From:

<kwhatley@adph.state.al.us>

To:

<rlw@nrc.gov>

Date:

05/11/2001 11:45:00 AM

Subject:

Re: Fwd: Compatability for the deliuberate misconduct rules of Alabama

---- Forwarded by Kirksey Whatley/HCS/Alabama Department of Public Health on 05/11/2001 10:33 AM -----

Kirksey

Whatley

RLW@nrc.gov To:

CC:

05/07/2001

Re: Fwd: Compatability for the Subject:

01:06 PM

deliuberate misconduct rules of Alabama

Richard -

ollowing is e-mail correspondence fro John Wible, our Department Chief Attorney. Apparently John is of the opinion that the rule change, as proposed is sufficient. In fact, the existing rules were sufficient without the change. We intend to implement the change as in the copy that you have been provided.

---- Forwarded by Kirksey Whatley/HCS/Alabama Department of Public Health on 05/07/2001 12:53 PM -----

John Wible

Kirksey Whatley/HCS/Alabama Department of To:

05/01/2001 01:34 PM

Public Health@ADPH

Dennis Blair/LEGAL/Alabama Department of CC:

Public Health@ADPH

Re: Fwd: Compatability for the

deliuberate misconduct rules of Alabama(Document

link: Kirksey Whatley)

Kirk, it appeas to me that there is suficient authority to take enfocement action against "any person" wheter a licensee or not who violates the rules. 420-3-26-.13 so provides. That section is based on Code of Ala.1975, Section 22-14-12 ans 22-14-14. Those two sections provide that "any person" wheter a licensee or anyone else who vilates the rules can bearested and fined, enjoined by the AG or DA or sufer a civil penalty to be assessed by the Agency.

I think that answers the question. Is this clear?

Kirksey

Whatley

To: John Wible/LEGAL/Alabama Department of

Public Health@ADPH

04/25/2001

cc:

09:33 AM

Subject: Fwd: Compatability for the deliuberate misconduct rules of Alabama

John -

NRC has raised aquestion concerning our proposed changes to the Radiation Protection Rules. Changes were proposed to 420-3-26-.01 and referenced procedures contained in Appendix A of 420-3-26-.13. See page 486 on the rules for the enforcement section.

My question is, "Is NRC's concern valid? It appears to me that it may be so. The proposed changes are scheduled for final adoption by the Board at the May meeting. If this concern is valid, is the proper procedure to request an extension of the Board's consideration and modify 420-3-26-.13? Sorry for this problem.

I will be out of the office from noon this Thursday until Monday May

7. Thanks for your help.

---- Forwarded by Kirksey Whatley/HCS/Alabama Department of Public Health on 04/25/2001 09:14 AM -----

"Richard

Woodruff"

To: <kwhatley@adph.state.al.us>

<RLW@nrc.gov>

cc: "James Lieberman" <JXL@nrc.gov>, "Stephen

Salomon" <SNS@nrc.gov>

04/25/2001

Subject:

Fwd: Compatability for the

08:56 AM

deliuberate misconduct rules of Alabama

Good morning Kirk!

Jim Lieberman (OGC) has raised the question about the proposed misconduct rule. See attached note from Jim.

Please research with your Department lawyers and either get back to me, or please feel free to contact Jim directly by e-mail and/or telephone at 301-415-2786. Thanks, rlw

Content-Transfer-Encoding: quoted-printable Content-Type: text/plain; charset=US-ASCII

Content-Disposition: inline

Subject to Mr. Treby's review, My comments area s follows:

I have reviewed the Alabama rule on deliberate misconduct(420-3-26-.01(11))

. Section (11)(b) references Rule 420 -3-26-.13 which provides the State = with the authority to issue orders to modify licenses. It is not clear = that this section provides the State with the authority to take enforcement

action against a person other than a licensee or registrant. Assuming = that Rule 420-3-26-.13 permits orders to be issued to licensees to remove = a person or permits taking some form of enforcement action against a = person who causes a violation of 420-3-26-.01(11)(a), Rule 420-3-26-.01(11)

is compatible. NRC should ask the State to confirm that Rule 420-3-26-.1

3 provides such authority.