

January 5, 2001

MEMORANDUM TO: Dan Holody, RI
Anne Boland, RII
Brent Clayton, RIII
Gary Sanborn, RIV
Brian Smith, NMSS
Sally L. Merchant, OE
John Lubinski, OE

FROM: R. W. Borchardt, Director */RA/*
Office of Enforcement

SUBJECT: REVIEW OF MATERIALS NON-ESCALATED
ENFORCEMENT ACTIONS

I believe that it is our responsibility to provide program guidance and oversight of all enforcement actions. At a minimum, this includes escalated and non-escalated enforcement actions. While we have provided significant oversight of escalated enforcement, and have increased our oversight of reactor non-escalated actions, we have been less structured in our oversight of non-escalated materials actions. Currently, we don't have a structured method to assess the quality or analyze NRC's non-escalated actions. There has been previous discussion with NMSS, the Regional managers, and enforcement staff, about the need to review NRC's use of non-escalated actions in regulating materials licensees and certificate holders. The purpose of this memorandum is to notify you that the OE, regional and NMSS enforcement staff should begin reviewing the non-escalated actions issued by the materials inspection staff. Beginning in January 2001, and continuing for approximately 6-months, the OE, regional and NMSS enforcement staff should review and evaluate all non-escalated actions (SL IV, NCV, NON, NOD) currently issued as a result of regularly scheduled and reactive materials inspections, and provide data about those cases to OE. In July 2001, OE will evaluate the need to continue the data collection.

The impact to the materials' program for this oversight activity should be minimal since the enforcement coordinators will acquire copies of the pertinent information, review the actions, analyze the findings, and provide the information requested on the attached Table to OE. Enforcement coordinators will work with the inspection staff to ensure that they receive copies of all NOV's, Forms 591, Inspection Field Notes, and any letters to licensees documenting non-escalated actions. Specific instructions for the review and data collection is provided as an attachment to this memo. It is anticipated that review and data collection will take no longer than 8 to 10 hours per month, per region and NMSS. All effort should be expended by the enforcement coordinators. Should it take significantly more effort than expected, OE should be consulted.

OE will provide a quarterly report to each Regional enforcement coordinator with a copy to the appropriate Division Director. A report, compiling the data to date, will be issued two-weeks

prior to the OE semi-annual Counterpart Meeting. Discussion of the report (or comments received on the report) will be included as an agenda item. Questions about the report, or requests for an interim report may be directed to Sally Merchant at (301) 415-2747.

cc w/Enclosure:

Carl J. Paperiello, DEDO
Hubert J. Miller, Regional Administrator, Region I
Luis A. Reyes, Regional Administrator, Region II
James E. Dyer, Regional Administrator, Region III
Ellis Merschoff, Regional Administrator, Region IV
William F. Kane, Director, NMSS
Michael Weber, Division of Fuel Cycle Safety and Safeguards, NMSS
E. William Brach, Spent Fuel Project Office, NMSS
John T. Greeves, Division of Waste Management, NMSS
Donald Cool, Division of Industrial and Medical Nuclear Safety, NMSS
George Pangburn, Division of Nuclear Materials Safety, RI
Douglas Collins, Division of Nuclear Materials Safety, RII
Cynthia Pederson, Division of Nuclear Materials Safety, RIII
Dwight Chamberlain, Division of Nuclear Materials Safety, RIV

Review of Materials Non-Escalated Enforcement Actions

Procedure

The Office of Enforcement has identified a need to improve our oversight of non-escalated actions in regulating materials licensees and certificate holders. Currently, the NRC does not have a structured method to assess the quality of NRC's materials non-escalated actions. Therefore, for the next 6-months, beginning with documents issued on January 2, 2001, the OE, regional and NMSS enforcement staff will review, and evaluate all non-escalated actions (SL IV, NCV, NON, NOD), and provide data about those cases to OE. In July 2001, OE will evaluate the need to continue the data collection. Whether or not data collection continues after that date, the enforcement staff should continue its efforts to ensure that non-escalated actions are appropriately issued.

The OE, regional and NMSS enforcement staff will:

1. get copies of all non-escalated actions (SL IV, NCV, NON, NOD) issued on or after January 2, 2001, as a result of regularly scheduled and reactive materials inspections. Inspectors normally document non-escalated actions (SL IV, NCV, NON, NOD) in NOV's, Forms 591, Inspection records, and/or in letters to the licensee.
2. review the documented findings:
 - ▶ compare the cover letter of the message and the NOV,
 - ▶ review the "contrary to" statement and the regulatory requirements,
 - ▶ coordinate any questionable findings with the other enforcement staffs.
3. absent any problems identified, complete the attached Table and provide an electronic copy of the Table to Sally Merchant, monthly.

Reports from the reviewers will be due on the 15th of the month following the subject month. Reports will include data for the entire month.

The OE Staff will consolidate the data into one Table, review for consistency, and provide a quarterly report to each Region. A report, compiling the data to date, will be issued two-weeks prior to the OE semi-annual Counterpart Meeting. Discussion of the report (or comments received on the report) will be included as an agenda item, if needed.

Questions, comments, or requests for an interim report may be directed to Sally Merchant at (301) 415-2747.

**Review of Materials Non-Escalated Actions
DATA COLLECTION**

REGION _____

_____(Month, year)

Type of License	Number of Inspections Completed*	Number of Clear Inspections	For Actions Issued on NRC Form 591		For Actions Not issued on NRC Form 591*		Other Non-escalated Actions (e.g., NON, NOD)
			Number of Violations	Number of NCVs	Number of Violations	Number of NCVs	
Portable gauge							
Radiography							
Sealed source and device							
Fixed gauge							
Self-shielded irradiator							
Part 36 Irradiator							
Academic							
Medical							
Broadscope							
Manufacture and/or Distribution							

Radiopharmacy							
Well logging							
General License							
Service Providers							
Fuel Facility or UF Conversion Facility							
All other types of license							
Total							

* Include Inspection Reports dated within the review period

Comments:

January 5, 2001

MEMORANDUM TO: Dan Holody, RI
Anne Boland, RII
Brent Clayton, RIII
Gary Sanborn, RIV
Brian Smith, NMSS

FROM: R. W. Borchardt, Director **/RA/**
Office of Enforcement

SUBJECT: REVIEW OF MATERIALS NON-ESCALATED
ENFORCEMENT ACTIONS

cc w/Enclosure:

Hubert J. Miller, Regional Administrator, Region I
Luis A. Reyes, Regional Administrator, Region II
James E. Dyer, Regional Administrator, Region III
Ellis Merschhoff, Regional Administrator, Region IV
William F. Kane, Director, NMSS
Michael Weber, Division of Fuel Cycle Safety and Safeguards, NMSS
E. William Brach, Spent Fuel Project Office, NMSS
John T. Greeves, Division of Waste Management, NMSS
Donald Cool, Division of Industrial and Medical Nuclear Safety, NMSS
George Pangburn, Division of Nuclear Materials Safety, RI
Douglas Collins, Division of Nuclear Materials Safety, RII
Cynthia Pederson, Division of Nuclear Materials Safety, RIII
Dwight Chamberlain, Division of Nuclear Materials Safety, RIV

Distribution:
Reading File
ADAMS

DOCUMENT NAME: G:\SMerchant\nonescalated-letter.wpd

To receive a copy of this document, indicate in the box: "C" = Copy without attachment/enclosure "E" = Copy with attachment/enclosure "N" = No copy

OFFICE	OE	DD:OE	OE				
NAME	Smerchant SLM	Jluehman JGL	RWBorchardt RWB				
DATE	01/04/01	01/04/01	01/05/01				

OFFICIAL RECORD COPY