back-dating) of a nuclear record; (4) on November 17, 1994, an electrician co-worker was directed by their first-line supervisor to willfully violate Procedure WC-8 by signing out his own M&TE, and signed out his own M&TE although both the supervisor and co-worker knew they were to have the custodian sign out the equipment; (5) on November 21, 1994, his department manager instructed the custodian to give a spare key for the QA locker to the Millstone Unit 1 control room so the control room could sign out equipment at night; and (6) on November 25, 1994, a mechanic signed out M&TE without a custodian.

In addition, the Petitioner states that he believes that his department manager was directly responsible for sharing the effects of a new, revised, or rewritten procedure with the employees of his department if the procedure directly affected day-to-day operations. The Petitioner asserts that this

³ This procedure had become effective on June 20, 1994. It required that a "designated custodian" enter the date of issue and date of return on the custody and usage record, and that the user of the equipment return it to the custodian upon completion of work. In Attachment 1 to the procedure, "custodian" was defined as the individual designated by the department head to store, track, and issue the department's M&TE.

individual's "lack of communications" regarding the procedure has caused a "widespread problem of procedure noncompliance."⁴

In letters to Northeast Nuclear Energy Company (NNECO), licensee for Millstone Units 1, 2, and 3, dated December 5 and 28, 1994, and February 14, 1995, the NRC staff raised a number of maintenance-related issues. In those letters, the NRC staff requested NNECO to review these issues and submit a written response. Among these issues, the NRC requested NNECO to review two issues associated with Procedure WC-8 that are now presently being raised by the Petitioner. These were that: (1) the Millstone Unit 1 QA test meter 1587 was signed out on October 13, 1994, to perform weekly battery readings, but as of October 19, 1994, the user had not returned the meter or signed in the meter; and (2) many members of the Millstone Unit 1 Maintenance Department never received training on Procedure WC-8, Rev. 0, within 60 days of the effective date of June 20, 1994, as required by the documentation of training requirements form of NNECO Procedure DC-1.

In a letter dated March 6, 1995, NNECO responded to the issue regarding failure to return the QA meter signed out on October 13, 1994. In its letter, NNECO stated that on October 13, 1994, a maintenance electrician signed out QA test meter 1587 to perform weekly battery surveillances and signed it back in on the M&TE log on the same day. On October 19, 1994, a different maintenance electrician signed out and returned QA test meter 1587. Sometime later that day, QA test meter 1587 was signed out again and subsequently returned the

⁴ NNECO Procedure DC-1 requires that the licensee select the training requirements to be used in training employees whenever procedures are revised, and indicate the type of training that would be performed on Attachment 5 to Procedure DC-1. For Procedure WC-8, Revision 0, the training required was marked as "training to be done by Department or Nuclear Training Department within 60 days of the effective date and prior to performance of procedure."

same day. NNECO stated that it was unable to determine, based on interviews with the parties involved and a review of the custody and usage record, the exact circumstances surrounding QA test meter 1587. However, what was known was that QA test meter 1587 had been signed out once on October 13 and twice on October 19, 1994. NNECO's review further concluded that strict compliance with Procedure WC-8 was not being observed at all three Millstone units in that a custodian was not being used to ensure that certain actions (i.e., signing in and out M&TE on the M&TE log) were being accomplished. However, NNECO stated that it believed it met the "intent of the procedure" in that the user of the M&TE stored, tracked, and issued the equipment as required by the procedure, except that the custodian was not involved. As a result of its review, NNECO undertook certain corrective actions. Specifically, NNECO held a site-wide meeting for all departments responsible for use or issuance of QA M&TE on February 21, 1995, to determine corrective actions necessary to ensure procedural compliance. Subsequently, NNECO revised Procedure WC-8 on April 27, 1995, to specifically allow the user of M&TE to sign QA test equipment in and out. The custodian is still responsible for storing and tracking M&TE. In addition, Millstone Unit 1 control room personnel responsible for accessing QA M&TE were made aware of the logging requirements.

The NRC conducted a special safety inspection from May 15 through June 23, 1995, at the Millstone station. During this inspection, the staff reviewed a number of the concerns, including the concerns about QA test meter 1587 and the other examples of noncompliance with Procedure WC-8 alleged by the Petitioner, and issued its findings in Inspection Report (IR) 50-245/95-22, 50-336/95-22, 50-423/95-22 (95-22), dated July 21, 1995.

During the inspection, the NRC staff reviewed the custody and usage record sheets for QA test meter 1587 from September 27 to November 11, 1994. Based on this review, the staff was unable to determine whether QA test meter 1587 was properly logged in and out in October 1994 or if the custody and usage record sheet was back-dated. The NRC staff discussed this issue with the workers involved who indicated that they had no recollection of the exact circumstances surrounding QA test meter 1587 and that, to the best of their knowledge, QA test meter 1587 was logged in and out properly. Therefore, the staff was unable to determine whether QA test meter 1587 was controlled improperly and whether the Petitioner's co-worker willfully falsified (by back-dating) a nuclear record (M&TE log).

The staff also reviewed the original procedure and determined that although Procedure WC-8, Rev. 0, was not clear in specifying who was responsible for the actual signing in and out of equipment, NNECO was meeting the intent of the procedure in that M&TE was stored, tracked, and issued in a controlled manner. The NRC staff further concluded that NNECO's additional corrective actions (i.e., modifying the procedure) were adequate in clarifying the procedure and should prevent interpretation problems in the future.

Notwithstanding the findings of the inspection report, however, the NRC has reconsidered this matter and determined that NNECO was not in compliance with Procedure WC-8, Rev. 0. This determination is supported by the fact that NNECO admitted in its March 6, 1995, letter that it was not in compliance with Procedure WC-8. In addition, the NRC has reviewed the custody and usage records for signing in and out M&TE on November 17 and 25, 1994, and determined that an electrician and mechanic had signed out their own M&TE, respectively, on those dates. Accordingly, the Petitioner's assertions that

the procedure was violated when a co-worker electrician signed out his own M&TE on November 17, 1994, and a mechanic signed out M&TE on November 25, 1994, is substantiated. However, the NRC has been unable to confirm that either of these individuals had been "directed" by supervision to sign out the equipment.

In addition, NNECO's review, as described in its letter dated March 6, 1995, and verified by the staff in IR 95-22, determined that keys had been available during this timeframe in all Millstone control rooms and were in the possession of security personnel to allow access to QA M&TE storage locations. These groups required access to these areas in order to properly execute their duties. Therefore, since the custodian did not sign in and out the equipment, the Petitioner's additional assertion that the procedure was violated because security personnel and personnel in the Millstone Unit 1 control room could sign out M&TE at night is substantiated. However, the NRC has been unable to confirm that the department manager had instructed the custodian to give a spare key to the control room so the control room could sign out M&TE at night.

Furthermore, the staff has determined that, since there were no safety consequences as a result of these events, the noncompliances with Procedure WC-8 did not constitute a violation that could reasonably be expected to have been prevented by the licensee's corrective action for a previous violation or a previous licensee finding that occurred within the past 2 years of the inspection at issue, adequate corrective actions were implemented regarding Procedure WC-8, and the violation was not willful, the violation would have been categorized in accordance with the enforcement policy in effect at the

time of the inspection as a non-cited Severity Level V violation and would not have been the subject of formal enforcement action.⁵

In addition, since the procedure was not clear in describing specific responsibilities and NNECO believed it was meeting the intent of the procedure, the NRC has concluded that the Petitioner's department manager, his first-line supervisor, and two co-workers did not deliberately violate NRC regulations or the Millstone Unit 1 operating license and, therefore, did not violate the provisions of 10 CFR 50.5. Moreover, NNECO revised Procedure WC-8 on April 27, 1995, and the procedure now more clearly allows the user of the M&TE to sign in and out QA test equipment. The custodian still is responsible for storing and tracking M&TE. Therefore, the staff has determined that, although the Petitioner is correct in that the procedure was not revised as of December 1994, the procedure was subsequently revised, so that Procedure DC-4 was not violated.

By letter dated April 26, 1995, NNECO provided its review of whether members of the Maintenance Department received training within 60 days of Revision 0 of Procedure WC-8 (June 20, 1994). In its letter, NNECO stated that no documentation indicating that training was conducted for Procedure

⁵ The staff has reconsidered this violation in accordance with the current enforcement policy (NUREG-1600, "General Statement of Policy and Procedures for NRC Enforcement Action") and has concluded that the violation is below the level of significance of Severity Level IV violations. This determination is based on the fact that NNECO was meeting intent of the procedure; there was negligible impact on safety; NNECO's interpretation of the M&TE custodian's responsibilities does not indicate a programmatic problem that could have safety or regulatory impact; if the violation recurred, it would not be considered a significant concern; and the violation was not willful. Therefore, if considered under the new enforcement policy, this violation would be classified as a minor violation. Minor violations, as described in the current enforcement policy, are not the subject of formal enforcement action and are usually not cited in inspection reports. To the extent that such violations are described, they are now noted as non-cited violations.

WC-8, Rev. 0, had been found. While no training records were located, NNECO stated that the Millstone Unit 1 Maintenance Manager recalled that the procedure was discussed at a Maintenance Department meeting within 60 days of its effective date.

The NRC staff reviewed Procedure DC-1 and determined that since NNECO could not locate the training records for Procedure WC-8, Rev. 0, and that training by the Maintenance Department or the Nuclear Training Department was not conducted within 60 days of the effective date for Procedure WC-8, Rev. 0, NNECO was in violation of Procedure DC-1.

The staff's review of NNECO's April 26, 1995, response to the NRC letter dated February 14, 1995, was documented in IR 95-22. The staff has reviewed NNECO's corrective actions that included NNECO management reemphasizing the importance of training on new or revised procedures and following procedures, the revising of Procedure WC-8, and training on the revised procedure. Based on that review, the staff has determined that the corrective actions the licensee has taken are acceptable. The staff has further determined that since there were no safety consequences as a result of this event, it was not a violation that could reasonably be expected to have been prevented by the licensee's corrective action for a previous violation or a previous licensee finding that occurred within the past 2 years of the inspection at issue, adequate corrective actions were implemented, and the violation was not willful, the violation would have been categorized in accordance with the enforcement policy in effect at the time of the inspection as a non-cited

Severity Level V violation and would not have been the subject of formal enforcement action.⁶

III. CONCLUSION

The institution of a proceeding pursuant to 10 CFR 2.206 is appropriate only if substantial health and safety issues have been raised. See Consolidated Edison Company of New York (Indian Point Units 1, 2, and 3) CLI-75-8, 2 NRC 173, 175 (1975) and Washington Public Power Supply System (WPPSS Nuclear Project No. 2), DD-84-7 19 NRC 899, 924 (1984). This is the standard that has been applied to the concerns raised by the Petitioner to determine whether the action requested by the Petitioner, or other enforcement action, is warranted.

On the basis of the above assessment, I have concluded that, although certain minor procedural violations occurred, no substantial health and safety issues have been raised by the Petition regarding Millstone Unit 1 that would require initiation of enforcement action. Therefore, to the extent that the Petitioner requests that escalated enforcement action be taken against individuals and NU for violations of Procedure WC-8 or failure to train employees on the procedure, the Petition has been denied. However, as described above, the NRC conducted an inspection into the alleged violations of Procedure WC-8 from May 15 through June 23, 1995, and conducted an audit of

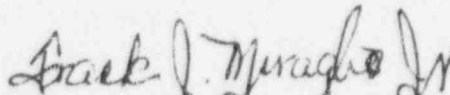
⁶ The staff has reconsidered this violation in accordance with the guidance in the current enforcement policy and has concluded that the violation is below the level of significance of Severity Level IV violations. This determination is based on the fact that there was negligible impact on safety; the violation does not indicate a programmatic problem that could have safety or regulatory impact; if the violation recurred, it would not be considered a significant concern; and the violation was not willful. Therefore this violation is classified as a minor violation and, as previously discussed, minor violations are not normally the subject of formal enforcement action and are usually not cited in inspection reports. To the extent that such violations are described, they are characterized as non-cited violations.

the custody and usage record sheets. Therefore, to the extent that the Petitioner has requested an NRC "investigation into the above mentioned procedure violations" and for the NRC to "audit the Unit 1 maintenance department, M&TE folders," the Petition has been granted.

As provided in 10 CFR 2.206(c), a copy of this Decision will be filed with the Secretary of the Commission for the Commission's review. This Decision will constitute the final action of the Commission 25 days after issuance unless the Commission, on its own motion, institutes a review of the Decision in that time.

Dated at Rockville, Maryland, this 11th day of February 1997.

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in dark ink, appearing to read "Frank J. Miraglia, Jr.", is written over the typed name.

Frank J. Miraglia, Jr., Acting Director
Office of Nuclear Reactor Regulation