

From: John Lubinski
To: internet:pellicciarini@syncor.com
Date: Mon, Jul 10, 2000 2:43 PM
Subject: Enforcement Information

During our telephone conversation on July 5, 2000, you asked about NRC's policy for holding licensees' responsible for the deliberate acts of their employees and a licensee's right to access information that is available to the NRC.

The NRC Enforcement Policy (pages 36-37) states "Generally, however, licensees are held responsible for the acts of their employees and contractors. Accordingly, this policy should not be construed to excuse personnel or contractor errors." Similar language is included in section 6.3.6 of the Enforcement Manual. Copies of the Enforcement Policy and Enforcement Manual are located on NRC's website at www.nrc.gov/OE/.

With respect to availability of NRC records or documents, any individual may make a request, in accordance with 10 CFR 2.790, to inspect or copy specific NRC records or documents. However, NRC policy, as noted in NRC's Enforcement Manual (reference Sections 5.2.2, 7.5.2, & 7.5.4.4), is that transcripts of interviews conducted to support enforcement action should not be released to licensees or the public until after the enforcement action has been issued. If requested by an individual, NRC will afford an individual the opportunity to review the transcript of their interview at an NRC Office. Generally, investigation reports and exhibits are not available to the licensee or public until after the enforcement action has been issued. The reason that transcripts and investigation reports and exhibits are not released prior to a predecisional enforcement conference is that the conference is not a formal hearing; it is in essence the last stage of the NRC's fact gathering process. Release of such information before the conference might cause some participants to develop their presentation and responses based on what the NRC knows rather than what may actually have occurred, thereby preventing the conference from serving as a forum for a broader presentation of all potentially relevant information.

The letter inviting a licensee to a predecisional enforcement conference will normally include a factual summary which provides notice to the conference participants of the factual basis for the staff's preliminary conclusion that NRC regulatory violations occurred. The summary should provide sufficient factual detail to fully apprise conference participants of the operative facts involved in the apparent violation. However, it is not intended to provide a full discussion of the evidence gathered in the course of the NRC's investigation. NRC's April 3, 2000, letter to Syncor provided in sufficient detail the basis for the apparent violations such that Syncor would be able to prepare adequately for the conference.

There are exceptions to the NRC's policy of not releasing transcripts of interviews before enforcement action has been issued. One exception is that the NRC may release to an individual a copy of the transcript of their interview to prepare for a predecisional enforcement conference of which the individual is the subject. For this individual, a copy of the individual's transcript would be provided in order to help the individual prepare for the conference.

If you have any further questions, you may contact me at (301) 415-2740.

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Subject: Enforcement Information
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From: John Lubinski

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Options

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