A stylized graphic of an atomic symbol, consisting of a central sphere and three elliptical orbits, is positioned on the left side of the slide. The top portion of the slide has a blue background, and a horizontal orange band separates the title from the speaker information.

**Basic NRC Enforcement Policy Overview
&
OE's Post-Investigation
Alternative Dispute Resolution (ADR) Program**

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March 5, 2010**

Enforcement Policy

- Goals:
 - Deter noncompliance
 - Encourage prompt ID and prompt, comprehensive corrective action (CA)

Most Basic Enforcement Process

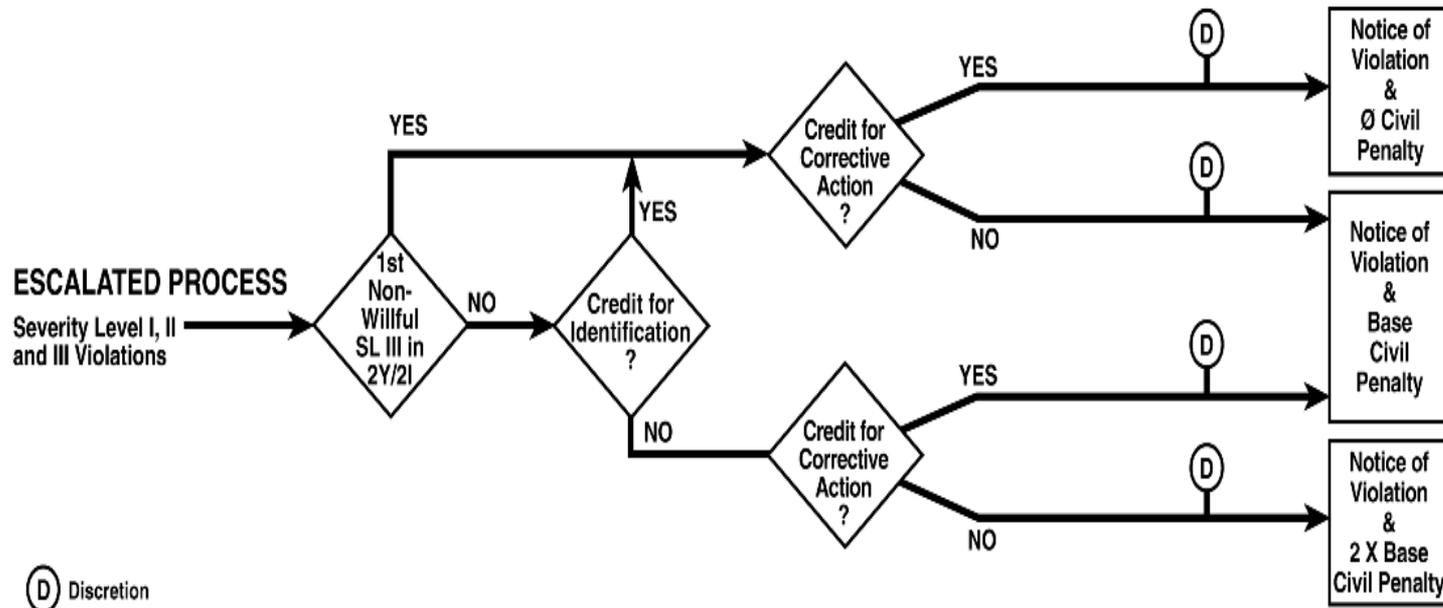
- 3 questions – *in order!*
 - Is there a violation?
 - What is the severity level?
 - What do we do about it?

Significance of Violations

- Escalated Actions:
 - Severity Level I, II, or III violations
 - Red, Yellow, or White findings with associated Notice of Violations (NOVs)
- Non-Escalated Actions:
 - Severity Level IV
 - Green findings with associated NOV/Non-Cited Violation (NCV)
 - Minor violations

Basic Civil Penalty (CP) Assessment

- “Metro Map” for traditional enforcement
 - Considers willfulness, severity, identification, and corrective action, to determine a civil penalty



Top CPs

- **Reactor**

– 1. Davis-Besse reactor vessel head degradation	2005	\$5 million
– 2. Millstone FSAR fidelity	1996	\$2.1 million
– 3. Peach Bottom inattentive operators	1988	\$1.25 million
– 4. Davis Besse auxiliary feedwater	1985	\$900,000
– 5. Thermal Sciences thermo lag (settled for \$300,000)	1996	\$900,000
– 6. Salem ATWS	1983	\$850,000
– 7. LaSalle service water	1996	\$650,000
– 8. Haddam Neck ECCS design	1997	\$650,000
– 9. Indian Point Sirens	2008	\$650,000
– 10. Brunswick surveillance deficiencies	1982	\$600,000

Top CPs (continued)

- Materials
 - 1. Sequoyah Fuels UF6 operations 1986 \$310,000
 - 2. US Testing multiple HP violations- 1987 \$280,000
 overexposures (settled for \$180,000)
 - 3. Oncology Services HDR misadministration 1994 \$280,000
 (settled for \$55,000)
 - 4. 3M Co. Static Eliminators 1989 \$160,000
 (settled for \$117,500)
 - 5. Mallinckrodt control of extremity exposures 2000 \$125,000
 - 6. US Air Force Am-241 contamination 1988 \$102,500

- To give some perspective on the effects of inflation, 1994 CP dollars should be increase by approximately a third to give you an idea of that penalty in today's dollars and 1982 (the oldest on the list) CP dollars should be a little more than doubled to give you current dollar values. Since its passage early this decade the civil penalty adjustment act has adjusted base CP amounts every two years to offset inflation.

Daily CP Option

- Used on a case-by-case basis.
- Some examples:
 - August 1988, Peach Bottom sleeping operators (EA-88-004, \$1,250,000). CP based on a daily civil penalty of \$25,000 per day (for the period from when licensee management had credible evidence of the problem until the day the NRC established a 24-hour coverage in the Peach Bottom control room.)
 - December 2000, \$125,000 issued to a materials licensee (Mallinckrodt, EA-00-178) because of extremity exposures to individuals in excess of NRC limits.
 - September 2002 \$43,200 issued to a materials licensee (Advanced Medical Imaging EA 02-072) for conducting operations without an Authorized User or an RSO and falsifying records. The NRC issued (1) a base civil penalty of \$4,800 for the occurrence and (2) additional weekly base civil penalty amounts of \$4,800 for each of the eight weeks that the violation continued.

Daily CP Option (continued)

- Other examples in which the “principle” of daily civil penalties has been used:
 - April 2005 (Davis-Besse), a \$5 million CP was issued to Davis-Besse. The “principle” of daily civil penalties was used to arrive at the final CP amount, although not at the maximum daily rate.
 - 1997 (Millstone, EA 96-034), \$2.1 million. Longstanding deficiencies in engineering programs and practices. The cover letter noted that staff exercised discretion to arrive at the CP amount.
- The Policy does not provide detailed guidance on the use of daily civil penalties, primarily because daily civil penalties are considered on a case-by-case basis.
- Legal Authority for daily CPs: Section 234, Atomic Energy Act. In no instance will a civil penalty for any one violation exceed the statutory daily limit, currently \$140,000 per day per violation.
- 10 CFR 2.205(j) states, in part, that if any violation is a continuing one, each day of such violation shall constitute a separate violation for the purposes of computing the applicable civil penalty.

ADR Program - Overview

- 1992 NRC general ADR policy (57 FR 36678)
 - Encourages the use of ADR in NRC initiatives
- 1996 Administrative Dispute Resolution Act
 - Encourages use of ADR by Federal agencies
- Between 2001 and 2003, significant stakeholder involvement in development of ADR program in enforcement
- 2004 ADR program established; one sub-component of which is the Post-Investigation ADR

Post-Investigation ADR

- Applies only to wrongdoing cases
- Available in three stages after the conclusion of an NRC investigation by its Office of Investigations
- Participation is entirely voluntary
- Mediation is the form of ADR

Post-Investigation ADR

- Parties are the NRC and a licensee, contractor or individual
- Mediator fees and expenses are equally shared by the parties
- Mediation is confidential
- Settlement agreement is typically finalized in a confirmatory order
- Confirmatory orders are publicly available

Post-Investigation ADR

- Intended Benefits
 - Typically brings about broader or more comprehensive corrective actions
 - Facilitates communication between the NRC and the licensee

Post-Investigation ADR

