



# REGULATORY ENFORCEMENT REPORT

October 1, 2003 to September 30, 2004

U.S. Nuclear Regulatory  
Commission  
Office of Enforcement  
Washington, DC 20555

## REGULATORY ENFORCEMENT REPORT FOR FISCAL YEAR 2003

The NRC is subject to the Small Business Paperwork Relief Act (SBPRA) of 2002<sup>1</sup>. Section 4 of the SBPRA requires Federal agencies to submit 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 final annual report covering the time period from October 1, 2003 to September 30, 2004.

### **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 \$130,000 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. under the current structure, 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
4. civil penalties are normally assessed for willful violations, particularly poor performance, overexposures, loss of radioactive material, and very significant violations.

Further, the Enforcement Policy makes it clear that in determining the amount of the civil penalty, financial hardship can be considered. 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.

---

<sup>1</sup>Pub. L. No. 107-198, June 28, 2002.

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](http://www.nrc.gov), select **What We Do**, then **Enforcement**.

### **Definitions:**

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

**Enforcement actions:** Notices of Violation pursuant to 10 CFR 2.201 that include significant violations and civil penalties 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. A small business is a for-profit concern and is a --

1. 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; or
2. Manufacturing concern with an average number of 500 or fewer employees based upon employment during each pay period for the preceding 12 calendar months.

### **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) 2004, the NRC evaluated 63 significant violations in accordance with its normal assessment process to determine whether a civil penalty should be issued.

Of the 63 violations, 28 resulted in the issuance of a civil penalty and 35 resulted in a Notice of Violation with no civil penalty.

Of the 28 civil penalty actions, four were issued to small entities.

Of the 35 violations that resulted in no civil penalty, five were associated with small entities.

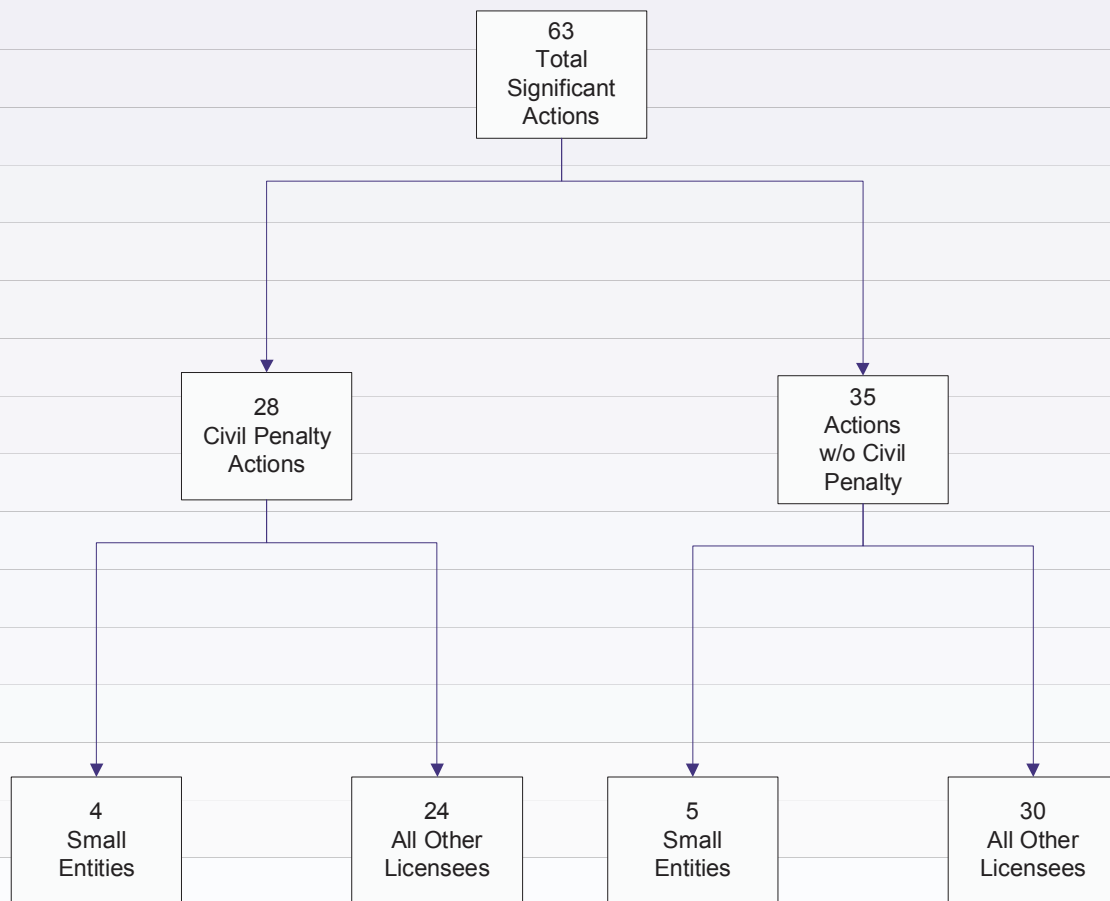
The total amount of civil penalties waived for the 35 cases is \$532,800. (\$60,000 for 6 cases, \$30,000 for 1 case, \$15,000 for 3 cases, \$12,000 for 2 cases, \$6,000 for 1 case, \$4,800 for 1 case, and \$3,000 for 21 cases. This breakdown reflects the graduated civil penalty scale the NRC uses in its Enforcement Policy.)

The total amount of civil penalties waived for the three cases involving a small entity is \$15,000 (\$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	4
Total number of enforcement actions in which the civil penalty is waived	35
Number of enforcement actions against a small entity in which the civil penalty is waived	5
Total amount of civil penalties waived	\$532,800
Amount of civil penalties waived for small entities	\$15,000

A graphical breakdown of the enforcement actions for FY 2004 is included on the next page.



## Enforcement Actions

Fiscal Year 2004