

Proposed Revision to NRC Enforcement Policy

2.3 Disposition of Violations

2.3.1 Minor Violation

Violations of minor safety or security concern generally do not warrant enforcement action or documentation in inspection reports but must be corrected. Examples of minor violations can be found in the NRC Enforcement Manual and in IMC 0612, "Power Reactor Inspection Reports" (Appendix E, "Examples of Minor Issues"). Guidance for documenting minor violations can be found in the NRC Enforcement Manual; IMC 0610, "Nuclear Material Safety and Safeguards Inspection Reports"; IMC 0612; IMC 0613, "Documenting 10 CFR Part 52 Construction and Test Inspections"; and IMC 0616, "Fuel Cycle Safety and Safeguards Inspection Reports."¹

2.3.2 c² Non Cited Violations Fuel Cycle Facility Licensees³

Violations of low safety significance, whether identified by the licensee or the NRC, are discussed in the related inspection close out meeting with facility leadership, are not cited and do not require any written response from the licensee. The licensee is expected to take appropriate corrective action.

Severity Level IV violations are normally dispositioned as non cited violations (NCVs). Inspection reports or inspection records document NCVs and briefly describe the corrective action the licensee has taken or plans to take, if known. Licensees are not required to provide written responses to NCVs; however, they may provide a written response if they disagree with the NRC's description of the NCV and/or dispute the validity of the NCV. Typically, all of the following criteria must be met for the disposition of a violation as an NCV:

1. The licensee must place the violation into a corrective action program to address recurrence and the NRC has found the corrective action program acceptable.
2. The licensee must restore compliance within a reasonable period of time (i.e., in a timeframe commensurate with the significance of the violation) after a violation is identified.
3. The violation must not be repetitive⁴in nature. This criterion does not apply to facility construction.

¹ This section is copied from the NRC Enforcement Policy for context and is unchanged.

² Section 2.3.2 c would be a new section under 2.3.2 focused on fuel cycle facilities.

³ Fuel Cycle Licensees includes those facilities operating under 10 CFR Part 76 and 10 CFR Part 70 as well as uranium conversion and de-conversion facilities operating under 10 CFR Part 40.

⁴ A violation is considered "repetitive" if it could reasonably be expected to have been prevented by the licensee's corrective action from a previous violation. In addition, a violation is considered "repetitive" if a previous licensee finding occurred within the past 2 years.

4. The violation was not willful. Notwithstanding willfulness, an NCV may still be appropriate in the following circumstances:

(a) The licensee identified the violation and promptly provided the information concerning the violation to appropriate NRC personnel, such as a resident inspector or regional branch chief.

(b) The violation involved the acts of an individual in a low-level position within the licensee's organization (and not a licensee official as defined in Section 2.2.1, "Factors Affecting Assessment of Violations").

(c) The violation appears to be the isolated action of the employee without management involvement, and the violation was not caused by lack of management oversight as evidenced by either a history of isolated willful violations or a lack of adequate audits or supervision of employees.

(d) The licensee took significant remedial action commensurate with the circumstances. This action demonstrated the seriousness of the violation to other employees and contractors, thereby creating a deterrent effect within the licensee's organization.

The approval of the Director, OE, is required for dispositioning willful violations as NCVs.
