

*NRC Evaluation of Licensee's Request for Mitigation*

With respect to the Licensee's argument that aggregating Violations I.A and I.B is inappropriate, the NRC concluded, as described above, that Violation I.B occurred as stated. The NRC determined that Violations I.A and I.B were related in that they have the same fundamental underlying cause and similar programmatic deficiencies, namely, the lack of management attention to NCS controls. Violation I.A involved exceeding a NCS limit. Violation I.B was issued for failure to consider process conditions and known modes of failure in the NCS analysis. These are two different issues in NCS controls and two different license requirements. Therefore, the NRC concludes both that aggregating Violations I.A and I.B as a Severity Level III was appropriate regardless of the time period between the two violations and that an escalated enforcement action was warranted.

With regard to the Licensee's disagreement with NRC statements, the NRC notes that there are 17 documented Licensee violations of NRC requirements involving NCS controls over the past two years. Despite these noted numerous weaknesses, the Licensee's NCS evaluations and analyses have not been adequately strengthened as evidenced by the failures described in NRC inspection reports 70-27/94-12, 94-15, and 94-16. These violations and other weaknesses clearly represent continued poor performance and inadequate management attention because the Licensee has not sufficiently improved its performance over the past two years to prevent recurring problems in the area of NCS. Furthermore, the Licensee's argument regarding the function of the NLB is narrow and does not support the Licensee's statements that extensive management attention has been placed in this area to ensure identification and correction of NCS problems. While the NRC acknowledges that some management attention has been directed toward identifying and correcting NCS problems, Licensee management must ensure that proper NCS controls and oversight are in place and are adhered to, and that NCS problems are thoroughly investigated to ensure that effective corrective actions are in place to prevent such problems from recurring or leading to other problems.

The NRC neither escalated nor mitigated for the identification factor because while the NRC recognizes that the Licensee identified Violation I.A, the Licensee should note that the NRC identified Violation I.B. In addition, Section VI of the Enforcement Policy states, in part, that a "self-disclosing" event as used in this policy statement means an event that is readily obvious by human observation \* \* \* The Licensee's Chemical Processing operating procedures required operators to: compare the amount of U-235 added to the low-level dissolvers with the amount removed, determine if the difference between the two exceeded 40 percent and, if so, report such excessive differences to management. Also, the Licensee's NCS limits required the amount of U-235 in each low-level dissolver zone be limited to 350 grams. Because the license requires procedures and postings to

be followed and because doing so made the 350 gram limit violation readily obvious to human observation, the event was correctly categorized as self-disclosing.

Furthermore, Section VI of the Enforcement Policy also states, in part, that "The base civil penalty may also be mitigated up to 25% when the licensee identifies a violation resulting from a self-disclosing event where the licensee demonstrates initiative in identifying the root cause of the violation." While the NRC acknowledged that the Licensee identified inadequacies in procedures, controls, and implementation systems, the NRC maintains that the Licensee did not demonstrate initiative in identifying the root cause of the violations because its analysis did not ask or answer *why* these procedures, controls, and systems were inadequate and what should be done to prevent such recurrence. Specifically, NRC involvement was needed before acceptable corrective action was taken in that it was not until NRC requested and conducted a management meeting with the Licensee on August 3, 1994, that the Licensee agreed to evaluate the series of incidents that had been occurring in an attempt to uncover the underlying generic root cause(s).

With regard to the corrective action factor, the NRC acknowledged that the Licensee took some immediate corrective actions to stop operations of the low-level dissolver and formed an incident review team to review the event in detail and determine appropriate corrective actions. The NRC did give the Licensee credit for these corrective actions in that escalation for this factor was not applied. However, the NRC affirms that full mitigation for this factor is not warranted because: (1) The Licensee did not demonstrate initiative in identifying the root cause of the violations because NRC involvement was needed before adequate actions were taken; (2) the Licensee's initial long term corrective actions were not comprehensive; and (3) the Licensee's development of long term corrective actions was not timely.

As noted earlier, it was not until NRC requested and conducted a management meeting that the Licensee agreed to evaluate the series of incidents in an attempt to identify the root cause. The results of that evaluation were discussed in a management meeting on November 16, 1994, and were submitted by the Licensee on November 20, 1994, as an attachment to the Licensee's reply to the Notice. Furthermore, on July 8, 1994, as the NRC's Augmented Inspection Team discussed its findings with Licensee management, the Licensee was requested to submit a copy of its investigation team findings, including corrective actions, to the NRC. The Licensee stated that the report would be completed and made available to the NRC on or about August 5, 1994. However, the report was not completed and made available to the NRC until September 23, 1994, after the enforcement conference. During the enforcement conference, NRC asked the Licensee for a time schedule for implementing the corrective actions discussed by the Licensee at the conference. More than two months after the low-level dissolver event, the Licensee did not have long-term corrective action time schedules firmly in place.

Regarding the prior opportunity to identify factor, the NRC believes that effective corrective action, if taken, for events occurring in March 1989 and February 1994, which revealed weaknesses in the drum counter measurement system, could have prevented the June 1994 event. Specifically, if the Licensee had adequately reviewed the effect on NCS of items or processes that were using drum counter measurement results and implemented effective corrective actions, the June 1994 event could have been prevented. Following the March 1989 and February 1994 events, a formal incident review and root cause analysis were not performed and corrective actions were not taken. The NRC expects licensees to learn from their mistakes and implement adequate and effective corrective actions to prevent recurrence. In its answer to the Notice, the Licensee acknowledges that its corrective actions would have prevented the low-level dissolution violation had they been followed.

The NRC concludes that the escalation and mitigation factors were applied appropriately and in accordance with the Enforcement Policy.

*NRC Conclusion*

The NRC concludes that Violations I.B.1, I.B.2, and II.C occurred as stated, that Violations I.A and I.B were appropriately categorized as a Severity Level III problem, and that an adequate basis for mitigation of the proposed civil penalty was not provided by the Licensee. Consequently, the proposed civil penalty in the amount of \$37,500 should be imposed by Order.

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**OFFICE OF MANAGEMENT AND BUDGET**
**Office of Federal Financial Management**
**Proposed Rescission of OMB Circular A-73**

**AGENCY:** Office of Management and Budget, Office of Federal Financial Management.

**ACTION:** Notice of Proposed Rescission of OMB Circular A-73.

**SUMMARY:** Publication of OMB's intention to rescind Circular A-73.

**FOR FURTHER INFORMATION CONTACT:** Suzanne Murrin, OMB, Office of Federal Financial Management, (202) 395-6911.

Dated: February 28, 1995.

John B. Arthur,  
*Associate Director for Administration.*

Office of Management and Budget

*Rescission of OMB Circulars*

**AGENCY:** Office of Management and Budget.

**ACTION:** Notice of Proposed Rescission of OMB Circular A-73.

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