

November 28, 2012

MEMORANDUM TO: R. W. Borchardt
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary **/RA/**

SUBJECT: STAFF REQUIREMENTS – SECY-12-0047– REVISIONS TO
THE NUCLEAR REGULATORY COMMISSION ENFORCEMENT
POLICY

The Commission has approved the publication of the revised Enforcement Policy, the *Federal Register* Notice, and the staff's recommendation for base civil penalties for uranium conversion facilities, subject to the changes and comments below.

While evaluating potential revisions regarding issuance of orders banning individuals from NRC-licensed activities for periods of time of less than one year and issuing civil penalties to individuals, the staff should carefully consider and provide a full and well-developed evaluation of the potential implications and potential benefits to NRC's Enforcement program of such revisions, including, for example:

- a. the risk of diminishing the impact of imposing a ban, or imposing civil penalties so small that they downplay the seriousness of a violation;
- b. the difficulty in maintaining the clarity, consistency and certainty of the process while attempting to weigh different sets of circumstances to determine appropriate periods of time for such bans; and
- c. the fact that a ban any length of time may have serious consequences for the individual who is banned.

The staff should revise the Enforcement Policy section on the issuance of civil penalties to individuals for the release of Safeguards Information (SGI) to establish a clear position on deliberate release of SGI and the consequences under NRC's Enforcement Policy.

If necessary, the staff should revise Section 6.7, "Health Physics," to align this section with any changes the Commission approves to 10 CFR Part 20 based on the staff's recommendations in SECY-12-0064.

Prior to publication in the *Federal Register*, the staff should incorporate the changes to the Enforcement Policy arising from the Commission's direction in SRM-SECY-09-0190.

The following changes should be made to the Enforcement Policy:

1. Page 15, 4th full paragraph, line 6, revise to read: "...or all **of** the days...."
2. Page 17, paragraph b., line 5, revise to read: "It is the responsibility of the licensee to **bring information on efforts to identify the violation to the attention of the NRC. The NRC will not undertake an inquiry to obtain information on whether** ~~demonstrate such~~ identification effort. ~~It is not the NRC's responsibility to show that~~ identification credit is ~~not~~ warranted."
3. Page 21, 3rd paragraph under heading "c.," line 3, add a comma after "violation**,**"
4. Page 24, add new item "b. 7. any proposals to use discretion to impose a daily civil penalty."
5. Page 25, 2nd paragraph under heading "2.3.11," line 11, delete the extra space after "was."
6. Page 28, 1st paragraph under heading "2.4.3," line 11, revise to read: "..ADR **complements** ~~compliments~~..."; line 15, delete extra space after "voluntary"; line 19, delete extra space after "about."
7. Page 34, 1st paragraph, line 1, delete the extra space after "If."
8. Page 34, 1st paragraph line 7, revise to read: "...approval of the Director, OE. **The NRC will strongly consider the degree of certainty associated with the information in making this decision.**"
9. Page 34, 1st paragraph under heading "4.1," line 1, delete extra space after "that."
10. Page 36, 2nd paragraph under heading "4.3," line 3, revise to read "...employed by a licensee**.**"
11. Page 36, 4th paragraph under heading "4.3," lines 2 and 3, delete the parenthetical '(e.g., lack ... views).'
12. Page 46, bullet 2.(c), line 2, add a space after "operator;."
13. Page 50, bullet b.1.(b), line 2, delete extra space after "...Appendix E)."
14. Page 70, item d. 3, line 3, revise to read: "...that **do not result in an actual event or a degradation of a level of safety, but are more than minor in that they** are not isolated or ~~that~~ demonstrate"
15. Page 72, revise line 2 of the definition of "Actual Consequences" to read: "... (e.g., **10** CFR 20.1201, **Occupational ...**"
16. Page 72, revise line 1 of the definition of "Apparent Violation" to read: "is an **situation or circumstance** ~~issue~~ that"

17. Page 73, revise line 3 of the definition of "Certificate Holder" to read: "...10 CFR Parts 32, 71, or 76."; revise line 1 of the definition of "Discrimination" to read: "...in 10 CFR 10 CFR 50.7"
18. Page 74, revise line 2 of the definition of "Licensee" to read: "...under 10 CFR Parts 30-36"
19. Page 75, delete the extra space after "violations." in line 2 of the definition of "Regulatory Conference."
20. Page 78, add an extra space at the end of the sentences in lines 3 and 5 of the 2nd paragraph under heading "9.1;" and in lines 2 and 4 in the 3rd paragraph.
21. Page 81, line 4, add an extra space at the end of the sentence.

The following changes should be made to the Federal Register Notice:

1. Page 4, line 3, revise to read: "...Staff Requirements Memorandum."
2. Page 6, line 3, revise to read: "...violations of unauthorized release of safeguards information (SGI) by individuals who release safeguards information (SGI)."
3. Page 8, line 7, add a comma after "reliability"; line 12, delete the extra space after "revised."

cc: Chairman Macfarlane
Commissioner Svinicki
Commissioner Apostolakis
Commissioner Magwood
Commissioner Ostendorff
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