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NRC Enforcement Policy

76 FR 54986

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General Comment

See attached file(s)

Attachments

Comments on Enforcement Policy, 10-6-11

SUNSI Review Complete
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Add = D. Starkey (drs)

October 6, 2011

Attention: Cindy Bladey, Chief, RADB/ADM

Subject: Comments on Proposed Revision NRC Enforcement Policy [Docket ID: NRC-2011-0209]

Please consider the following comments in development of the final revision of the NRC Enforcement Policy proposed under 76 FR 54986; September 6, 2011.

1. Issue 2, "Credit for Fuel Cycle Licensees," – It is not clear from the change proposed by the NRC staff if current and future waste licensees, including those possessing special nuclear material, are to be included in the term "all licensees." Typically, the term "fuel cycle licensees" applies to facilities licensed under 10 CFR 40 (source material possession) and 10 CFR Part 70 (special nuclear material). Waste licensees would include current licensees under 10 CFR Part 61 (low level waste) and 10 CFR Part 72 (independent spent fuel storage installations) and possible future licensees under 10 CFR Parts 60 or 63 (geologic repositories). All of these types of waste licensees are required by NRC regulations to have a corrective action program (CAP) under their quality assurance program. Therefore, waste licensees should also be able to take advantage of the credit provisions for the presence of a CAP. RECOMMENDATION: Revise Issue 2 and associated changes of the Enforcement Policy to refer to both waste and fuel cycle licensees with a CAP.
2. Issue 2 – Gaseous Diffusion facilities regulated by the NRC under 10 CFR Part 76 are not "licensees," but are instead considered "certificate holders." They also have a CAP under their corrective action program. Therefore, fuel cycle certificate holders should also be able to take advantage of the credit provisions for the presence of a CAP. RECOMMENDATION: Revise Issue 2 and associated changes of the Enforcement Policy to refer to fuel cycle certificate holders with a CAP.
3. Issue 3, "Civil Penalties for Individuals Who Disclose Safeguards Information [SGI]," – The proposed new section 4.3.1 refers to persons who are not employed by an NRC "licensee or contractor." However, NRC certificate holders under 10 CFR Parts 72 and 76 can also possess SGI. Furthermore, applicants for a license or a certificate of compliance can also possess SGI (under various parts of 10 CFR Chapter 1). Therefore, referring to licensees alone is insufficient. RECOMMENDATION: Revise Issue 3 and associated changes of the Enforcement Policy to refer to "licensees, certificate holders, applicants for a license or a certificate of compliance, or their contractors."
4. Issue 3 – The proposed revision to section 6.13 [see page 54989, 1st column] only refers to "licensees." It should also refer to certificate holders, as they can also possess SGI (see comment 3 above). RECOMMENDATION: Revise section 6.13 to refer to both licenses and certificate holders.

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