



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

CHAIRMAN

January 6, 2004

The Honorable Olympia J. Snowe, Chair
Committee on Small Business and Entrepreneurship
United States Senate
Washington, D.C. 20510

Dear Madam Chair:

Section 4 of the Small Business Paperwork Relief Act (SBPRA) of 2002 requires Federal agencies to submit two regulatory enforcement reports for fiscal years 2003 and 2004 to certain Congressional committee members and the Small Business Administration's National Ombudsman. On behalf of the Nuclear Regulatory Commission, I am pleased to transmit the report covering the period from October 1, 2002, to September 30, 2003.

Please do not hesitate to contact me if you need additional information.

Sincerely,

/RA/

Nils J. Diaz

Enclosure: As stated

cc: Senator John F. Kerry

Identical letter sent to:

The Honorable Olympia J. Snowe, Chair
Committee on Small Business and Entrepreneurship
United States Senate
Washington, D.C. 20510
cc: Senator John F. Kerry

Michael L. Barrera
National Ombudsman
Office of the National Ombudsman
U.S. Small Business Administration
409 3rd Street, SW, MC2120
Washington, DC 20416-0005

The Honorable Tom Davis, Chairman
Committee on Government Reform
United States House of Representatives
Washington, DC 20515
cc: Representative Henry Waxman

The Honorable Susan Collins, Chairman
Committee on Governmental Affairs
United States Senate
Washington, DC 20510
cc: Senator Joseph I. Lieberman

The Honorable Donald Manzullo, Chairman
Committee on Small Business
United States House of Representatives
Washington, DC 20515
cc: Representative Nydia M. Velazquez





REGULATORY ENFORCEMENT REPORT

October 1, 2002 to September 30, 2003

REGULATORY ENFORCEMENT REPORT FOR FISCAL YEAR 2003

The NRC is subject to the Small Business Paperwork Relief Act (SBPRA) of 2002¹. Section 4 of the SBPRA requires Federal agencies to submit two regulatory enforcement reports for fiscal years 2003 and 2004 to certain Congressional committee members and the Small Business Administration's National Ombudsman (designated under the Small Business Act (15 U.S.C. 657(b))). This is the NRC's first annual report for the time period from October 1, 2002 to September 30, 2003.

NRC Enforcement Program Background:

The NRC's enforcement jurisdiction is drawn from the Atomic Energy Act (AEA) and the Energy Reorganization Act (ERA). Subpart B of 10 CFR Part 2 of NRC's regulations sets forth the procedures the NRC uses in exercising its enforcement authority. Under authority of Section 234 of the AEA or Section 206 of the ERA, the NRC may propose and issue civil monetary penalties of up to \$120,000 per violation per day. In recognition that violations occur in a variety of activities and have varying levels of significance, the Commission created an enforcement framework and NRC Enforcement Policy with graduated sanctions to reflect this diversity.

The NRC is subject to the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996. Section 223 of the SBREFA requires the establishment of a program or policy providing for waivers or reductions of civil penalties for violations of statutory or regulatory requirements by small entities.

The NRC's Enforcement Policy conforms with the SBREFA because:

1. smaller licensees generally pay smaller civil penalties, because the agency's graduated civil penalty structure takes into account differences in the size of the licensee, the licensee's ability to pay, and the safety risk of the violation involved;
2. civil penalties are issued only for significant violations;
3. civil penalties are normally waived for licensees who identify their own violations and take prompt and comprehensive corrective actions; and

It is not the NRC's intent that the economic impact of a civil penalty be so severe that it puts a licensee out of business or adversely affects the licensee's ability to conduct licensed activities safely. In such cases, penalties may be reduced or the licensee may be permitted to pay the penalty over time.

Additional information about the Nuclear Regulatory Commission's enforcement program (including the NRC's Enforcement Policy, significant enforcement actions, and enforcement annual reports) is available at www.nrc.gov. From this web page you select **What We Do**, then **Enforcement** to access the information.

Definitions:

In accordance with paragraph (4) of Section 4 of the SBPRA, the following terms are defined as used in this report:

¹Pub. L. No. 107-198, June 28, 2002.

Enforcement actions: Notices of Violation pursuant to 10 CFR 2.201 or 10 CFR 76.70 that include significant violations as well as civil penalties issued pursuant to 10 CFR 2.205.

Reduction or waiver: Mitigation of a civil penalty based on the normal decision process (summarized above).

Small entity: The NRC uses the size standards contained in 10 CFR 2.810 to determine whether a licensee qualifies as a small entity in its regulatory programs.

1. Small business: A for-profit concern that provides a service or a concern not engaged in manufacturing with average gross receipts of \$5 million or less over its last 3 completed fiscal years.
2. Manufacturing industry: A concern with an average number of 500 or fewer employees based upon employment during each pay period for the preceding 12 calendar months.
3. Small organization: A not-for-profit organization which is independently owned and operated and has annual gross receipts of \$5 million or less.
4. Small governmental jurisdiction (including publicly supported educational institutions): A government of a city, county, town, township, village, school district, or special district with a population of less than 50,000.
5. Small educational institute: A small educational institute that is not state or publicly supported and has 500 or fewer employees.

Enforcement Action Statistics:

The NRC examined the enforcement actions taken in the required reporting period. Because the NRC's enforcement program uses a decisional process to determine whether or a not a civil penalty will be assessed for a significant violation (as summarized above), we included additional statistical information to provide context for the requested information.

During fiscal year (FY) 2003, the NRC evaluated 64 significant violations in accordance with its normal assessment process to determine whether a civil penalty should be issued.

Of the 64 violations, 28 resulted in the issuance of a civil penalty and 36 resulted in a Notice of Violation with no civil penalty.

Of the 28 civil penalty actions, five were issued to small entities. All five actions involved willfulness.

Of the 36 violations that resulted in no civil penalty, three were associated with small entities.

The total amount of civil penalties waived for the 36 cases is \$336,000. (\$60,000 for 3 cases, \$30,000 for 1 case, \$15,000 for 1 case, \$6,000 for 6 cases, and \$3,000 for 25 cases. This breakdown reflects the graduated civil penalty scale the NRC uses in its Enforcement Policy.)

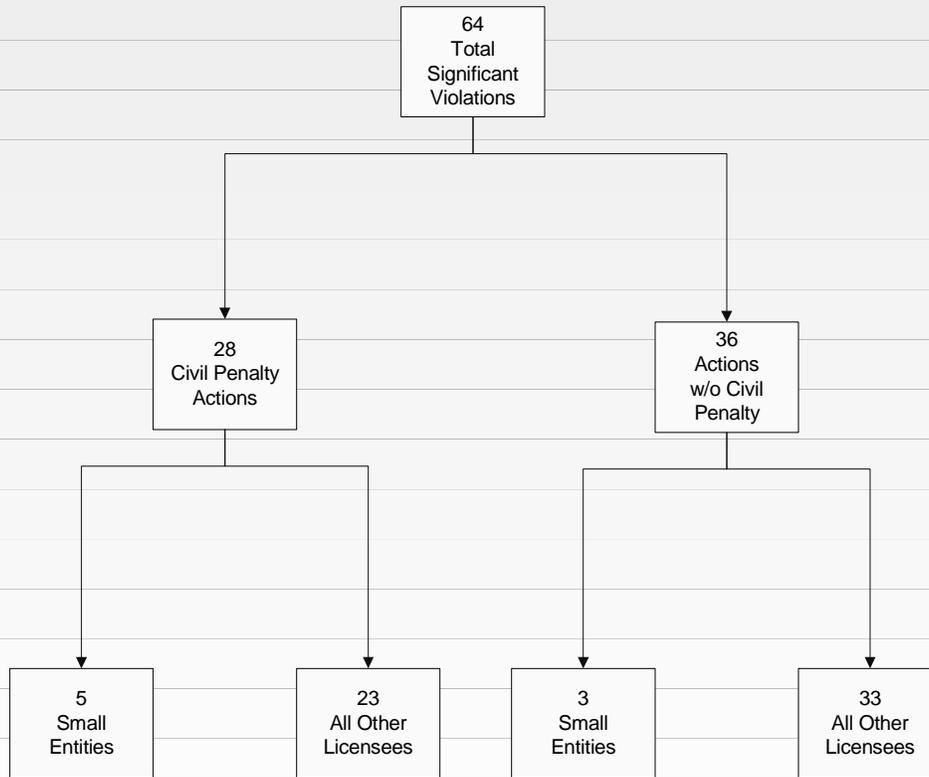
The total amount of civil penalties waived for the three cases involving a small entity is \$9,000 (\$3,000 for each case).

In accordance with paragraph (3) of Section 4 of the SBPRA, the required information is summarized in the table below.

Total number of enforcement actions in which a civil penalty is assessed	28
Number of enforcement actions against a small entity in which a civil penalty is assessed	5
Total number of enforcement actions in which the civil penalty is waived	36
Number of enforcement actions against a small entity in which the civil penalty is waived	3
Total amount of civil penalties waived	\$336,000
Amount of civil penalties waived for small entities	\$9,000

A graphical breakdown of the enforcement actions for FY 2003 is included on the next page.





Enforcement Actions

Fiscal Year 2003