Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Mulkey or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence, but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

Dated at Rockville, Maryland this 18th day of February 1997.

For the Nuclear Regulatory Commission.

Edward L. Jordan,

Deputy Executive Director for Regulatory Effectiveness, Program Oversight, Investigations and Enforcement.

[FR Doc. 97–4998 Filed 2–27–97; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–397; License No. NPF–21 EA 96–327]

In the Matter of Washington Public Power Supply System Washington Nuclear Project-2; Order Imposing Civil Monetary Penalty

I

Washington Public Power Supply System (Supply System or Licensee) is the holder of reactor operating license NPF–21 issued by the Nuclear Regulatory Commission (NRC or Commission) on April 13, 1984. The license authorizes the Licensee to operate Washington Nuclear Project 2 (WNP–2) in accordance with the conditions specified therein.

II

An inspection of the Licensee's activities was conducted June 28 through September 4, 1996. The results of this inspection indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated November 26, 1996. The Notice described the violations, including the provisions of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violations.

The Licensee responded to the Notice in a letter dated December 23, 1996. In its response, the Licensee admitted that the violations had occurred but requested reconsideration of the proposed civil penalty, citing the following reasons: (1) A penalty of $50,000 would be more consistent with the purposes of the NRC's enforcement policy; (2) there was no systemic breakdown in operational activities at WNP–2; (3) additional credit should be given for corrective actions; and (4) the enforcement action placed too much emphasis on a previous surveillance-related violation.

III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that the Licensee has not provided a basis for mitigation of the civil penalty and that the penalty proposed for the violations in the Notice should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, It is hereby ordered that:

The Licensee pay a civil penalty in the amount of $100,000 within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738.

V

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, DC 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a ''Request for an Enforcement Hearing'' and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, DC 20555, with a copy to the Commission's Document Control Desk, Washington, DC 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76055.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

Whether, on the basis of the violations admitted by the Licensee, this Order should be sustained.

Dated at Rockville, Maryland this 14th day of February 1997.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

Appendix—Evaluation and Conclusion

On November 26, 1996 a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for violations identified during an NRC inspection. The Washington Public Power Supply System (Supply System or Licensee) responded to the Notice on December 23, 1996. The Supply System admitted the violations but requested reconsideration of the amount of the civil penalty. A summary of the Licensee's reasons for a reduction in the amount of the civil penalty and the NRC's evaluation of those reasons follow:

Summary of Licensee's Request for Reconsideration and NRC Evaluation

1. The Supply System stated that, given the NRC's recognition of the Supply System's identification of most of the violations and its prompt and comprehensive corrective actions, a more appropriate regulatory message would be a penalty at the base amount of $50,000. The Supply System cited the intent of the NRC's Enforcement Policy (General Statement of Policy and Procedures for NRC Enforcement Actions, NUREG–1600) to encourage prompt identification and prompt, comprehensive correction of violations.

NRC Response: The NRC recognized that the Supply System identified most of the violations and that its corrective actions were prompt and comprehensive. In fact, as the Supply System noted in its response, the NRC characterized this as a sign of improved performance. Had the NRC considered no

additional information, no civil penalty would have been assessed for these violations, in accordance with the civil penalty assessment process described in VI.B.2 of the Enforcement Policy. However, the NRC utilized its enforcement discretion, as described in Section VII.A.1 of the Enforcement Policy, to assess a civil penalty in the amount of $100,000. This section of the policy permits the NRC to assess a penalty where none might otherwise be proposed, or to increase the amount of a civil penalty, to reflect the safety or regulatory significance of the violations. In this case, the NRC utilized its discretion to propose a $100,000 civil penalty for two primary reasons. First, the Supply System had been cited in August 1995, for violations in the Supply System's surveillance requirements program as part of an escalated enforcement action (EA 95–096). The number of similar violations that occurred over a relatively short period of time in 1996 demonstrated serious weaknesses in the Supply System's surveillance requirements program and showed that the Supply System's 1995 corrective actions had not gone far enough to address these weaknesses. Secondly, the NRC utilized discretion to emphasize the fundamental importance of the surveillance program and to express its concern that, at this stage in the operation of this facility, weaknesses would exist as serious as those evidenced by the numerous violations forming the basis of this enforcement action. The NRC determined that a civil penalty larger than the $50,000 civil penalty assessed in 1995 was warranted in these circumstances and proposed a $100,000 civil penalty for this matter.

2. The Supply System stated that there was no systemic breakdown in operational activities.

NRC Response: The NRC accepts this statement, but it has little relevance to the current enforcement action. The NRC based its action on the serious weaknesses in the surveillance program at WNP–2, as evidenced by several surveillance-related violations occurring over a relatively short period of time, and the ineffectiveness of previous corrective actions to preclude recurrence. These violations were considered collectively as a Severity Level III problem in accordance with Supplement I of the Enforcement Policy. The Supply System's assertion that these violations did not represent a ''systemic breakdown'' in operational activities does not affect the NRC's perspective or the enforcement action. There was clearly a programmatic issue.

3. The Supply System stated that additional credit should be given for its prompt and comprehensive corrective actions.

NRC Response: As stated above, the NRC recognized that the Supply System took prompt and comprehensive corrective actions. The penalty was not based on any perceived shortcomings in the Supply System's corrective actions for the current (1996) violations. The NRC's concern about corrective actions was based on the aforementioned 1995 enforcement action (EA 95–096), in which surveillance-related violations made up part of a Severity Level III problem that resulted in a $50,000 civil penalty being assessed. In EA 95–096, issued on August 17, 1995, nine violations were considered in the aggregate as a Severity Level III problem. Violations E(1), E(2) and F of EA 95–096 involved changing operational conditions (modes) with equipment inoperable, a violation of the Technical Specifications. In the current enforcement action, the violations involved changing modes with equipment inoperable and changing modes without having conducted required surveillances. All of these violations involved the programs and processes in place to assure that equipment was operable and that required surveillances had been conducted prior to changing modes. In taking its action in 1995, the NRC specifically stated that it had limited the civil penalty to $50,000 ''in recognition of the fact that you have proposed comprehensive corrective actions.'' Since those actions were not effective with respect to surveillance-related problems that form the basis for this enforcement action, as well as to emphasize the fundamental importance of surveillance program compliance, the NRC proposed a civil penalty ($100,000) that was larger than the civil penalty proposed for EA 95–096 ($50,000). The NRC notes that the Supply System's corrective actions for the 1995 enforcement action did not extend to its processes for assuring compliance with surveillance requirements and that, as of the occurrence of the violations in 1996, no checklist or other verification method existed to ensure that surveillances had been completed prior to changing modes, a commonly used method of verifying compliance.

4. The Supply System stated in its response that the enforcement action placed too much emphasis on the prior surveillance-related violation, noting that only one current violation was similar to a previous violation only in that it involved errors in LCO tracking prior to plant mode changes.

NRC Response: The NRC does not agree that the similarities between the 1995 and 1996 enforcement actions are limited to one example. As noted above, Violations E(1), E(2) and F in the 1995 enforcement action involved making mode changes with required equipment inoperable. In the current enforcement action, Violations A, B (with 3 examples) and C involved changing modes without having conducted required surveillances to show equipment operable. The NRC placed emphasis on this similarity, and in fact relied upon it as one of the primary reasons for utilizing enforcement discretion, to emphasize that escalated enforcement action had been taken in August 1995, less than one year prior to the current violations occurring. The NRC's expectation is that licensees who receive escalated enforcement action will take corrective action that is broad and comprehensive such that a recurrence of the violations is precluded or minimized. In this case, it was apparent that the Supply System's previous corrective actions did not address weaknesses in WNP–2's programs for assuring that surveillances were conducted and that equipment was operable prior to changing plant modes. Thus, the NRC does not agree that too much emphasis was placed on the similarities between the 1995 and 1996 enforcement actions. In addition, as discussed in response to other arguments above, the NRC exercised discretion to emphasize its concern about serious weaknesses in such a fundamental aspect of complying with plant Technical Specifications.

NRC Conclusion

The NRC concludes that its use of enforcement discretion to propose a $100,000 civil penalty was appropriate and in accordance with the Enforcement Policy's emphasis in Section VII.A.1 of assuring that the enforcement action reflects the significance of the circumstances and conveys the appropriate regulatory message. Consequently, the proposed civil penalty in the amount of $100,000 should be imposed by order.

[FR Doc. 97–5000 Filed 2–27–97; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Discount Rates for Cost-Effectiveness Analysis of Federal Programs

AGENCY: Office of Management and Budget.

ACTION: Revisions to Appendix C of OMB Circular A–94.

SUMMARY: The Office of Management and Budget revised Circular A–94 in 1992. The revised Circular specified certain discount rates to be updated annually when the interest rate and inflation assumptions used to prepare the budget of the United States Government were changed. These discount rates are found in Appendix C of the revised Circular. The updated discount rates are shown below. The discount rates in Appendix C are to be used for cost-effectiveness analysis, including lease-purchase analysis, as specified in the revised Circular. They do not apply to regulatory analysis.

DATES: The revised discount rates are effective immediately and will be in effect through February 1998.

FOR FURTHER INFORMATION CONTACT: Robert B. Anderson, Office of Economic Policy, Office of Management and Budget, (202) 395–3381.

Joseph J. Minarik,

Associate Director for Economic Policy, Office of Management and Budget.

Appendix C

(Revised February 1997)

Discount Rates for Cost-Effectiveness, Lease Purchase, and Related Analyses

Effective Dates. This appendix is updated annually around the time of the