

181

RECORD #181

TITLE: Citations of Noncompliance Concerning 10 CFR 20.105(a) ...
20.106(b) and 20.301. Note: Part of enclosed record is outdated,
but the approach is still valid!

FICHE:

0643/63

UNITED STATES GOVERNMENT

Memorandum

TO : Those Listed Below

July 19, 1963

FROM : Leo Dubinski, Assistant Director for Materials
Division of Compliance



63

SUBJECT: CITATIONS OF NONCOMPLIANCE CONCERNING 10 CFR 20.105(b),
10 CFR 20.106(b) AND 10 CFR 20.301
(INSPECTION GUIDE MEMORANDUM NO. 63)

The following statement with respect to noncompliance with 10 CFR 20.105(b), 10 CFR 20.106(b) and 10 CFR 20.301 has been received from the Division of Licensing and Regulation:

"Under the provisions of 10 CFR 20.105(a), 10 CFR 20.106(a) and 10 CFR 20.302, a licensee may apply for Commission approval of (i) quantities of radiation in unrestricted areas in excess of the limits specified in 10 CFR 20.105(b); (ii) concentrations of radioactive materials in effluents to unrestricted areas in excess of the limits specified in 10 CFR 20.106(b); and (iii) waste disposal procedures not specifically authorized in 10 CFR 20.301.

"The question exists from the Compliance and Enforcement standpoints as to whether an alternative procedure incidentally described in an application for a license or license amendment, is in fact approved by the Commission as provided in 10 CFR 20.105(a), 10 CFR 20.106(a) and 10 CFR 20.302 even though a specific statement to that effect is not included in the license or license amendment which is issued following review of the application. As examples:

(continued)

Addressees:

- R. W. Kirkman, Director, Region I, Division of Compliance
- G. A. Blanc, Director, Region II, Division of Compliance
- R. C. Hageman, Director, Region III, Division of Compliance
- D. I. Walker, Director, Region IV, Division of Compliance
- R. W. Smith, Director, Region V, Division of Compliance

July 19, 1963

- "a. If an applicant for a teletherapy license described in his application radiation levels in unrestricted areas in excess of the limits specified in 10 CFR 20.105(b), does the issuance of the license carry with it authority, pursuant to 10 CFR 20.105(a) for higher levels of radiation in unrestricted areas when no specific authority for higher radiation levels is included as a special condition on the license? and
- "b. if an applicant for a license to possess and use phosphorus 32 states in his application that waste materials containing phosphorus 32 will be disposed of through normal channels, does the issuance of a license carry with it Commission approval pursuant to 10 CFR 20.302 of this disposal procedure if the licensee is not told that he cannot dispose of wastes in that manner?

"The purpose of this memorandum is to confirm that Commission approval, as contemplated in 10 CFR 20.105(a), 10 CFR 20.106(a) and 10 CFR 20.302, is in fact given with the issuance of the license or license amendment, unless the applicant is told that certain parts of the application have not been approved. Accordingly, a licensee should not be cited for noncompliance with 10 CFR 20.105(b), 10 CFR 20.106(b) and 10 CFR 20.301 in circumstances where the licensee is found to be operating in accordance with the conditions and procedures described in his license applications relative to these matters. If a situation is found where the Commission has issued such an authorization without a specific statement to that effect in the license, the matter will be brought to the attention of the Licensing Branch concerned. The merits of the application will then be reconsidered and, if appropriate, the license will be specifically amended to reflect the authorization without notice to the licensee. If the application is deficient in any respect, the matter will be further pursued with the licensee.

"As a general rule, approval pursuant to 10 CFR 20.105(a), 10 CFR 20.106(a) and 10 CFR 20.302 is denoted by special conditions on the license."

(continued)

July 19, 1963

Although the licensee is not to be cited for noncompliance with the above section if an implied authorization has been granted by the Commission, for reporting purposes these cases normally should be considered as exceptions under the Form AEC-592 procedure. (See Item 1.d. of "Use of Form AEC-592.")* Additionally, Form AEC-591 normally should not be issued in such cases. Attention to the matter of implied authorization should be made in the transmittal memorandum accompanying the formal report. The interpretations discussed in this memorandum are limited to the subject sections of 10 CFR 20.

*This
portion
outdated*

It is suggested that adequate reviews of backup material as received should reveal such license discrepancies as discussed above before the license or amendment is added to the regional files. Also, preinspection reviews of files will serve as a further check. Apparent discrepancies should be promptly brought to the attention of the appropriate Licensing Branch for resolution. These reviews can be expected to minimize appreciably the number of questionable cases arising at the time of inspection.

cc: Each holder of the Materials
Inspection Guide

*Memo from L. D. Low, Division of Compliance, Headquarters, to Addressees, dated June 25, 1963, subject: Policy and Procedure for Handling Certain Items of Apparent Noncompliance Disclosed as a Result of Compliance Inspection (Use of Form AEC-592)